GEORGIA INSTITUTE OF TECHNOLOGY

The Expansion of Technology Square
Including a High Performance Computing Center

PHASE 2 - REQUEST FOR DEVELOPER PROPOSALS
February 12, 2015

Questions should be directed in writing to:

Tony Zivalich Jr.
Senior Director
Cushman and Wakefield of Georgia, Inc.
Email contact only: tony.zivalich@cushwake.com
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NOTICE TO DEVELOPERS

Please reference the “Request For Developer Qualifications for the Expansion of Technology Square including a High Performance Computing Center”, by the Georgia Institute of Technology (“GiT”), dated January 13th, 2015, including addenda #1 and #2, and by this reference is made a part hereof. The information in the “Phase 2 - Request for Developer Proposals” is provided to firms who have been notified as having been deemed eligible and shortlisted for the project. The following entities (the “Qualified Developers”), were selected by GiT and are authorized to submit responses to this RFP:

• AIG, Gateway Development & Atlantic Capital
• Daniel, Selig & Carter
• Hines & Cousins
• Portman Holdings
• Transwestern Development Company

No other person or entity may submit a response to this Request for Proposal (“RFP”). Any response received from any person or entity other than the Qualified Developers will not be considered by GiT.

This Request for Proposals (“RFP”) is being issued to solicit specific information needed to better understand your firm’s vision and approach to achieving GiT’s objectives for the expansion of Technology Square including a high performance computing center.

GUIDANCE

Please review the Project Objectives (page 15) and Program (page 3-5) as set forth in the RFQ.
GIT invites creative and previously unconsidered ideas that meet GIT’s vision and objectives for the Project.

The exterior design of the Project does not have to replicate the existing style and character of Technology Square.

GIT envisions a building designed to meet the needs of technology-based companies. We are not seeking the traditional, highly appointed space that in the past might have attracted law or high-end professional firms, but rather the modern, innovative, open, flexible, high ceiling, inspiring and collaborative spaces sought after by creative minds. While each tenant in the building will certainly design their own space, we expect the lobby, common areas and building architecture to reflect this vision.

GIT aspires for the building to incorporate innovative technologies and approaches for sustainability that deliver extreme performance at commercially-reasonable costs.

The Project should be built using commercial standards, not GIT “Yellow Book” standards. It should be a commercial building – not a GIT institutional building.

GIT intends to lease floors of space in several blocks distributed up the building and not just a contiguous block of space on the lowest floors.

Although GIT has received strong expressions of interest from private companies interested in locating in the Project, these are not commitments and your proposals should be based on GIT’s committed occupancy for the office and data center.

SUBMISSION REQUIREMENTS

Please organize your proposal response and conceptual development plan in the following sections:

Section 1 - Conceptual Development Plan for the Expansion of Technology Square

Please provide a Conceptual Development Plan for the Project that includes the elements listed below.

- Proposed Building Program Summary (Template A)
- Conceptual Project Schedules (Gantt Chart format) starting with lease execution through GIT occupancy (please provide a separate but integrated schedule for the HPCC and the renovation of the Crum and Forster Building (list of minimum milestones are included as Template C).
- Conceptual site plan including adjacent uses (Acrobat and BIM format)
- Conceptual massing scheme color coded by program use (Acrobat and BIM format). Please include gsf/rsf, number of floors, key dimensions (including proposed floor to floor/ceiling heights) and other metrics/ratios. Massing scheme
should also show relationship of building height to surrounding structures.

- Representative floor plates including key dimensions (Acrobat and BIM format)

- Project renderings
  - View from West Peachtree Street (from street level)
  - View from Spring Street (from street level)
  - Bird’s Eye view of the overall development
  - View of main lobby interior

- Potential sources of debt and equity and preliminary approach to the Ownership Structure

- Approach to the data center that advances the program outlined in the EDI/AHA Study
  - Conceptual schematic of the power systems serving the entire facility.
  - Conceptual one-line schematics and block diagrams of the major systems to serve the data center facility-mechanical, electrical, waste heat recovery and other sustainability strategies including on-site energy production.
  - Draft service level agreement(s) for Research and OIT/Enterprise Data Halls.

Section 2 - Discussion of Developer’s Approach to Achieve GIT’s Vision and Objectives

Part A - Program Objectives: please provide a narrative, not to exceed 10 pages in length, describing how your conceptual development plan and your development team intends to accomplish each of the following:

- Enhance the Technology Square neighborhood.

- Create a collaborative, innovation ecosystem/community.

- Program, brand and position the Project to serve technology-based concerns, associated marketing and leasing plan for prospective tenants, and target tenant profile for speculative vacancy.

- Activate the street, including the overall retail strategy and suggested retail mix which complements the existing retail at Technology Square.

- Collaborate with Georgia Tech to achieve its interdisciplinary research agenda with Industry Research Partners.

- Provide a lease strategy and approach for industry partners co-working in the Interdisciplinary research neighborhoods.
Part B - Development Objectives: please provide a narrative, not to exceed 10 pages in length, describing how your conceptual development plan and your development team intends to accomplish each of the following:

- Celebrate the Crum and Forster building.
- Provide innovative technologies and approaches for sustainability that deliver extreme performance at commercially-reasonable costs.
- Provide a parking strategy.
- Mitigate high speed traffic on Spring Street and West Peachtree Street.
- Provide incremental expansion of the data center for growth in GIT-related IT use and allows it to be used as a “Living Lab”.
- Secure local and federal economic incentives to support the project.

Section 3 - Cost Proposals

Although we have received strong expressions of interest from other Industry partners/companies to be located in the Project, your economic and conceptual development proposals should be based on GIT committed occupancy in the office and data center. GIT also recognizes that Summary Level Development Costs are still at the conceptual planning stage and will be subject to further refinement as the programming and design are advanced.

- Summary Level Development Costs, Assumptions and Lease Multiplier (Template B)
- Ground lease proposal (to Technology Square LLC) - Template D
- Parking lease proposal - Template E

Section 4 - Acknowledgement /Response to Key Provisions

Please review the following documents and provide your teams response. For Template F, please either i) accept, ii) accept with modifications or iii) reject the high level lease concepts presented. For Templates G, H and I, please provide tracked changes (redline or insert comments) to reflect your approach to each of these items.

- Key Lease Provisions - Template F
- Base Building Delivery Office - Template G
- Turnkey Delivery for Data Center (HPCC) - Template H
- Operating Expense Exclusions - Template I
Section 5 - Response Certificate (Appendix B)

EVALUATION CRITERIA AND PROCESS

GIT will use the RFP responses to select the finalists to advance to the working sessions and final negotiations and selection. GIT will interview the Qualified Developers to assist in its determination of the finalists for potential selection. This RFP will be conducted pursuant to GIT’S HPC Lease Procurement Procedures (Appendix A, see Resources). By submitting a response to this RFP, the Qualified Developer agrees to be bound by these procedures. In making its determination of finalists to participate in the working sessions and final negotiations, GIT will consider the following:

<table>
<thead>
<tr>
<th>1. CONCEPTUAL DEVELOPMENT PLAN</th>
<th>Total Points Assigned: 250</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. APPROACH TO ACHIEVING GIT’s VISION AND OBJECTIVES</td>
<td>Total Points Assigned: 250</td>
</tr>
<tr>
<td>3. COST PROPOSALS AND LEASE ECONOMICS</td>
<td>Total Points Assigned: 250</td>
</tr>
<tr>
<td>4. ACKNOWLEDGEMENT/RESPONSE TO KEY PROVISIONS</td>
<td>Total Points Assigned: 250</td>
</tr>
</tbody>
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RESOURCES

The response templates, additional background information and resources will be made available through a new RFP folder on the box.com site administered by C&W. Access to this folder will be made available to the primary registrant for your firm upon execution of the required non-disclosure agreement (NDA) attached to this document as Exhibit A. Please sign, scan and send the NDA via email to tony.zivalich@cushwake.com for counter execution of Exhibit A. C&W will notify you when you have been granted access to the resource materials via email. The documents are as follows:

- Template A- Overall Development Program Summary
- Template B- Conceptual Development Cost Summary, Assumptions, Lease Multiplier
- Template C- Key Milestones for Project Schedule
- Template D- Ground Lease Proposal(to Technology Square, LLC)
- Template E- Parking Lease proposal
- Template F- Acknowledgement of Key Lease Provisions-Office, HPCC
- Template G- Acknowledgement of Base Building Conditions—Office
- Template H- Turnkey Delivery of HPCC
- Template I- Operating Expense Exclusions
• Appendix A– GIT HPC Lease Procurement Procedures
• Appendix B– Response Certificate
• Additional Information/Studies:
  o Spring Street Assemblage land basis
  o Fiber Study - Civitium
  o Power Infrastructure and Quality - Georgia Power
  o Geotechnical reports - Cardno ATC
  o Amendment to EDI/AHA report/program
  o Waste Heat Recovery Study

Please contact Chawnn.Redden@cushwake.com, if you are having any issues with the downloading of the documents from the box.com site.

A separate package of additional due diligence materials regarding the Spring St. land assemblage is available from Technology Square, LLC. Access to this information package will be made available to your firm upon execution of a separate, but required non-disclosure agreement with Technology Square, LLC attached to this document as Exhibit B. Please review, sign, scan and send to Ms. Caileen Belanger, via email at Cailen.Belanger@gtf.gatech.edu. Please coordinate the pick-up of the memory stick which contains additional due diligence materials at 760 Spring St, 4th Floor, Atlanta, GA 30308 with Ms. Belanger also.

PROJECT SCHEDULE

The key target dates for the remaining activities for this lease acquisition and selection of the Developer are as follows:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>C&amp;W issues RFP to Qualified Developers</td>
<td>February 12</td>
</tr>
<tr>
<td>Questions regarding RFP due to C&amp;W</td>
<td>February 23</td>
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<tr>
<td>Informational session with Qualified Developers</td>
<td>February 26</td>
</tr>
<tr>
<td>C&amp;W issues clarifications/response to Questions</td>
<td>February 27</td>
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<tr>
<td>Responses to RFP due to C&amp;W</td>
<td>March 5</td>
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<tr>
<td>Proposal for ground lease to Technology Square LLC due</td>
<td>March 5</td>
</tr>
<tr>
<td>Developer presentations of RFP response</td>
<td>March 9-10</td>
</tr>
<tr>
<td>Selection of finalists</td>
<td>March 12</td>
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<tr>
<td>Working sessions with finalists</td>
<td>March 16,19</td>
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<tr>
<td>Working sessions with finalists</td>
<td>March 30-31</td>
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<tr>
<td>Final negotiations/BAFO</td>
<td>April 6-16</td>
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<tr>
<td>Final presentations</td>
<td>April 17</td>
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<tr>
<td>Definitive agreement/lease(s) with the selected Developer</td>
<td>TBD</td>
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After selection by GIT, GIT will submit the selected developer and agreed upon lease terms to the Board of Regents (“BOR”) and the State Property Commission (“SPC”) for approval. GIT reserves the right to amend this schedule as it deems necessary.

SUBMISSION INSTRUCTIONS
Informational Session with Qualified Developers

A mandatory, pre-submission meeting will be held at the LeCraw Auditorium, located on the first floor of the Scheller College of Business located at 800 West Peachtree St. NW, Atlanta, GA 30308 (use the West Peachtree entrance) on February 26, 2015, starting at 10:00 a.m., for Qualified Developers. The meeting will consist of a review of this RFP followed by the opportunity for questions and clarifications.

The link for directions and parking is as follows: http://scheller.gatech.edu/why-scheller/visit-campus/directions-parking.html

Communications

No phone calls, please. Please address any questions in writing to Tony Zivalich via email at tony.zivalich@cushwake.com. No questions other than written questions will be accepted. GIT may also, in its discretion, elect to not respond to a question. All questions must be submitted in the following format:

- Company/Entity Name
- Question Number
- Question
- Relevant section of the RFP

All questions must be received by 5:00 p.m., February 23, 2015. Responses to all questions will be compiled and answered and posted to the project link provided to your firm’s registered primary contact person no later than 5:00 p.m., February 27, 2015. Phone requests will not receive a response.

Other than as provided above, from the issue date of this RFP until the announcement of the short-list of finalists, Qualified Developers must not communicate with employees or Board members of GIT, C&W or the BOR regarding this RFP.

Submittal Instructions

Two separate submissions are required.

Submission #1 - Responses to this RFP shall be in the form of a sealed, competitive bid and are due so as to arrive no later than 3:00 p.m. (prevailing time in Atlanta, Georgia) on March 5, 2015, delivered in a SEALED envelope to:

Chawnn Redden
Cushman and Wakefield of Georgia, Inc.
55 Ivan Allen Blvd., Suite 700
Atlanta, Georgia 30308

Submittals received after this time and date will not be considered.
In the SEALED envelope please provide three (3) printed copies of your submittal and five (5) duplicate submittals in electronic (PDF and editable) format, each on a separate memory stick. Each PDF and editable electronic submittal should not exceed 10MB in file size – please reduce the size of your images appropriately.

**Submission #2 - Responses to the request for ground lease proposals** (Template D) and a cover letter to Technology Square, LLC shall be in the form of a sealed, competitive bid which are due so as to arrive no later than 3:00 p.m. (prevailing time in Atlanta, Georgia) on March 5, 2015, delivered in a SEALED envelope to:

Mark Long  
Technology Square, LLC  
760 Spring Street  
Suite 400  
Atlanta, Georgia 30308

Submittals received after this time and date will not be considered.

In the SEALED envelope please provide three (3) printed copies of your submittal and five (5) duplicate submittals in electronic (PDF and editable) format, each on a separate memory stick. PDF and editable electronic submittal should not exceed 10MB in file size – please reduce the size of your images appropriately.

**OTHER**

GIT reserves the right to amend or supplement this RFP at any time prior to the due date of responses. Amendments and supplements will be in writing and posted as addenda on the GIT’S HPC webpage located at www.realestate.gatech.edu/hpc. Each Qualified Developer is responsible for reviewing addenda and other posted documents and making necessary and appropriate changes and/or additions to the Qualified Developer’s response to this RFP. All Qualified Developers are encouraged to frequently check GIT’S HPC webpage at www.realestate.gatech.edu/hpc for additional information and the box.com site administered by C&W, where you have registered your firm.

Each Qualified Developer should familiarize itself with the provisions of the Georgia Open Records Act (O.C.G.A. § 50-81-70 et seq.).

Each Qualified Developer should familiarize itself with the protest process set out in the GIT HPC Lease Procurement Procedures (Appendix A, see Resources).

GIT reserves the right to reject any or all responses, accept proposals in any order or combination, accept or reject portions of proposals, make modifications to the work after submission of proposals and waive any informalities in proposals if deemed in GIT’s best interest to do so, without any liability on the part of GIT or C&W.

GIT reserves the right to terminate the Project at any time in GIT’s sole discretion.
All materials submitted in response to this request become the property of the GIT. Selection or rejection of a proposal does not affect this right. Any proposal marked as confidential or proprietary in its entirety may be rejected.

GIT, at its option, has the right to request clarification or additional information from the Qualified Developers.

Qualified Developers will not discuss and/or release information to the media concerning this Project and will refer any media inquiries to GIT and C&W.

The cost for preparing submittals is the sole responsibility of the submitter. C&W and GIT will not reimburse any costs incurred prior to the execution of leases resulting from this solicitation.

It is the policy of GIT that minority business enterprises shall have the maximum opportunity to participate in the contracting and purchasing process. Therefore, all minority business enterprises are encouraged to compete for, win and receive contracts for professional services as required by this RFP. GIT encourages all companies to sub-contract portions of the scope of work to minority business enterprises.

Final award of a contract is contingent upon the proposer certifying that a drug-free workplace will be provided for the Contractor’s employees during the performance of the contract as required by the “Drug-Free Workplace Act” (O.C.G.A. 50-24-1). Additionally, by policy of the University System of Georgia, GIT is a tobacco-free campus which will include this Project.

GIT adheres to the guidelines set forth in the Americans with Disabilities Act (ADA). We ask that you call Lynn Taylor at 404-385-3085 three days in advance if you require special arrangements to be made for you to respond to this RFP. The Georgia Relay Center at 1-800-255-0056 (TDD only) or 1-800-255-0135 (Voice) will relay messages for the speech and hearing impaired in strict confidence.
EXHIBIT A
NONDISCLOSURE AGREEMENT
BETWEEN _________________________
AND THE
BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA BY AND ON BEHALF OF
THE GEORGIA INSTITUTE OF TECHNOLOGY

This Agreement is effective as of February 12, 2015, ("Effective Date") by and between
_______________________________ having a place of business at ______________________
_______________________________________________ ("Qualified Developer") and the Board of
Regents of the University System of Georgia by and on behalf of the Georgia Institute of Technology
(hereinafter referred to as "GIT").

Whereas, GIT has initiated sealed bids or responses for in a two-phase process; Phase I is a
Request for Qualifications (RFQ). The selected short-list of respondents will advance to Phase II.
Phase II is a Request for Proposals ("RFP") for the procurement of a lease of space in the proposed
High Performance Computing Center ("the Project");

Whereas, Inc., Qualified Developer desires to participate in the RFQ/RFP process;

Whereas as part of the RFQ/RFP proposal process Qualified Developer will evaluate certain GIT
Confidential Information and;

Whereas GIT shall disclose to Qualified Developer Confidential and Proprietary Information to
facilitate participation on the proposal process; and

Now, therefore, in consideration of the foregoing and the mutual promises contained herein, the
parties agree as follows:

The exclusive points of contact with respect to the transmission and control of Confidential and
Proprietary Information exchanged between Qualified Developer and GIT hereunder are designated
by the respective parties as follows:

Qualified Developer:     GIT:
Name:       Name: John Majeroni, Executive Director
Address:      Address: 213 Lyman Hall
Email:       Email: jem@gatech.edu

Either party may change its point of contact upon written notice to the other party.

2. Qualified Developer agrees to hold Confidential Information received hereunder in
   confidence and will avoid disclosure of such Proprietary Information to any person, firm, corporation
or individual other than its employees or agents who must have access to such Confidential
Information in order to evaluate it for internal/proposal purposes only and who have signed
appropriate agreements to protect the confidentiality of the Proprietary Information. As used in this
Agreement the term "Confidential Information" shall mean any data or information having
commercial value which may include but not be limited to data, data bases, product plans,
strategies, forecasts, building design specification, research procedures and development,
marketing techniques procedures and materials, prospective tenant/customer names and other information related to tenants, price-lists, pricing policies, financial information and other competition sensitive information which the parties consider sensitive and which is not generally known to the public and which may give other entities participating in the proposal process an advantage over other vendors. Any information viewed, disclosed or accessed during a review of GIT’s plans and specifications as part of the Project proposal/RFQ process shall be treated as Confidential Information.

3. Confidential Information does not include Information which:

(a) is published or otherwise in the public domain through no fault of the receiving party; or

(b) can be demonstrated by the receiving party to have been in its possession prior to receipt under this agreement; or

(c) is obtained by the receiving party without restriction from a third party; or

(d) is independently developed by the receiving party by individuals who have not had either direct or indirect access to such information; or

(e) is disclosed by the receiving party to a third party with the written approval of the disclosing party without any restriction.

4. Qualified Developer shall not be liable to the other for the disclosure of Confidential Information that is obligated to be disclosed by order of a court of competent jurisdiction.

5. The term of this Agreement shall be the earlier of six (6) months from the effective date of this Agreement or the date the Project has been awarded. Proprietary Information shall be protected in accordance with this Agreement for the term of this Agreement regardless of earlier termination or expiration of this Agreement.

6. The validity, interpretation, and effect of this Agreement shall be governed by the laws of Georgia.

7. Qualified Developer shall not assign, nor in any manner transfer, any Confidential Information received hereunder or its interests in this Agreement or any part hereof, without first obtaining the prior written approval of GIT. Notwithstanding the foregoing, Company expressly acknowledges that GIT may assign some or all of its obligations and rights to Cushman and Wakefield of Georgia, Inc. (“C&W”).

8. Nothing in this Agreement shall be construed to grant any right, title or license in the Confidential Information presented pursuant to this agreement. Use of the Confidential Information is limited solely for preparing a proposal in response to the RFQ/RFP process for the Project.

9. Qualified Developer agrees to return any/all copies of any Confidential Information received under this Agreement to GIT within fourteen (14) days of the completion of the evaluation or 30 days from the final Award, whichever is earlier.
10. In furnishing any information hereunder, GIT makes no warranty, guarantee, or representation; either expressed or implied, as to its adequacy, accuracy, sufficiency or freedom from defects or that the use or reproduction of any information shall be free from any patent, trade secret, trademark or copyright infringement. GIT shall not be liable in damages of whatever kind or for any costs, expenses, risks, or liabilities as a result of the Qualified Developer's receipt or use of, or reliance on, any such information furnished hereunder.

11. Nothing in this Agreement shall grant to a party the right to make commitments of any kind for, or on behalf of, another party. This Agreement is not intended to be, nor shall it be construed as, a joint venture, teaming relationship, partnership, or other formal business arrangement.

12. If any provision of this Agreement shall be held invalid or unenforceable, such provision will be deemed deleted from this Agreement without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

13. This Agreement may be signed in one or more counterparts (including faxed copies), each of which shall be deemed one and the same original.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

QUALIFIED DEVELOPER

By:

Name:
Title:
Date:

BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA BY AND ON BEHALF OF THE GEORGIA INSTITUTE OF TECHNOLOGY:

By:

Name: Patrick McKenna
Title: Vice President-Legal Affairs and Risk Management
Date:
EXHIBIT B
CONFIDENTIALITY AGREEMENT WITH TECHNOLOGY SQUARE, LLC

By executing this agreement (this “Agreement”) below, you are asking Technology Square, LLC (the “Company”) to provide to you certain information regarding the city block located in Atlanta, Georgia bounded by Spring Street, Armstead Place, West Peachtree Street and 4th Street (the “Property”) to assist you in making a proposal to the Company regarding the acquisition and development of the Property with the Georgia Institute of Technology serving as an anchor tenant. As a condition to furnishing you such information, the Company requires that you agree to keep confidential any such information now or hereafter provided to you by the Company (collectively, the “Evaluation Material”). The term “Evaluation Material” also includes all analyses, compilations, studies or other documents prepared by you or your agents, representatives or advisors containing or based in whole or in part on any information furnished by the Company.

The term “Evaluation Material” does not include information which (i) is or becomes generally available to the public other than as a result of disclosure by you or your agents, representatives or advisors, or (ii) was or becomes available to you on a non-confidential basis from a source other than the Company, provided, however, that you confirm that such source is not bound by any confidentiality obligations.

You agree that the Evaluation Material will be kept confidential by you and your agents, representatives and advisors, and shall not, except as hereinafter provided, without the prior written consent of the Company, be disclosed by you or your agents, representatives or advisors. Moreover, you agree to transmit Evaluation Material only to those of your agents, representatives and advisors whom you determine need to know such information for the purpose of evaluating the Property and who shall (i) be advised by you of this Agreement and (ii) agree with you to comply with the terms of this Agreement.

You will not use the Evaluation Material, or permit others to use it, for any purpose other than as outlined hereunder.

Without the prior written consent of the Company, you will not, and you will direct your agents, representatives and advisors who are given access to the Evaluation Material not to, disclose to any person (other than a person authorized hereunder) the fact that the Evaluation Material has been made available to you, that discussions or negotiations between you and the Company are taking place or any of the terms, conditions or other facts with respect to the Property or any potential development thereof.

If you or your agents, representatives or advisors are requested or become legally compelled (by court order, interrogatories, subpoenas for the production of documents, civil investigative demand or similar process) to disclose any of the Evaluation Material or the fact that the Evaluation Material has been made available to you, that discussions or negotiations between you and the Company are taking place or any of the terms, conditions or other facts with respect to any potential development of the Property, you agree that you or your agents, representatives and advisors, as the case may be, will provide the Company with prompt written notice (unless prohibited by law) of each such request so that the Company may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement on a limited basis with respect to the compelled disclosure. In the event that such protective order or other remedy is not obtained, or that the Company waives compliance with the provisions of this Agreement, you agree that you will furnish only that portion of the Evaluation Material and other information which is legally required.

Upon request of the Company, you will promptly destroy the Evaluation Material and all copies thereof. Notwithstanding the foregoing, you shall: (i) be entitled to retain one copy of such Evaluation Material solely for archival and dispute resolution purposes; and (ii) only be required to use commercially reasonable efforts to destroy any Evaluation Material stored electronically, and you shall not be required to destroy any electronic copy of Evaluation Material created pursuant to your standard electronic backup and archival procedures, provided that all such Evaluation Material shall continue to be kept confidential pursuant to the terms of this Agreement.
The Company does not make any representation or warranty as to the accuracy or completeness or any other aspect of the Evaluation Material.

You understand and agree that no failure or delay by the Company to exercise, in whole or in part, any right or remedy against you shall be construed as a waiver of that right or remedy. Also, you agree that the Company shall be entitled to equitable relief, including injunction and specific performance, in the event of any breach of the provisions of this Agreement.

You agree to indemnify and hold the Company, its affiliates and their respective officers, directors, members, partners and representatives harmless from any losses, damages, claims, lawsuits or regulatory proceedings, and from any costs and expenses, including reasonable attorneys’ fees, incurred in connection therewith, arising from a breach of this Agreement by you or your agents, representatives or advisors. In addition, you recognize that serious injury could result to the Company and its business if you or any of your agents, representatives or advisors breach its respective obligations under this Agreement. Therefore, you agrees that the Company shall be entitled to a restraining order, injunction or other equitable relief if you or any of your agents, representatives or advisors breaches its respective obligations under this Agreement, in addition to any other remedies and damages that would be available at law or equity. Notwithstanding the foregoing, however, or anything else in this Agreement to the contrary, under no circumstances shall either party be liable to the other for any special, punitive, exemplary or any other similar damages or loss, whether based on breach of contract, tort (including negligence), product liability or otherwise, even if such party or its representatives had been advised of the possibility of such damages. This provision shall survive termination of this Agreement.

Please indicate your agreement with the foregoing by signing where indicated below with the understanding that that the Company will be relying on this Agreement. A facsimile, portable document format (PDF), or other digital format signature on this Agreement shall be equivalent to, and have the same force and effect as, an original signature.

Acknowledged and agreed
this ____ day of February, 2015:

By: _____________________________
Name: ___________________________
Title: ___________________________