

# CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this “**Agreement**”) is made as of **Date** \_\_\_\_\_, between Willard Construction of Roanoke Valley, Inc. and/or Hilda W. Allen Real Estate, Inc. (collectively the “**Disclosing Party**”), and \_\_\_\_\_ (the “**Receiving Party**”).

1. Definitions. For purposes of this Agreement, the following terms shall have the responsive meanings defined herein:

(a) The term “**Authorized Use**” shall mean the use of the Confidential Information solely in connection with exploring a possible business relationship between Receiving Party and Disclosing Party, the foregoing being the sole purpose for which Disclosing Party is revealing the Confidential Information to Receiving Party.

(b) The term “**Confidential Information**” means and includes any and all of the information delivered to the Receiving Party by or on behalf of the Disclosing Party or its Representatives concerning the business and affairs of the Disclosing Party.

(c) The term “**Representative**” means the directors, officers, trustees, employees, agents, consultants, advisors or other representatives, including legal counsel, accountants, financial advisors and other professional advisors, of Disclosing Party or Receiving Party, as applicable.

2. Confidential Treatment; Limited Use. The Receiving Party undertakes to keep the Confidential Information strictly confidential and shall use at least the same degree of care in protecting Information against disclosure to any third party as the Receiving Party exercises in protecting its own confidential and/or proprietary information, but in no event less than a reasonable degree of care. Receiving Party agrees that it will not (a) use the confidential Information for any purpose other than the Authorized Use or (b) disclose the Confidential Information to any third party other than its Representatives to the extent necessary in connection with the Authorized Use.

3. Ownership of Confidential Information. All Confidential Information will remain the exclusive property of the Disclosing Party. The Disclosing Party’s disclosure of Confidential Information will not constitute an express or implied grant to the Receiving Party of any rights or license to or under the Disclosing Party’s patents, copyrights, trade secrets, trademarks or other intellectual property rights.

4. Return of Confidential Information. The Receiving Party will return or destroy all tangible materials embodying Confidential Information (in any form and including, without limitation, all summaries, copies and excerpts of Confidential Information) promptly following the Disclosing Party’s written request. At the Disclosing Party’s option, the Receiving Party will provide written certification of its compliance with this section.

5. Representatives. Receiving Party will be responsible for ensuring that each of its Representatives to whom Confidential Information is disclosed agrees to hold confidential such Confidential Information and complies with the terms of this agreement regarding its use, return and destruction as if the Representative were a party hereto. Receiving Party shall be responsible for any breach hereof by its Representatives.

6. Notice of Unauthorized Use. The Receiving Party will notify the Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information or any other breach of this Agreement by receiving Party or any of its Representatives. The Receiving Party will cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of such Confidential Information and prevent its further unauthorized use.

7. Non-Protected Information. Receiving Party's covenant not to disclose Confidential Information shall not apply to any information disclosed to the extent that any of the following conditions apply: (a) the information had otherwise become known to the Receiving Party other than through the disclosure by the Disclosing Party or the Disclosing Party's Representatives or any other source known by the Receiving Party to be under an obligation of confidentiality to Disclosing Party with respect to such information; (b) the information was publicly known prior to the time of such disclosure other than through the disclosure by the Receiving Party; or (c) prior to the time of such disclosure, the information became publicly known with breach of this Agreement by the Receiving Party.

8. Required Disclosure. If Receiving Party or its Representatives become legally compelled (whether in judicial or administrative proceedings or to comply with requirements otherwise imposed by any governmental or regulatory agency with authority over Receiving Party or its Representatives) to disclose any confidential Information, prompt notice of such fact shall be given to Disclosing Party so that appropriate action (including, without limitation, the seeking of a protective order) may be taken and Receiving Party will cooperate fully with Disclosing Party in contesting such disclosure or in obtaining a protective order. If receiving Party is required to make a disclosure under this paragraph, Receiving Party will furnish that portion of the Confidential Information that is legally required.

9. Injunctive Relief. Disclosing Party and Receiving Party agree that Receiving Party's breach of the provisions of this Agreement will cause irreparable damage for which recovery of money damages would be inadequate. Disclosing Party shall, therefore, be entitled to obtain timely equitable relief, including injunction and specific performance, to protect its rights under this Agreement in addition to all other remedies available at law or equity, without the need to post a bond or other undertaking. In the event litigation should be initiated to enforce any term or provision of this Agreement, the prevailing party in such litigation shall be entitled to recover all cost incurred in connection therewith, including, without limitation, reasonable attorneys' and paralegals' fees.

10. Accuracy. Receiving Party understands that Disclosing Party is not making any representation or warranty as to the accuracy or completeness of the Confidential Information. Disclosing Party and its Representatives have disclaimed any and all liability arising from the use of the Confidential Information by Receiving Party.

11. Miscellaneous.

(a) This agreement has been entered into in, and shall be governed by and construed in accordance with the domestic laws of the Commonwealth of Virginia without giving effect to any choice of law or conflict of law provision or rule (whether of the Commonwealth of Virginia or any other jurisdiction) that would require the application of any other law. Any suit, action or proceeding by any party that arises under or in any way relates to this Agreement or the transactions contemplated hereby may be brought only in the state courts of the Commonwealth of Virginia or the United States District Court for the Western District of Virginia, Charlottesville Division, and shall be tried only by a court and not by a jury. Each party hereby consents to the jurisdiction of such courts to decide any and all such suits, actions and proceedings and to such venue, and they hereby expressly waive any right to a trial by jury in any and all such suits, actions and proceedings.

(b) This Agreement is personal to both parties, may not be assigned (by operation of law or otherwise) by either party without the prior written consent of the other party, and any attempt to do so will be void. Subject to the preceding sentence, this Agreement is binding upon, inures to the benefit of and is enforceable by the parties hereto and their respective heirs, executors, personal representatives, successors and assigns.

(c) If any provision of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force effect. Any such provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

(d) This agreement may be executed in one or more counterpart copies, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile transmission shall be deemed to be their original signatures for all purposes.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the date first above written.

DISCLOSING PARTY:

**[DISCLOSING PARTY]**

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

RECEIVING PARTY:

**[RECEIVING PARTY]**

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

**RECEIVING PARTY INFORMATION:**

PRIMARY E-MAIL: \_\_\_\_\_

PRIMARY PHONE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

Please submit to [hildahwa@gmail.com](mailto:hildahwa@gmail.com) or fax to 229-896-1180. Thank you.