



## **EDDIE BAUER DATA CENTER SALE LEASEBACK OPPORTUNITY**

### **PRINCIPAL CONFIDENTIALITY AGREEMENT**

The undersigned prospective purchaser (“Purchaser”) requests that Jones Lang LaSalle (“JLL”), as exclusive agent for ownership (the “Seller”), submit information to Purchaser regarding Eddie Bauer located at 800 Pasquinelli Drive, Westmont IL (the “Property”) in connection with its interest in purchasing the Property (the “Transaction”) from Seller. Purchaser acknowledges that Seller reserves the right to reject any and all offers for the purchase of the Property. Purchaser further acknowledges that neither Seller nor JLL assumes any responsibility for the accuracy or completeness of the information contained in any offering materials for the Property and that the offering of the Property and any proposed Transaction with respect thereto is subject to withdrawal, revocation, alteration or change by Seller at any time with or without obligation of any kind to Purchaser.

The Purchaser agrees that JLL is acting on behalf of Seller as sole and exclusive agent regarding the sale of the Property. If Purchaser elects to hire an advisor or agent, Purchaser will be solely responsible for the payment of any fees related to their involvement.

The Purchaser agrees that if it, its employees, officers, directors, affiliates, agents, representatives or advisors (collectively, the “Reviewing Entity”) commits a breach of any of the provisions of this Confidentiality Agreement, Seller shall be entitled to obtain immediate injunctive relief for any breach or threatened breach hereof, it being hereby acknowledged and agreed that any such breach or threatened breach may cause irreparable injury to Seller and its affiliates and that money damages alone will not provide an adequate remedy to Seller and its affiliates. Further, nothing herein shall be construed to limit any other remedy available to Seller.

Purchaser understands that all information supplied to Purchaser by Seller or JLL related to this agreement or the transactions contemplated hereby (including without limitation, any information contained in the investment offering memorandum, any information regarding the proposed corporate divestiture or any information concerning the Property or the proposed Transaction or the current owner of the Property), whether furnished before or after the date hereof, whether oral or written, and regardless of the manner in which it is furnished (the “Confidential Information”), is confidential and Purchaser agrees to keep all such Confidential Information confidential and not disclose, reveal, copy or distribute such Confidential Information to anyone without the prior written consent of Seller, provided Purchaser may disclose such Confidential Information to its Reviewing Entities subject to the restrictions in the immediately following sentence. Purchaser shall cause the Reviewing Entities who receive such Confidential Information to observe the foregoing confidentiality obligations and shall be responsible for any breach of this agreement by the Reviewing Entities. Within five (5) days following request from Seller or JLL, Purchaser will return all Confidential Information that Seller or JLL has furnished to Purchaser, and shall destroy any copies of such Confidential Information, unless Seller and Purchaser have entered into a final definitive agreement regarding the Transaction. Neither Purchaser nor any Reviewing Entity will use the Confidential Information for any purpose other than in connection with the investigation of a Transaction.

In addition, Purchaser will not disclose (i) the fact that Confidential Information has been made available; (ii) that discussions or negotiations are taking place concerning the Transaction involving Seller; or (iii) any of the terms, conditions or other facts with respect to any such Transaction, including the status thereof, except as may be required by law or regulation, legal or regulatory proceeding (including, without limitation, oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) or by the rules of any recognized stock exchange and then, if circumstances permit, Purchaser shall use commercially reasonable efforts to provide Seller with reasonable advance notice which shall include the documents requested thereby where practicable, so that Seller, at Seller’s sole cost and expense, may seek an appropriate protective order. The parties hereby agree that in the event Purchaser or a Reviewing Entity are so required to disclose Confidential Information, Purchaser shall furnish only that portion of the Confidential Information that it is advised by written opinion of counsel is legally required to be furnished; provided, however, that Purchaser shall, upon request, use commercially reasonable efforts, at Seller’s sole cost and expense, to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the Confidential Information required to be disclosed.

Neither JLL nor the Seller shall be deemed to have made any representations or warranties, express or implied, as to the accuracy or completeness of the information provided. Purchaser agrees that neither JLL nor the Seller shall have any liability to Purchaser



relating to or resulting from the use of the information provided, or any errors therein or omissions therefrom. Only those representations or warranties which are made by the Seller in a final definitive agreement regarding the Transaction between the Seller and Purchaser, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect.

Any questions concerning the Confidential Information or the Seller will be directed by the Purchaser to JLL. Purchaser will not approach Seller or any of its employees, customers, vendors, creditors or others doing business with Seller without the prior written consent of JLL.

Purchaser agrees and acknowledges that Seller and its affiliates are express beneficiaries hereof, having all rights to enforce this agreement. Purchaser further agrees that, except for such parties, nothing herein expressed or implied is intended to confer upon or give any rights or remedies to any other person under or by reason of this agreement.

The obligations hereunder shall survive two (2) years from the date set forth below.

In the event of litigation in relation to this agreement, the non-prevailing party shall reimburse the prevailing party for all reasonable costs and expenses (including reasonable attorneys' fees) associated with the litigation upon receipt of a final judgment from a court of competent jurisdiction. Nothing herein shall be construed to require either party to conduct any negotiations or enter into any other agreement with the other party with respect to the Transaction or any other transaction involving Seller. This agreement may not be assigned by Purchaser, by operation of law or otherwise, without JLL's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. This agreement shall be governed by and construed in accordance with the laws of the State of Illinois applicable to agreements made and to be performed within such state.

The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions of this agreement. This agreement constitutes the entire agreement between the parties as to the subject matter hereof, and no representations having been made by either of the parties except as herein specifically set forth. No rights or obligations other than those expressly recited herein are to be implied from this agreement.

This agreement and any signed agreement or instrument entered into in connection herewith or contemplated hereby, and any amendments hereto or thereto, may be executed in multiple counterparts (each of which shall be deemed to be an original signature page) and, to the extent signed and delivered electronically, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of Seller or JLL, Purchaser will re-execute original forms thereof and deliver them to JLL. Purchaser shall not raise the use of a signature image or the fact that any signature, agreement, or instrument was transmitted or communicated electronically as a defense to the formation of a contract and Purchaser forever waives any such defense.

**EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER IN CONTRACT, STATUTE, TORT (SUCH AS NEGLIGENCE), OR OTHERWISE) RELATING TO THIS AGREEMENT.**



Purchaser acknowledges its agreement to and acceptance of the foregoing by signing where indicated below and returning one (1) executed copy of the agreement via email to the attention of Sean Reynolds (sean.reynolds@am.jll.com).

**ACCEPTED AND AGREED TO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.**

(Please complete entire form below):

Signature:

Name: (Print)

Title

Company:

Address:

City/State/Zip:

Phone Number:

Fax Number:

E-Mail Address

*Please email executed confidentiality agreement to  
Sean Reynolds (sean.reynolds@am.jll.com)*