

Rock Harbor Capital LLC
1865 Palmer Avenue, Suite 110
Larchmont, New York 10065

_____, 202 _____

[COUNTERPARTY NAME]
[ADDRESS]

Dear [_____]:

In connection with your consideration of potentially bidding on 1835 shares of capital stock of 45 East 66th Owners Corp. (the “Shares”), appurtenant to 45 East 66th Street, PHAB, New York, New York 10065 (the “Unit”), and the related Proprietary Lease dated July 24, 2013 between Borrower and 45 East 66th Owners Corp. (the “Lease” and together with the Shares, collectively, the “Collateral”) pledged David J. Mitchell (“Borrower”) to Rock Harbor Capital LLC (together with its successors and assigns, “Secured Party”) at public auction (the “Transaction”), Secured Party expects to make available to you certain non-public information concerning the Collateral and information with respect to the Unit owned by Borrower. As a condition to such information being furnished to you and your directors, officers, employees, agents or advisors (including, without limitation, attorneys, accountants, consultants, auctioneers, bankers and financial or other advisors) (collectively, “Representatives”), you agree to treat any non-public information concerning the Borrower, the Unit and the Property (whether prepared by, for or on behalf of Secured Party, its Representatives or otherwise and irrespective of the form of communication) that is furnished hereunder to you or to your Representatives now, prior to the date hereof or in the future by or on behalf of Secured Party (herein collectively referred to as the “Evaluation Material”) in accordance with the provisions of this letter agreement (this “Agreement”), and to take or abstain from taking certain other actions hereinafter set forth.

1. Evaluation Material. The term “Evaluation Material” shall be deemed to include all information, records, notes, analyses, compilations, studies, reports, projections, forecasts, interpretations or other documents prepared by, for or on behalf of or entered into by Secured Party or its Representatives that contain, reflect, interpret or are based upon, in whole or in part, the information made available to you or your Representatives pursuant hereto. The term “Evaluation Material” does not include information that (i) is or becomes generally available to the public other than as a result of a breach of this Agreement by you or any of your Representatives, (ii) was within your possession prior to the time it was first made available to you or your Representatives by or on behalf of Secured Party, provided that the source of such information was not bound by a confidentiality agreement with, or subject to any other contractual, legal or fiduciary obligation of confidentiality to, Secured Party or any other party with respect to such information (any of the foregoing, a “Confidentiality Obligation”), or (iii) is or becomes available to you on a non-confidential basis from a source other than Secured Party or any of its Representatives, provided that such source was not bound by a Confidentiality Obligation with respect to such information. Notwithstanding any other provision hereof, Secured Party reserves

the right not to make available hereunder any information, the provision of which is determined by it, in its sole discretion, to be inadvisable or inappropriate.

2. Use of Evaluation Material. You hereby agree that (i) you and your Representatives shall use the Evaluation Material solely for the purpose of evaluating the Transaction and for no other purpose (including to compete with Secured Party other than in respect of the Transaction), and (ii) that the Evaluation Material will be kept confidential and you and your Representatives will not disclose or use for purposes other than the evaluation of the Transaction any of the Evaluation Material in any manner whatsoever; *provided, however*, that (i) you may make any disclosure of such information to which Secured Party gives its prior written consent and (ii) any of such information may be disclosed to your Representatives who need to know such information for the sole purpose of evaluating the Transaction, and who are bound to treat such information in accordance with this Agreement. You shall be responsible for any breaches of the terms of this Agreement by your Representatives and you agree, at your sole expense, to take all measures to restrain your Representatives from prohibited or unauthorized disclosure or use of the Evaluation Material. Secured Party and/or Maltz Auctions, Inc. d/b/a maltz Auctions (“Maltz”), in its capacity as marketing agent for the Transaction, will arrange for appropriate contacts for due diligence purposes. You will submit, all (i) communications regarding any possible Transaction involving Secured Party, (ii) requests for additional information, (iii) requests for tours of facilities or management meetings (if possible under the circumstances), (iv) requests for contacts with customers or suppliers, and (v) discussions or questions regarding procedures only to persons specifically designated by Secured Party and/or Maltz for that purpose.

3. Non-Disclosure of Transaction. In addition, you agree that, without the prior written consent of Secured Party, you and your Representatives will not disclose to any other person the existence of this Agreement, the fact that any Evaluation Material has been made available hereunder, that discussions are taking place concerning the Transaction or any of the terms, conditions or other facts with respect thereto (such information, “Discussion Information”); *provided*, that you may make such disclosure if, in the opinion of your outside counsel, such disclosure is necessary to avoid committing a violation of law. In such event, you shall comply with the provisions of Section 4 below.

4. Required Disclosure of Evaluation Material. In the event that you or your Representatives are required (either by law or government regulation or by subpoena or other valid legal process or by any rule, regulation or policy statement of any national securities exchange, market or automated quotation system on which any of your securities are listed or quoted) to disclose (i) any of the Evaluation Material or (ii) Discussion Information, you shall provide Secured Party with prompt written notice of any such request or requirement so that Secured Party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. If, in the absence of a protective order or other remedy or the receipt of a waiver by Secured Party, you or any of your Representatives are nonetheless, in the opinion of outside counsel, legally compelled by any requirement described in the first sentence of this Section 4 to disclose the Evaluation Material to any third party, you may, without liability hereunder, disclose to such third party only that portion of the Evaluation Material that such counsel advises is legally required to be disclosed, *provided* that you and your Representatives exercise best efforts to preserve the confidentiality of the Evaluation Material, including, without

limitation, by cooperating with Secured Party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Evaluation Material by each party to whom it is disclosed.

5. Privileged Information. To the extent that any Evaluation Material may include material or information that is subject to the attorney-client privilege, work product doctrine or any other applicable privilege concerning any pending or threatened action, suit, proceeding, investigation, arbitration or dispute, you understand and agree that the parties have a commonality of interest with respect to such matters and it is the parties desire, intention and mutual understanding that the sharing of such material or information is not intended to, and shall not, waive or diminish in any way the confidentiality of such material or information or its continued protection under the attorney-client privilege, work product doctrine or other applicable privilege. Any Evaluation Material provided by a party that is entitled to protection under the attorney-client privilege, work product doctrine or other applicable privilege shall remain entitled to such protection under such privileges, under this Agreement and under the joint defense doctrine. Nothing in this Agreement obligates any party to reveal material or information subject to the attorney-client privilege, work product doctrine or any other applicable privilege.

6. Termination of Discussions. Until a Definitive Agreement has been executed by the parties, neither party shall be under any legal obligation or have any liability to the other party of any nature whatsoever with respect to the Transaction by virtue of this Agreement or otherwise (other than with respect to the confidentiality and other matters set forth herein). You understand and agree that Secured Party is engaged in discussions concerning the Transaction with other third parties. Nothing in this Agreement shall be construed to prohibit Secured Party from continuing to do so unless and until the parties shall have entered into a Definitive Agreement. The term "Definitive Agreement" means a written contract executed by all parties thereto for the Transaction, which contract binds the parties thereto to close the Transaction, subject only to such conditions to closing as may be negotiated between the parties thereto, and does not include an executed letter of intent or any other preliminary written agreement, nor does it include any written or verbal acceptance of an offer or bid. Secured Party may, in its sole discretion, terminate discussions and negotiations with you at any time and for any reason. If you decide that you do not wish to proceed with the Transaction, you will promptly inform Secured Party of that decision by giving a written notice (a "Notice"). In that case, or at any time upon the request of Secured Party for any reason (a "Request"), you will promptly (and in no event later than five (5) business days after any Notice or Request) deliver to Secured Party any and all Evaluation Material (and all copies thereof and extracts therefrom, whether in hard-copy form or intangible media, such as electronic mail or computer files) furnished to you or your Representatives by or on behalf of Secured Party. In the event of such a Notice or Request, all Evaluation Material prepared by you shall be destroyed and no copy thereof shall be retained, and you shall promptly (and in no event later than five (5) business days of any Notice or Request) provide written confirmation of such destruction. In no event shall Secured Party be obligated to disclose or provide the Evaluation Material prepared by it or its Representatives to you. Notwithstanding the return or destruction of the Evaluation Material, you and your Representatives will continue to be bound by your obligations of confidentiality, non-use and other obligations hereunder. In the event of a Notice or Request, neither you nor your Representatives will initiate or maintain contact with Secured Party or its Representatives, or with any of Secured Party's shareholders, lenders, creditors, vendors, or contractual counterparties regarding the business,

operations, prospects or finances of Secured Party, except with the express prior written consent of Secured Party or Eastdil.

7. Term; Termination. This Agreement shall terminate on the date that is one year from the date hereof; *provided, however*, that you and your Representatives' confidentiality and non-use obligations as to the Evaluation Material you or any of your Representatives have received under this Agreement shall continue indefinitely for Evaluation Material constituting a trade secret under applicable law so long as such Evaluation Material remains a trade secret.

8. No Representation of Accuracy. You understand and acknowledge that neither Secured Party nor any of its Representatives makes any representation or warranty, express or implied, as to the accuracy or completeness of the Evaluation Material made available by it. You agree that neither Secured Party nor any of its Representatives shall have any liability to you or to any of your Representatives relating to or resulting from the use of or reliance upon the Evaluation Material or any errors therein or omissions therefrom. Only those representations or warranties which are made in a Definitive Agreement regarding the Transaction, when, as and if executed, and subject to such limitations and restrictions as may be specified therein, will have any legal effect.

9. Waiver. It is understood and agreed that no failure or delay by Secured Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or future exercise thereof or the exercise of any other right, power or privilege hereunder.

10. Miscellaneous. You acknowledge and agree that money damages would not be an adequate remedy for an actual or threatened breach of this Agreement, and Secured Party shall be entitled to obtain equitable relief, including injunction and specific performance, as a remedy for any such breach, without any requirement or obligation to post a bond or similar surety. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or equity. You understand and acknowledge that all Evaluation Material shall remain property of Secured Party and no license rights under any patents, copyrights or trademarks or other intellectual property of Secured Party is granted by this Agreement or by any disclosure of Evaluation Material. In the event of litigation relating to this Agreement, if a court of competent jurisdiction determines that you or any of your Representatives have breached this Agreement, then you shall be liable and pay to Secured Party the reasonable legal fees incurred in connection with such litigation, including an appeal therefrom. In case any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of the Agreement shall not in any way be affected or impaired thereby and such provision will be deemed to be restated to reflect the original intention of the parties as nearly as possible in accordance with applicable law.

11. Jurisdiction; Governing Law. This Agreement and all disputes or controversies arising out of or related to this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without reference to its conflicts of law principles. Each party irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement brought by the other party or its successors or assigns shall be brought and determined in the United States District Court for the Southern District of New York (or, if

such court lacks subject matter jurisdiction, in any appropriate New York state or federal court sitting in New York County, New York), and each party hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such action or proceeding arising out of or relating to this Agreement. Each party agrees not to commence any action, suit or proceeding relating thereto except in the courts described above in New York, other than actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Each party further agrees that service of any process, summons, notice or document by U.S. registered mail to the respective addresses set forth herein shall be effective service of process for any action, suit or proceeding brought against either party in any such court, and the parties further waive any argument that such service is insufficient. Each party hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim or otherwise, in any action or proceeding arising out of or relating to this Agreement, (i) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (ii) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (iii) that (A) the suit, action or proceeding in any such court is brought in an inconvenient forum, (B) the venue of such suit, action or proceeding is improper or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. The prevailing party in any legal proceeding shall have the right to collect from the other party its reasonable costs and expenses and attorneys' fees incurred in enforcing this Agreement.

12. Entire Agreement. This Agreement contains the entire agreement between the parties hereto concerning confidentiality of their respective Evaluation Material, and no modification of this Agreement or waiver of the terms and conditions hereof shall be binding upon either party hereto, unless approved in writing by each such party.

13. Assignment. This Agreement and the rights and obligations herein may not be assigned or otherwise transferred, in whole or in part, by either party without the express written consent of the other party in its sole discretion. Any attempted assignment in violation of this paragraph shall be null and void, *ab initio*.

14. Authority. You acknowledge and agree that your execution and delivery of this Agreement are within your corporate powers and that you have been duly authorized by all necessary corporate action to enter into and perform under this Agreement.

15. Counterparts. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. The words "execution," "signed," "signature," and words of like import in this Agreement or in any other certificate, agreement or document related to this Agreement shall include images of manually executed signatures transmitted by facsimile or other electronic format (including, without limitation, "pdf", "tif" or "jpg") and other electronic signatures (including, without limitation, DocuSign and AdobeSign). Notwithstanding the foregoing, unless otherwise agreed to by Secured Party, each in its sole discretion, the signatures of each party to this Agreement shall be in the form of an image of its manually executed signature transmitted by facsimile or other electronic format (including, without limitation, "pdf", "tif" or

“jpg”) or an electronic signature executed through DocuSign. The use of electronic signatures and electronic records (including, without limitation, any contract or other record created, generated, sent, communicated, received, or stored by electronic means) shall be of the same legal effect, validity and enforceability as a manually executed signature or use of a paper-based record-keeping system to the fullest extent permitted by applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act or the Uniform Commercial Code. You hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of the signature, and hereby agree that such electronically transmitted or signed signatures shall be conclusive proof, admissible in judicial proceedings, of your execution of this Agreement.

16. Legal Representation. You acknowledge and agree that Pryor Cashman LLP (“Pryor Cashman”) may represent Secured Party (and/or affiliates of Secured Party) with respect to the Transaction and any dispute or proceeding arising in connection therewith, including under this Agreement, and you hereby consent to such representation and waive any conflict that may result therefrom, even if Pryor Cashman currently represents you and/or has in the past represented you on issues relating to the Transaction or any other matter.

Please confirm your agreement with the foregoing by signing and returning one copy of this Agreement to the undersigned, whereupon this Agreement shall become a binding agreement between you and Secured Party.

Very truly yours,

Rock Harbor Capital LLC

By: _____
Name: Rob Stavis
Title: Member

Accepted and agreed to as of
the date first written above:

[COUNTERPARTY NAME]

By: _____
Name:
Title: