

## CONFIDENTIALITY AGREEMENT

Confidentiality Agreement dated as of the date of electronic acceptance ("Agreement") by the undersigned Accepting Party ("Accepting Party") in favor of MUNB Loan Holdings LLC, successor to Mellon United National Bank ("Bank") and.

This Agreement sets forth the terms and conditions that will apply, in each instance, to the treatment of certain information that either party to this Agreement (each a "Party" and collectively, the "Parties") discloses to the other Party in connection with the possible participation of the other Party or an Affiliate of the other Party in a transaction involving Carles Properties LLC, a Florida limited liability company ("Borrower") and the loans extended to the Borrower ("Transaction"). With respect to the Transaction, the term "Provider" refers to the Party that is providing information to the other Party and shall include NAI Miami and the term "Recipient" refers to the Party that is receiving information from the other Party.

In consideration of each Party's providing Confidential Information (as defined below), the Parties agree as follows:

1. Definitions. As used in this Agreement:

"Additional Assignee" means, with respect to the Transaction, any assignee with respect to or participant in, or any prospective assignee with respect to or participant in, such Transaction or any actual or prospective counterparty to any swap or derivative transaction relating to such Transaction.

"Affiliate" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"Confidential Information" means (a) any information, whether communicated or stored in written, electronic, verbal, or other form, relating to the Borrower or the Transaction that is disclosed to the Recipient or its Representatives by or on behalf of the Provider on or after the date hereof (whether prepared or communicated by the Provider or such Borrower, their respective Representatives or otherwise), and (b) any Work Product using any of the information described in clause (a) above, but excludes (i) information that was, is or becomes generally available to the public other than as a result of a disclosure by the Recipient or any of its Representatives in breach of this Agreement and (ii) information that was within the possession of the Recipient or any of its Representatives prior to being furnished to the Recipient or its Representatives pursuant hereto or is lawfully obtained by the Recipient or any of its Representatives thereafter from a source that, in each case, as far as the Recipient or such Representatives are aware, is not, by virtue of such disclosure, in breach of any obligation of confidentiality of such source with respect to such information.

"Confidentiality Provisions" means the provisions in the applicable Underlying Documents that relate to the disclosure and/or use of confidential information that is delivered in connection with such Underlying Documents.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person whether through the ability to exercise voting power, by contract or otherwise (and "Controlled" shall have a meaning correlative thereto).

"Participation" means a transfer of all or a portion of a lender's or holder's interest in a Transaction (or the creation of rights or obligations in connection with a swap or other derivative transaction relating to such Transaction), whether by assignment, participation or otherwise (and "Participate" shall have correlative meaning thereto).

"Permitted Purpose" has the meaning assigned to such term in Section 2(a)(i).

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership or other entity.

"Representatives" means, with respect to any Person, its Affiliates and the directors, officers, employees, agents, advisors, counsel and auditors of such Person and of such Person's Affiliates.

"Underlying Documents" means, with respect to the Transaction, the underlying documents governing the loans, claims, and/or securities relevant to such Transaction.

"Work Product" means all memoranda, notes and other documents and analyses developed by the Recipient or its Representatives.

## 2. Restrictions on Disclosure and Use.

(a) Except as otherwise set forth in this Agreement, the Recipient agrees with respect to the Transaction:

(i) to acquire the Confidential Information for the purpose of evaluating its or an Affiliate's possible Participation in such Transaction ("Permitted Purpose") and not to use such Confidential Information for any unlawful purpose;

(ii) to keep confidential and not to disclose the Confidential Information to any Person and to use reasonable care in protecting the confidentiality of the Confidential Information;

(iii) not to disclose the identity of the Provider, the Recipient's possible Participation in the Transaction or any of the terms or conditions of such possible Participation;

(iv) not to disclose (other than to your Representatives as provided in Section 3(a) below) the fact that discussions or negotiations are taking place concerning a possible Transaction or any of the terms thereof; and

(v) that you are acting as a principal or investment advisor with respect to the Transaction, and not as a broker, and will not look to Bank for any fees or commissions.

3. Permitted Disclosure. The Recipient may disclose Confidential Information with respect to the Transaction:

(a) to its Representatives for the Permitted Purpose and to its internal auditors to comply with internal audit or compliance policies; provided that (i) such Confidential Information shall not be used for any unlawful purpose, (ii) the Recipient informs such Representatives of the confidential nature of such information and directs them to treat such information in accordance with the terms of this Agreement, and (iii) the Recipient shall be responsible for any breach of this Agreement that results from the actions or omissions of such Representatives;

(b) to any Additional Assignee and such Additional Assignee's Representatives; provided that, prior to the delivery of such Confidential Information, such Additional Assignee shall have executed and delivered to the Recipient an agreement that is substantially similar in form and substance to this Agreement; and

(c) to the extent required by Law or in connection with any legal proceedings or otherwise requested by any governmental agency, regulatory authority (including, any self-regulatory organization claiming to have jurisdiction) or any bank examiner; provided that if the Recipient discloses any Confidential Information to a Person pursuant to this paragraph (c), then the Recipient will, to the extent not prohibited by any Law:

- (i) inform such Person of the confidential nature of such information; and
- (ii) notify the Provider of such disclosure promptly;

provided, however, that the Recipient shall not be required to inform such Person or give such notification to the Provider if the disclosure was made to a bank examiner, regulatory examiner or self-regulatory examiner in the course of such examiner's examination or inspection.

For the purposes of Section 3(c), the term "Law" means any law, rule, regulation, stock exchange rule, subpoena, court order or any other similar judicial or legal process.

4. Underlying Documents' Confidentiality Provisions. To the extent that the Underlying Documents for the Transaction contain Confidentiality Provisions that conflict with, are more restrictive than, or otherwise impose requirements that are in addition to the terms and conditions contained herein, then such Confidentiality Provisions, only with regard to such Transaction, shall be incorporated herein by this reference and shall supersede and control the terms of this Agreement to the extent that such provisions are in conflict with or more restrictive than the terms hereof or are in addition to those contained herein. Upon the Recipient's request, the Provider shall furnish to the Recipient copies of such Confidentiality Provisions.

5. Return of Confidential Information. If a Recipient or any of its Affiliates has received Confidential Information in respect of a Transaction and chooses not to participate in such Transaction, the Recipient agrees upon request of the Provider to return to the Provider or destroy as soon as practical all related Confidential Information (other than Work Product), without retaining any copies thereof unless such copies are retained by the Recipient or its

Representatives to comply with their respective internal compliance policies only or in accordance with applicable law or regulation. The Recipient and such Representatives shall hold any such retained information in accordance with the terms of this Agreement.

6. Material Non-Public Information. The Recipient acknowledges that the Confidential Information may include material non-public information, represents that it has developed compliance procedures regarding the use of material non-public information, and agrees that it will handle such material non-public information only in accordance with applicable law.

7. Remedies. The Recipient agrees that money damages would not be a sufficient remedy for breach of this Agreement and that, in addition to all other remedies available at law or in equity, the Provider shall be entitled to seek equitable relief, including injunction and specific performance, without proof of actual damages.

8. No Responsibility. With respect to each Transaction, the Recipient acknowledges and agrees that the Provider received the related Confidential Information from third party sources (including the applicable Borrower) and that the Provider bears no responsibility (and shall not be liable) for the accuracy or completeness (or lack thereof) of such Confidential Information.

9. Electronic Delivery. It is understood by the Parties that this Agreement is to be executed and delivered by telecopy, telefax, electronic mail or other means of electronic communication. The Parties acknowledge that the Provider may provide Confidential Information by electronic mail or other electronic means of communication (including through establishing web-sites, electronic workspaces or other electronic means to facilitate providing Confidential Information) and that such information furnished through such means shall be considered "Confidential Information" for all purposes of this Agreement.

10. Electronic Records and Signature. It is agreed by the Parties that, notwithstanding the use herein of the words "writing," "execution," "signed," "signature," or other words of similar import, the Parties intend that the use of electronic signatures and the keeping of records in electronic form be granted the same legal effect, validity or enforceability as a signature affixed by hand or the use of a paper-based record keeping system (as the case might be) to the extent and as provided for in any applicable law.

11. Termination. The terms of this Agreement and the Parties' obligations hereunder shall terminate with respect to all Confidential Information concerning the Transaction on the earlier of (a) the date that the Recipient acquires (by assignment, Participation or otherwise) an interest, direct or indirect, in such Transaction and (b) the date falling one (1) year after the date of this Agreement.

12. Third Party Rights. The Borrower may enjoy the benefit of and enforce the Recipient's agreement set forth in Section 2. The Parties do not require the consent of the Borrower to rescind, modify or vary this Agreement or to waive any provision hereof at any time.

13. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of Florida (without regard to any conflicts of law rule that would require the application of the law of any other jurisdiction).

(b) Submission to Jurisdiction. Each Party hereby submits to the jurisdiction of the United States District Court for the Southern District of Florida and the courts of the State of Florida located in the County of Miami-Dade in any action to enforce, interpret or construe any provision of this Agreement.

(c) Waiver of Right to Trial by Jury. THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THAT THEY MAY HAVE TO TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION, OR IN ANY LEGAL PROCEEDING, DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF THIS AGREEMENT.

(d) Execution in Counterparts. This Agreement may be executed in counterparts each of which shall be an original and both of which taken together shall constitute the same instrument. Transmission by telecopy, facsimile, email or other form of electronic transmission of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

(e) Entire Agreement. This Agreement (including the provisions of any Underlying Documents incorporated herein by reference) embodies the entire understanding and agreement between the Parties with respect to all Confidential Information for the Transaction and supersedes all prior understandings and agreements relating thereto.

(f) Severability. The illegality, invalidity or unenforceability of any provision of this Agreement under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

(g) Intent of Provider. It is understood and agreed that Provider will evaluate the offers received with respect to each Transaction, but Provider has not made a decision to sell any loan extended to any Borrower.

[Signatures on Following Page]

ACCEPTING PARTY:

\_\_\_\_\_

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

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

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

Date: \_\_\_\_\_