

## NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("Agreement") is made and entered into between **TILTED GATE LLC**, for itself and its parent, subsidiaries and affiliates ("Company"), and the Scioto County Board of Commissioners as identified below ("Participant"). The parties wish to exchange Confidential Information (as defined below in Section 3) for the following purpose(s): (a) to evaluate whether to enter into or support a contemplated business transaction for development of the Scioto County site ("Transaction"); and (b) to enable the parties to communicate regarding such Transaction while protecting Confidential Information subject to the terms of this Agreement (the "Purpose"). The parties enter into this Agreement to protect the confidentiality of information in accordance with the following terms:

1. The Effective Date of this Agreement is the date that the last party executes this Agreement below.
2. The Company has been engaged as an agent by a third-party client (the "Client") to act on the Client's behalf in connection with the Transaction, which Client intends to support or participate in the Transaction. The Participant acknowledges and agrees that the Client, even though unnamed in this Agreement for confidentiality purposes, is a third-party beneficiary to this Agreement and shall have the joint and several right to enforce the terms hereof against the Participant.
3. In connection with the Purpose, a party or Client may disclose certain information it considers confidential and/or proprietary ("Confidential Information") to the other party, including, but not limited to, tangible, intangible, oral, visual, electronic present, and/or future information, however and whenever acquired, including, but not limited to, by post, fax, e-mail, text message (SMS) and/or visual inspection during any tours of the Discloser's or its affiliates' facilities or premises; such information to include, without limitation: (a) trade secrets (whether or not subject to or protected by copyright, patent, or trademark (registered or unregistered)); (b) financial information, including pricing; (c) technical information, including research, development, procedures, algorithms, data, designs, and know-how; and/or (d) business information, including operations, planning, marketing interests, and products.
4. The parties acknowledge that the Participant is a public office subject to Ohio's Public Records Law (Ohio Revised Code Section 149.43) (the "Act"). The Act generally requires the Participant, upon proper request, to prepare and make available "public records" (as defined in the Act) within a reasonable period of time, unless the subject of the requested materials falls within one of the exemptions from the Act's disclosure requirements. The parties recognize and acknowledge that certain types of records, materials and information are exempted from the Act's disclosure requirements including the following: trade secrets and economic development project information (Ohio Revised Code Sections 122.36 and 1333.61 et seq.); tax returns and related information (Ohio Revised Code Sections 718.13, 5703.21, 5711.101); records confidential under other state or federal law (Ohio Revised Code Section 149.43(A)(1)(v)); internet access to social security numbers (Ohio Revised Code Section 149.45); certain financial information (Ohio Revised Code Section 122.75); certain materials and data relating to "energy resource development facilities" as defined in Ohio Revised Code Section 1551.01(B) (Ohio Revised Code Section 1551.11(B)); and certain records received by JobsOhio (Ohio Revised Code Section 187.04(C)(2)).
5. In the event that a request for information is made to the Participant pursuant to the Act for documents, materials or information related to the Transaction, the Client or the Company, the Participant shall undertake best efforts to promptly provide a copy of that request to the Company.
6. The Parties agree that certain information provided to the Participant by or on behalf of the Company may be exempt from the disclosure requirements of the Act. The Company hereby agrees to designate in writing any information provided to the Participant that the Company considers to be exempt from the disclosure requirements of the Act (collectively, "Exempted Materials"). Any Exempted Materials related to the Transaction, the Client or the Company and clearly marked as such by the Company, including such Exempted Materials subsequently incorporated in materials produced by the Participant for its own purposes, shall be treated by the Participant as exempt from disclosure under the Act, and not as public records. Upon request of the Client or the Company, Participant will use reasonable efforts to cooperate with the Client's or the Company's efforts to obtain a protective order, restraining order, or other reasonable assurance to maintain the confidentiality of Exempted Materials. If, in the absence of a protective order or restraining order, Participant is compelled as a matter of law to disclose Exempted Materials then Participant will disclose only that portion of said information or documents as is required by law. The parties recognize and agree that the Client may also provide information directly to the Participant, and any such information shall be treated in the same manner, with the same protections under this Agreement, as if that information were provided by the Company to the Participant.
7. Unless requested and disclosed pursuant to the Act, the party receiving Confidential Information (a "Recipient") will have a duty to protect Confidential Information disclosed to it by the other party ("Discloser") only: (a) if it is clearly and conspicuously marked as "confidential" or with a similar designation; or (b) if it is identified by the Discloser as confidential and/or proprietary before, during, or promptly after presentation or communication. Unless otherwise agreed by the parties or otherwise required by law, information disclosed verbally should be treated as confidential under this Agreement.
8. A Recipient will use the Confidential Information only for the Purpose described above. A Recipient will use the same degree of care, but no less than a reasonable degree of care, as the Recipient uses with respect to its own information of a similar nature to protect the Confidential Information and to prevent: (a) any use of Confidential Information in violation of this Agreement; and/or (b) communication of Confidential Information to any unauthorized third parties. Confidential Information may only be disseminated to Client and to employees, officers, board members or attorneys of Recipient with a need to know as determined by the Recipient and who have first been notified by Recipient of this Agreement and its terms and instructed by Recipient to comply with them (collectively, "Authorized Personnel").
9. Each party will not do the following, except with the advanced review and written approval of the other party: (a) issue or release any articles, advertising, publicity or other matter relating to this Agreement (including the fact that a meeting or discussion has taken place with the specific Client or Company), unless required under applicable law or mentioning or implying the name of the other party; or (b) make copies of documents containing Confidential Information.
10. This Agreement imposes no obligation upon a Recipient with respect to Confidential Information or other information or materials that: (a) the Recipient can demonstrate was already in the Recipient's actual possession or knowledge and which the Recipient lawfully

## Execution Version

acquired other than from the Discloser was; (b) is or becomes publicly available through no fault, action, omission or intervention of the Recipient; (c) is received by the Recipient from a third party without a duty of confidentiality (express or implied) owed to the Discloser; (d) is independently developed by the Recipient without a breach of this Agreement; (e) is disclosed by the Recipient with the Discloser's prior written approval; or (f) is required to be disclosed by operation of law, court order or other governmental demand ("Process"); provided that (i) the Recipient will immediately notify the Discloser of such Process; and (ii) the Recipient will not produce or disclose Confidential Information in response to the Process unless the Discloser has: (a) requested protection from the legal or governmental authority requiring the Process and such request has been denied, (b) consented in writing to the production or disclosure of the Confidential Information in response to the Process, or (c) taken no action to protect its interest in the Confidential Information within 14 business days after receipt of notice from the Recipient of its obligation to produce or disclose Confidential Information in response to the Process.

11. EACH DISCLOSER WARRANTS THAT IT HAS THE RIGHT TO DISCLOSE ITS CONFIDENTIAL INFORMATION. NO OTHER WARRANTIES ARE MADE HEREUNDER. ALL CONFIDENTIAL INFORMATION DISCLOSED HEREUNDER IS PROVIDED "AS IS".
12. This Agreement will remain in effect until it is terminated by either party with thirty (30) days prior written notice. Notwithstanding the foregoing, this Agreement will survive with respect to Confidential Information that is disclosed before the effective date of termination.
13. Unless the parties otherwise agree in writing, a Recipient's duty to protect Confidential Information expires three (3) years from the date of disclosure. Except to the extent inconsistent with a Recipient's written records retention policy or state law, a Recipient, upon Discloser's written request, will promptly return all Confidential Information received from the Discloser, together with all copies, or certify in writing that all such Confidential Information and copies thereof have been destroyed.
14. This Agreement imposes no obligation on a party to exchange Confidential Information, proceed with the Transaction or any business opportunity, or purchase, sell, license, transfer or otherwise make use of any technology, services or products.
15. No party acquires any intellectual property rights under this Agreement (including, but not limited to, patent, copyright, and trademark rights) except the limited rights necessary to carry out the Purpose in accordance with this Agreement.
16. Each party acknowledges that damages for improper disclosure of Confidential Information may be irreparable; therefore, the injured party is entitled to seek equitable relief, including injunction and preliminary injunction, in addition to all other remedies available to it.
17. This Agreement does not create any agency or partnership relationship. This Agreement is not assignable or transferable by the Participant without the prior written consent of the Company. The Company may assign or transfer this Agreement in its sole discretion.
18. This Agreement may be executed in two or more identical counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute the Agreement when a duly authorized representative of each party has signed the counterpart.
19. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes any prior oral or written agreements, and all contemporaneous oral communications. All additions or modifications to this Agreement must be made in writing and must be signed by the parties. Any failure to enforce a provision of this Agreement will not constitute a waiver thereof or of any other provision.
20. As noted above, the Client is a third-party beneficiary to this Agreement and accordingly is entitled to the rights and benefits under this Agreement, and may enforce the provisions of this Agreement as if it were a party.

COMPANY: TILTED GATE LLC

PARTICIPANT: SCIOTO BOARD OF COUNTY  
COMMISSIONERS

Signed by:



Signature: 72FDD4C7A3E425

Michael Montfort

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

Title: Manager

June 16, 2025

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

Signature: 

Name: Scottie P Powell

Title: Scioto County Commissioner - Chairman

Date: 6/12/25