

## CONFIDENTIALTY AGREEMENT

This Confidentiality Agreement (“Agreement”) dated January 21, 2024 (“Effective Date”), by and between Newport Equities, LLC, a California limited liability company (“Company”); and the Village of Perry Township, Ohio, a political subdivision of the State of Ohio and a body politic, located at 3740 Center Road, Perry, Ohio (“Village Township”, which is inclusive of all “Village Township boards, committees and authorities”); (each individually referred to as “Party” and collectively referred to as “Parties”), provides as follows:

1. Purpose. The Company desires to discuss the prospect of developing a data center and related facilities within the Village Township on real property located in the Village of Perry and Perry Township, Ohio (“Purpose”). The Purpose is Confidential Information as defined herein. Company acknowledges that the Village Township is an Ohio public entity and that it is bound by the Ohio Open Records Act (ORC 149.43 and that “Trade Secrets” are considered to be an exception to the Ohio Open Records and to the extent that this Confidentiality Agreement is considered a “Trade Secret”, the Village Township will comply with this Agreement. Company further acknowledges that the Village council Trustees can only act during a public meeting but that the council members Trustees pursuant to the Ohio Public Meeting law (ORC 121.22) can adjourn into executive session to discuss the sale of Village Township property and to discuss confidential business information of an applicant for economic development economic development assistance. As a result of these limitations, all discussions between the Village council members Township Board of Trustees and the Company shall occur in Executive Session unless determined otherwise by the parties to this Agreement. The Company is not limited in its discussions with the Mayor, CFO or Village Solicitor Township Administrator. Further the Parties to this Agreement agree that the terms and conditions of this Agreement are subject to the terms of the Ohio Open Records Act and the Ohio Public Meeting law. To the extent permitted by law, the Parties agree that this Confidentiality Agreement is a “Trade Secret” As set forth above, tThe Parties agree to be bound by this Agreement all as provided more particularly below.

2. Confidential Information. Except as set out below, “**Confidential Information**” means all non-public, confidential, or proprietary information disclosed in any form whatsoever, whether written or oral, before, on or after the Effective Date, by either party or parties (a “**Disclosing Party**”) to the other party or parties (a “**Recipient**”) or its respective affiliates, or its or their employees, officers, directors, elected or other officials, partners, shareholders, agents, attorneys, accountants, or advisors to whom Confidential Information has been or hereafter is provided (collectively, “**Representatives**”), including, without limitation, all lists, financials, sales, production, processes, methods, strategies, analyses, compilations, forecasts, studies, ideas, inventions, discoveries, know-how, designs, specifications, documentation, negotiations, discoveries, components, or other documents prepared by Recipient or its Representatives which are based on, or otherwise reflect or are generated in whole or in part from such information. Notwithstanding the foregoing, “Confidential Information” as used in this Agreement shall not include information that (a) at the time of disclosure is, or thereafter becomes, generally available to and known by the public other than as a result of, directly or indirectly, any violation of this Agreement by Recipient or its Representatives; (b) at the time of disclosure is, or thereafter becomes, available to Recipient on a non-confidential basis from a third-party source, provided that such other source is not known by Recipient to be in violation of any obligation of confidentiality or nonuse; (c) was known by or in the possession of Recipient or its

Representatives, before being disclosed by or on behalf of the Disclosing Party under this Agreement; (d) was or is independently developed by Recipient without reference to or use of, in whole or in part, any of Confidential Information; or (e) as otherwise required by applicable law. Notwithstanding the foregoing, Disclosing Party understands and agrees that it must properly invoke the protections of Ohio's Public Records Act, Ohio Revised Code § 149, et seq. ("Act") or other law for each item of information that it would like to designate as being Confidential Information as applicable. Any information that is not so properly identified as required by the Act or other law is subject to the Act and as such is by law subject to disclosure.

3. Non-Disclosure. Recipient shall keep strictly confidential all Confidential Information. Further, Recipient shall keep confidential the existence, nature, and status of the Purpose and that Confidential Information has been made available to it or its Representatives.

4. Permitted Disclosure. Recipient shall be permitted to communicate Confidential Information to its Representatives to the extent necessary to assist with the Purpose. Recipient shall be responsible for any breach of any provision of this Agreement by its Representatives, except as otherwise provided herein.

5. Required Disclosure. Recipient or its Representatives may disclose Confidential Information to the extent requested or required by any law, regulation, or legal, regulatory, or judicial process or proceeding including a request pursuant to the Ohio Public Records Act, or by the rules of any recognized stock exchange, provided that Recipient shall (i) furnish only that portion of the Confidential Information that Recipient as is legally required and (ii) cooperate with any attempt by the Disclosing Party (at the Disclosing Party's sole cost and expense) to obtain a protective order concerning such Confidential Information. Notwithstanding the foregoing, no prior notice of or other action shall be required in respect to any disclosure made to any banking, financial, or similar regulatory supervisory authority exercising its routine supervisory or audit functions, provided that such disclosure request is received in the ordinary course and not specific to Recipient or the Purpose.

6. Nonuse. Recipient shall not use the Confidential Information, or permit it to be accessed or used, for any purpose other than the Purpose, or otherwise in any manner to the Disclosing Party's detriment, including without limitation, to reverse engineer, disassemble, decompile, or design around the Disclosing Party's proprietary services, products, and/or confidential intellectual property;

7. Return or Destruction of Confidential Information. To the extent permitted by law, <sup>a</sup>At any time during or after the term of this Agreement pursuant to Section 17, at the Disclosing Party's written request, Recipient and its Representatives shall promptly return to the Disclosing Party all copies, whether in written, electronic, or other form or media, of the Confidential Information, or destroy all such copies. Notwithstanding the foregoing, Recipient and its Representatives shall (i) be permitted to retain a copy of the Confidential Information to the extent required to comply with applicable law or regulatory authority or written and established internal document retention policies and (ii) not be required to destroy, delete, or modify any backup tapes or other media pursuant to automated archival processes in the ordinary course of business or to the extent required to comply with applicable law, provided in each case (i) and (ii) herein, any such Confidential Information retained shall remain subject to the

confidentiality obligations beyond the term of this Agreement for a period of three (3) years. Any oral Confidential Information will continue to be held subject to the terms of this Agreement.

8. No Representations or Warranties. Neither the Disclosing Party nor any of its Representatives make any representation or warranty, expressed or implied, as to the accuracy or completeness of the Confidential Information. Neither the Disclosing Party nor any of its Representatives shall be liable to Recipient or any of its Representatives relating to or resulting from Recipient's use of any of the Confidential Information or any errors therein or omissions therefrom.

9. No Other Obligation. The Parties agree that neither Party shall be under any legal obligation of any kind whatsoever, or otherwise be obligated to enter into any business or contractual relationship, investment, or transaction, by virtue of this Agreement, except for the matters specifically agreed to herein.

10. Governing Law. This Agreement and all matters arising from or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without regard to the conflict of law principles thereof. The Parties hereby irrevocably consent to the exclusive jurisdiction of the federal and state courts having jurisdiction over the Township of Perry, Ohio for all matters pertaining to this Agreement.

11. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or email (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set out on the signature page of this Agreement (or to such other address that may be designated by a Party from time to time in accordance with this Section).

12. Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties regarding the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each Party hereto. The persons signing this Agreement represent to the Parties hereto they are authorized to execute this Agreement and enforce the same.

13. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

15. Assignment. Neither Party may assign any of its rights hereunder without the prior written consent of the other Party. Any purported assignment in violation of this Section shall be null and void. No assignment shall relieve the assigning Party of any of its obligations hereunder. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

16. Waivers. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set out in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

17. Term and Termination. Except as otherwise provided herein, the term of this Agreement shall commence on the Effective Date and shall expire twenty-four (24) months from the Effective Date, provided, that with respect to information expressly identified by the Disclosing Party or its Representative as trade secret and acknowledged by the Disclosing Party as such, Recipient's obligations of confidentiality and non-use hereunder shall continue for so long as such information remains a trade secret under applicable law. Notwithstanding the foregoing, any claims asserted in good faith prior to the expiration date shall survive until finally resolved.

18. ~~Signature by Township. The Township Administrator is signing this Agreement on behalf of the Township in her administrative capacity but the signature by the Township Administrator has not been otherwise authorized by Resolution or Motion of the Board of Township Trustees. The Township Administrator is signing this Agreement pursuant to the provisions of ORC 505.032(A) which provides that the township administrator shall, under the direction of the Board of Township Trustees assist in the administration, enforcement, and execution of the policies and resolutions of the board and this qualifies because this Agreement is in furtherance of the policy of the Township to sell some of the land that it owns for economic development purposes.~~

*[Authorized Signature Page Follows]*

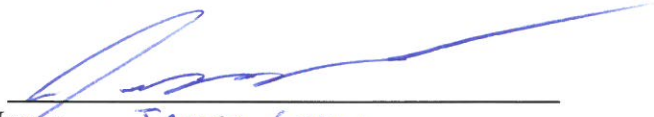
IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

Newport Equities, LLC

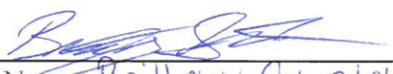
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

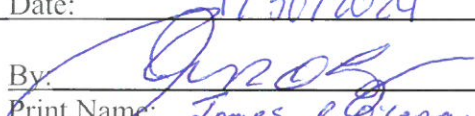
Address: 26 Corporate Plaza, Suite 260  
Newport Beach, CA 92660

Village of Perry Township, Ohio

By:   
Print Name: JAMES GESSILL  
Title: Mayor  
Date: 1/30/2024

Address: Perry Township, Ohio  
\_\_\_\_\_  
c/o \_\_\_\_\_  
\_\_\_\_\_  
3740 Center Road  
\_\_\_\_\_  
Perry, OH 44081

By:   
Print Name: Brittany Schostek  
Title: CFO  
Date: 1/30/2024

By:   
Print Name: James R. O'Leary  
Title: Village Solicitor

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

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
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