

# CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT ("AGREEMENT") WILL CONFIRM OUR MUTUAL UNDERSTANDING WITH RESPECT TO THE INFORMATION PROVIDED BY ISLAND BUSINESS & COMMERCIAL BROKERS (IBCB) REGARDING THE FOLLOWING COMPANY:

KAUAI RESTAURANT & BAR

1. THE UNDERSIGNED ACKNOWLEDGE THAT ALL NON-PUBLIC INFORMATION CONCERNING THE COMPANY INCLUDING BUT IN NO WAY LIMITED TO THE FACT THAT THE COMPANY IS CONSIDERING A SALE OF ALL OR PART OF ITS ASSETS OR STOCK, THE COMPANY'S NAME AND ALL NON-PUBLIC INFORMATION, ALL OF WHICH INFORMATION IS PRIVILEGED, SHOULD BE PROTECTED AND THE DISCLOSURE OF WHICH WOULD PUT THE COMPANY AT A COMMERCIAL DISADVANTAGE.

2. INFORMATION RELATES TO ALL ORAL OR WRITTEN REPORTS, DATA, RECORDS OR MATERIALS ("INFORMATION") PROVIDED BY IBCB, OR THE COMPANY, INCLUDING THE NAME, LOCATION AND THE TYPE OF BUSINESS OF THE COMPANY, THE KNOWLEDGE THAT THE COMPANY MAY BE CONSIDERING A SALE, OR THE FACT THAT INFORMATION HAS BEEN PROVIDED. INFORMATION SHALL NOT INCLUDE, AND ALL OBLIGATIONS AS TO NON-DISCLOSURE BY THE UNDERSIGNED SHALL CEASE TO BE ANY PART OF SUCH INFORMATION TO THE EXTENT SUCH INFORMATION:

- A) IS OR BECOMES PUBLIC OTHER THAN AS A RESULT OF ACTS BY THE UNDERSIGNED;
- B) CAN BE SHOWN WAS ALREADY KNOWN BY THE UNDERSIGNED AT THE TIME OF ITS DISCLOSURE HEREUNDER;
- C) IS INDEPENDENTLY OBTAINED BY THE UNDERSIGNED FROM A THIRD PARTY HAVING NO CONFIDENTIALITY OBLIGATION TO THE COMPANY;
- D) IS INDEPENDENTLY DEVELOPED BY THE UNDERSIGNED WITHOUT USE OF ANY INFORMATION HEREUNDER; OR
- E) IS OBLIGATED TO BE DISCLOSED PURSUANT TO APPLICABLE LAW, REGULATION OR LEGAL PROCESS.

3. INFORMATION IS BEING PROVIDED SOLELY IN CONNECTION WITH THE UNDERSIGNED'S CONSIDERATION OF THE ACQUISITION OF THE COMPANY AND SHALL BE TREATED AS "CONFIDENTIAL" AND "SECRET" AND NO PORTION OF THE INFORMATION SHALL BE DISCLOSED TO OTHERS, EXCEPT THOSE PERSONS OR EMPLOYEES ASSOCIATED WITH THE UNDERSIGNED WHOSE KNOWLEDGE OF THE INFORMATION IS REQUIRED FOR THE UNDERSIGNED TO EVALUATE THE COMPANY AS A POTENTIAL ACQUISITION AND WHO SHALL ASSUME THE SAME OBLIGATIONS AS THE UNDERSIGNED UNDER THIS AGREEMENT. THE UNDERSIGNED HEREBY ASSUMES FULL RESPONSIBILITY FOR THE COMPLIANCE OF SUCH PERSONS OR EMPLOYEES TO THE TERMS OF THIS AGREEMENT.

4. THE UNDERSIGNED AGREES THAT IT WILL NOT ACTIVELY SOLICIT ANY EMPLOYEE, CUSTOMER OR SUPPLIER OF THE COMPANY WITHOUT WRITTEN PERMISSION BY THE COMPANY. THE UNDERSIGNED FURTHER AGREES THAT IT WILL NOT INTERFERE WITH ANY BUSINESS OF THE COMPANY THROUGH THE USE OF ANY INFORMATION OR KNOWLEDGE ACQUIRED UNDER THIS AGREEMENT NOR USE ANY SUCH INFORMATION FOR ITS OWN ACCOUNT.

5. IT IS UNDERSTOOD THAT THE COMPANY IS THE INTENDED PARTY AND BENEFICIARY WHOSE RIGHTS ARE BEING PROTECTED AND MAY ENFORCE THE TERMS OF THIS AGREEMENT AS IF IT WERE A PARTY TO THIS AGREEMENT.

6. IT IS UNDERSTOOD THAT (A) NO REPRESENTATIONS OR WARRANTIES ARE BEING MADE AS TO THE COMPLETENESS OR ACCURACY OF ANY INFORMATION AND (B) ANY AND ALL REPRESENTATIONS AND WARRANTIES SHALL BE MADE SOLELY BY THE COMPANY IN AN EXECUTED ACQUISITION AGREEMENT AND THEN BE SUBJECT TO THE PROVISIONS THEREOF.

7. THE RESPECTIVE OBLIGATIONS OF THE PARTIES TO THIS AGREEMENT SHALL SURVIVE FOR A PERIOD OF TWO YEARS FOLLOWING THE DATE HEREOF.

8. THIS NDA MAY BE EXECUTED IN ONE COUNTERPARTS, EACH OF WHICH SHALL BE DEEMED AN ORIGINAL, ALL OF WHICH SHALL CONSTITUTE ONE INSTRUMENT. DOR ELECTRONIC SIGNATURES ARE EFFECTIVE FOR ALL PURPOSES HEREUNDER TO THE SAME EXTENT AS ORIGINAL SIGNATURES.

SIGNATURE:			
PRINT NAME:		DATE: / /	
COMPANY:	TITLE:		
TELEPHONE:	FAX:		
STREET:	CITY:	STATE:	ZIP:
E-MAIL:			

Return to Buyer Services at [elizabeth@islandbusinessbrokers.com](mailto:elizabeth@islandbusinessbrokers.com) or Fax to (866) 652-1992