

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 BASED RETAIL AND INTERNET BUSINESS FOR SALE

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 IT WILL NOT ACTIVELY SOLICIT ANY EMPLOYEE, CUSTOMER OR SUPPLIER OF THE COMPANY WITHOUT WRITTEN PERMISSION BY THE SELLER. 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 2 YEARS FOLLOWING THIS DATE

8. Remedies. Each party agrees that use or disclosure of any Confidential Information in a manner inconsistent with this Agreement will give rise to irreparable injury for which: (a) money damages may not be a sufficient remedy for any breach of this Agreement by such party; (b) the other party may be entitled to specific performance and injunction and other equitable relief with respect to any such breach; (c) such remedies will not be the exclusive remedies for any such breach, but will be in addition to all other remedies available at law or in equity; and (d) in the event of litigation relating to this Agreement, if a court of competent jurisdiction determines in a final non-appealable order that one party, or any of its Representatives, has breached this Agreement, such party will be liable for reasonable legal fees and expenses incurred by the other party in connection with such litigation, including, but not limited to, any appeals

9. 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