



CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT

_____ and its officers, directors, employees, together with agents and/or representatives, as well as each of these categories of its affiliates or related entities ("You", the "Purchaser") agree to the following terms and conditions regarding any information conveyed in any way or in any format relating to purchasing the leasehold interest in the King Kamehameha Mall located 75-5626 Kuakini Highway, Kailua-Kona, Hawaii 96740 (the "Property"):

In connection with the possible purchase of the Property by the Purchaser, we propose to furnish you with certain information related to the transaction ("Confidential Information"). Confidential Information includes not only written information but also information transferred orally, visually, electronically or by any other means. In consideration of our furnishing you with the Confidential Information, and as a condition to such disclosure, you agree as follows:

1. The Purchaser will not disclose or otherwise reveal to any other person or entity any Confidential Information, or proprietary information or materials, unless specific written approval is first obtained from the Seller or its authorized designee.
2. If specific and written approval is obtained from the Seller to disclose Confidential Information to any other person or entity, each person or entity to whom such Confidential Information is disclosed must be advised of its confidential nature and of the terms of this Agreement and (unless already bound by obligations of confidentiality) must agree in writing (a copy of which must be delivered to the Seller or its authorized designee) to abide by such terms. The Purchaser agrees to be responsible for any breach of this Agreement.
3. Upon any termination of your evaluation, or upon request by the Seller or its authorized designee, the Purchaser (i) will return to the Seller or its authorized designee the Confidential Information which is in tangible form, including any copies which you may have made; and you will destroy all abstracts, summaries thereof or references thereto in your documents, and certify to us in writing that you have done so, and (ii) the Purchaser will not use any of the Confidential Information with respect to, or in furtherance of, its business, any of its respective businesses, or in the business of anyone else, whether or not in competition with the Seller or its authorized designee, or for any other purpose whatsoever.
4. Confidential Information does not include any information, which can be shown by you to have been publicly available prior to your receipt of such information or thereafter became publicly available. Information shall be deemed "publicly available" if it becomes a matter of public knowledge or is contained in materials available to the public or is obtained from any source other than Seller or its directors, officers, employees, or outside advisors, providing that such source has not entered into a Confidentiality Agreement with the Seller with respect to such information or obtained the information from an entity or person party to a Confidentiality Agreement with the Seller.
5. You understand that we have endeavored to include in the Confidential Information, those materials which we believe to be reliable and relevant for the purpose of your evaluation, but you acknowledge that neither the Seller nor any of its respective agents, representatives, or employees makes any representation or warranty as to the accuracy or completeness of the Confidential Information and you agree that such persons shall have no liability to you or any of your representatives resulting from

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any use of the Confidential Information. You understand that the Confidential Information is being furnished only for use in your evaluation of the Property.

6. In the event that you or anyone to whom you transmit the Confidential Information pursuant to this Agreement becomes legally compelled to disclose any of the Confidential Information, you will provide the Seller with prompt notice so that the Seller may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that the Seller is unable to obtain such protective order or other appropriate remedy, you will furnish only that portion of the Confidential Information which you are advised by a written opinion of counsel is legally required.

7. You understand and agree that money damages would not be a sufficient remedy for any breach of this Agreement by you, and that the Seller, its agents and representatives shall be entitled to specific performance and/or injunctive relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for any such breach of this Agreement but, shall be in addition to all other remedies available at law or in equity. You further agree that no failure or delay by the Seller, its agents, or representatives in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege under this Agreement.

8. In the event that any action, suit or other proceeding, whether at law or in equity, is brought by either party against the other party (or its directors, officers, employees, agents or other representatives) to enforce or interpret any provision of this Agreement, or to seek injunctive relief or recover damages for any breach of any provision hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees and disbursements from the other party.

9. You hereby irrevocably and unconditionally consent to the fullest extent permitted by applicable law, to the exclusive jurisdiction of the courts of the State of Hawaii and the United States of America located in the County of Hawaii, City of Kailua-Kona with respect to any action, suit or other proceeding arising out of or relating to this Agreement.

10. You hereby irrevocably and unconditionally waive, on behalf of yourself and your directors, officers, employees, agents and representatives, to the fullest extent permitted by applicable law, any objection to the laying of venue in any of the foregoing courts of any action, suit or other proceeding arising out of or relating to this agreement.

11. You enter into this Agreement through your own free will. Nothing in this Agreement shall impose any obligation upon you or the Seller to consummate a transaction or to enter into any discussion or negotiation with respect thereto.

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THE UNDERSIGNED HEREBY ACKNOWLEDGES, AGREES AND REPRESENTS THAT THIS AGREEMENT IS SIGNED IN THE NAME OF AND ON BEHALF OF THE CORPORATION, PARTNERSHIP, ENTITY AND/OR INDIVIDUALS REFERRED TO ABOVE ("YOU", THE "PURCHASER").

By: _____
Its: _____
Date: _____
Email: _____
Phone No.: _____

**RECEIVED AND ACKNOWLEDGED BY
SELLER'S AGENT
THE COMMERCIAL GROUP, LLC**

By: _____
Its: _____
Date: _____

PLEASE FAX OR EMAIL THIS AGREEMENT TO:

Monique Peacock (PB)
Principal Broker / Managing Member
The Commercial Group, LLC
P O Box 908
Kailua-Kona, Hawaii 96745
Fax: (808) 334-0066
Email: tcg@hawaiiantel.net