

**CONFIDENTIALITY AGREEMENT**

THIS CONFIDENTIALITY AGREEMENT (this "**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ ("Recipient"), whose principal place of business and post office address is at \_\_\_\_\_, in favor of KALOKO COMMERCIAL CENTER LLC, a Hawaii limited liability company, whose principal place of business and mailing address is at 500 Ala Moana Blvd, Ste. 4 420, Honolulu, HI 96813, the owner of the Asset (defined below) ("**Owner**"), with respect to the fee simple interest in the property commonly known as the Kaloko Commercial Center, consisting of approximately 37 acres, located at 73-5613 Olowalu Street, in the City of Kailua-Kona, County and State of Hawaii, TMK Number(s) (3) 7-3-51:99-130, and all improvements thereon ("**Asset**").

**1. Background.**

Owner and/or Owner's broker, Elepaio Group, Inc., dba SVN | GO Commercial ("**SVN|GO**") may be providing and/or making available to Recipient information and/or documents relating to the Asset. The information may be presented to Recipient in various forms including, but not limited to, photocopies of documents, digital information on CD-ROM, digital information sent via electronic mail, and/or digital information accessible via the Internet (collectively "**Information**").

**2. Confidentiality.**

Recipient, including, but not limited to its directors, officers, employees, managers, members and/or shareholders, agrees that it will keep all Information, including any information derived from the Information, regardless of whether the Information is marked or specifically identified as "confidential" or "proprietary", confidential, except as to Recipient's professional consultants (disclosed to Owner in advance) who will be evaluating the feasibility of Recipient acquiring the Asset. Recipient further agrees, prior to disclosing the Information to any consultants, that it will inform such consultant that they are required to observe and maintain the confidentiality of the Information and the provisions of this Agreement.

**3. Limitation on Use of Information.**

All Information furnished to Recipient by Owner will be used solely by Recipient for the purpose of evaluating the feasibility of purchasing the Asset and Recipient agrees not to use the Information, including any information derived from the Information, for any other purpose.

**4. Limitation on Disclosure of Information.**

Recipient will not disclose to anyone, with exception to its disclosed consultants, the existence of or any other aspect of the Information or any information derived from the Information.

**5. Prohibition Against Copying and Return of Materials.**

No copies of the Information shall be made or disclosed to anyone whatsoever without the prior written consent of Owner. Upon the completion of the above-described evaluation, or upon request by Owner, Recipient shall return to Owner all Information in the form that was provided to Recipient and any and all duplications thereof.

**6. Damages.**

Recipient acknowledges and agrees that Owner has a substantial, material and proprietary interest in the

Information and that if the Information or any other information protected under this Agreement is disclosed by Recipient in any respect whatsoever without Owner’s prior written consent, Owner may suffer immediate and irreparable harm and may be substantially and materially damaged.

**7. Remedies.**

In the event Recipient breaches any of the conditions set forth in this Agreement, Owner shall have the right to exercise all of its rights and remedies at law and equity, including, without limiting the generality of the foregoing, the right to obtain injunctive relief. The non-prevailing party shall pay all costs and expenses, including, without limitation, reasonable attorneys' fees incurred by the prevailing party in enforcing any of the covenants or conditions contained in this Agreement.

**8. Agency.**

Owner is represented by SVN|GO, a licensed real estate broker in the State of Hawaii. If a properly licensed real estate broker represents Recipient, Recipient must provide the information below simultaneously with the execution of this Agreement. Owner shall not be obligated to compensate any brokerage representative of Recipient. SVN|GO shall not be obligated to share any commissions received with other brokers unless the other broker co-brokered the sale of the Asset. Recipient shall be responsible for compensating its own representative, if any. Recipient shall indemnify, defend and hold Owner and SVN|GO harmless from any brokerage commission claims.

<b>Recipient’s Broker:</b>  (if not represented please write “NONE”)	Company:	_____
	Agent:	_____
	License No.:	_____
	Address:	_____
	City:	_____
	State & Zip:	_____
	Telephone:	_____
	Email:	_____

**9. No Waiver.**

No waiver by Owner of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

**10. No Oral Modifications.**

This Agreement may not be altered, amended, changed, waived, terminated or modified in any respect or particular unless the same shall be in writing and consented to by Owner and Recipient.

**11. Successors and Assigns.**

This Agreement shall inure to the benefit of Owner and to its successors and assigns and be binding upon Recipient and its legal representatives, successors and assigns.

**12. No Third Party Beneficiaries.**

This Agreement is not intended to confer any benefits upon any persons, firms, corporations or other entities except Owner and Recipient and their respective directors, officers, employees, managers, members and/or shareholders.

**13. Choice of Law.**

This Agreement shall be construed, governed and enforced in accordance with the laws of the State of Hawaii without giving effect to principles of conflict of laws.

**14. No Other Agreement.**

Recipient acknowledges that this Agreement is solely for the purpose of establishing the confidentiality of the Information and does not grant Recipient any exclusive or other rights in connection with the purchase of Owner’s Asset.

IN WITNESS WHEREOF, Recipient has executed this Agreement as of the day and year first hereinabove set forth.

**“Recipient”**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company/Organization

\_\_\_\_\_  
E-Mail

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Facsimile

*Please return signed Confidentiality Agreement (preferably via email in PDF format) to:*

SVN | GO COMMERCIAL

Attn: Gregory G. Ogin, CCIM, HI #RB-16053  
Office: 808-329-6446  
Cellular: 808-987-6446  
Fax: 808-329-3336  
Email: gogin@svn.com

75-5722 Kuakini Highway, Suite 214  
Kailua-Kona, HI 96740