



Florida's Premier Restaurant Broker

### **Confidentiality Agreement and Agreement to Protect**

The undersigned individual (hereinafter referred to as "Prospect") on behalf of himself and any persons or entities the Prospect represents, or of which the Prospect is an owner or employee, in consideration of Prakas & Company, (hereinafter referred to as "PC") agreeing to provide "Confidential Information" on the various subject businesses and/or properties identified on Exhibit A (attached hereto and made a part hereof) hereby agrees as follows:

1. The term "Confidential Information" shall mean: any financial information including but not limited to financial statements, tax returns, and rent rolls; business plans; proprietary information, data, reports, records, materials, client names and addresses, including but not limited to the type of business or property; or the knowledge that the business or property is for sale or lease; and any Confidential Contact. Confidential Information may be given to the Prospect either by verbal or written communication which may be delivered in person, by telephone, mailed, faxed or emailed.

2. The term "Confidential Contact" shall mean any person, entity or property disclosed to the Prospect on Exhibit A (attached hereto and made a part hereof) or any revised Exhibit A; the faxing (with proof of transmission) or emailing of a revised Exhibit A by PC to Prospect shall be conclusive proof that the revised Exhibit A was received by the Prospect and shall be binding upon the Prospect unless the Prospect objects, in writing, within forty (48) hours.

3. This Agreement shall protect PC and the owner of the business or property whose Confidential Information is given to the Prospect and either of them may enforce the terms of this Agreement against the Prospect

4. The Prospect shall not, without written consent of PC, reveal any Confidential Information in any manner, directly or indirectly, disclosed to Prospect by PC at any time; provided, however, that Prospect may disclose Confidential Information to partners, employees, professionals, and agents of the Prospect required to be informed for the purposes of enabling the Prospect to make a judgment about a potential transaction; All of the individual's to which Prospect desires to divulge Confidential Information must agree to be bound by the restrictions contained in this Agreement and the Prospect shall bear the responsibility if any of such individuals breach this Agreement

5. The Prospect clearly understands that PC may not have an exclusive listing of the subject business/property; that same may be a "pocket listing", open listing or an exclusive listing of another broker. Prospect further understands that despite the type of listing PC is entitled to the fees set forth in this Agreement and that all of the terms of this Agreement still apply.

6. It is understood by the Prospect that (a) PC makes no representations as to the completeness or accuracy as to any Confidential Information, and (b) any and all representations and warranties upon which Prospect may rely shall be made solely by the business property owner or lessee and shall be set forth in a signed agreement between the Prospect and business/property owner or lessee. The Prospect understands that it is its obligation to perform its own due diligence and to rely solely upon its own investigation of the subject property or business in determining how to proceed.

**7. The Prospect shall not be liable or responsible for payment of any fees or commission due upon the acquisition, purchase or lease of the subject business or property set forth on Exhibit A UNLESS Prospect negotiates and closes on the acquisition, purchase or lease in the absence of PC.** In the event the Prospect enters into a transaction of any type with a Confidential Contact, if PC is not incorporated in closing documents as broker entitled to receive commission at the closing and is not paid its fee upon such Closing, then the Prospect shall be liable and responsible, and indebted to PC, and shall pay to PC, forthwith on demand, a commission equal to ten percent (10%) of the closing sale price (the aggregate amount paid to seller or on sellers behalf ) and/or six percent (6%) of the monthly lease payments for the term of the lease, including renewal periods and/or any previous agreement between seller or lessor and PC, whichever amount is greater. The Prospect agrees that in the event a closing takes place without PC receiving a commission as hereinabove stated, PC may further exercise its right under Sections 475.700 et seq. (Commercial Real Estate Sales Commission Lien Act) and 475.800 et seq. (Commercial Real Estate Leasing Commission Lien Act) F.S. referring to liens on property for services rendered by PC. For the purposes hereof, PC will be treated as a party to the Sale and Purchase Contract or Lease Agreement. This provision shall survive this Agreement, and any closing which may occur.

**8. The Prospect agrees that if more than one business or property is disclosed to the Prospect, then by listing said business or property from time to time on a revised and updated Exhibit A, all shall be included on same terms and conditions as herein above stated. PROSPECT AGREES NOT TO COMMUNICATE DIRECTLY OR INDIRECTLY WITH ANY CONFIDENTIAL CONTACT, OR THE EMPLOYEES OR AGENTS OF ANY CONFIDENTIAL CONTACT WITHOUT THE WRITTEN CONSENT OF PC.**

9. This Agreement shall have a term of (1) one year after the date it is executed or from the date of the last revised Exhibit A, whichever is later. Upon signing this Agreement, Prospect will not, during the term of this Agreement, and for six (6) months thereafter, deal with any brokerage firm other than Prakas and Company concerning the listing(s) on this Agreement. Prospect agrees that Prakas and Company can add additional names of business and properties as they may disclose them to prospect either in writing, mailed, faxed, emailed or verbally. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be original, and all of which together shall constitute one and the same Agreement. A signature delivered by facsimile or email shall be deemed to be an original signature and shall be effective upon receipt thereof by the other party.

10. Any dispute concerning this Agreement shall be resolved by Arbitration in Palm Beach County, Florida according to the rules and regulation of the American Arbitration Association. In the event that either Party to this Agreement is the successful party in arbitration, the losing party shall pay all attorneys fees and costs relating to the enforcement of this Agreement. Notwithstanding anything to the contrary set forth above, either PC or the owner of the business or property whose confidential information is given to the Prospect may enforce this Agreement by seeking injunctive relief in a Court of competent jurisdiction.

**ACKNOWLEDGED AND AGREED:**

**PRAKAS & COMPANY**

\_\_\_\_\_  
Signature of Prospect / \_\_\_\_\_  
Print Name \_\_\_\_\_ Date \_\_\_\_\_  
Print Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_  
Email \_\_\_\_\_ Fax \_\_\_\_\_

\_\_\_\_\_  
Authorized Agent/Broker –Christian Prakas

**Representing Broker's Client(s) Name(s) or Business Name:**

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EXHIBIT A

NAME OF BUSINESS OR PROPERTY DESCRIPTION

DATE

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