



Non-Disclosure Agreement

This agreement is entered into between Key Auctions, LLC dba Key Auctioneers, (hereinafter referred to as "Agent"), Moore Summit, LLC (hereinafter referred to as "Landlord"), and _____ (hereinafter referred to as "Prospect") regarding certain sensitive and non-public information as it pertains to the listing and sale of the brewery and restaurant assets, 210 liquor permit, and sublease of the property at 1021 Broad Ripple Avenue, Indianapolis, Indiana 46220 including but not limited to; business name, logos, trademarks, confidential leasing agreements, proprietary financial data, images, invoices, etc. (the "Proprietary Information") related to the sale of Thr3e Wise Men Brewing Company's assets and sublease of 1021 Broad Ripple Avenue, Indianapolis, Indiana 46220 offered for sale by Agent. Prospect desires to receive the Proprietary Information for use in evaluating the purchase of the subject business. In consideration of the disclosure of the Proprietary Information and of the other covenants contained in this Agreement, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Proprietary Information.** The term "Proprietary Information" as used herein shall be defined, by way of example but not by way of limitation, all materials, financial detail, marketing plans, research data, documents, personal and business identities, transaction information, know-how, uses, (whether or not able to be patented and whether or not marked as confidential), relating generally or specifically to the transactions contemplated, the resources or services of each Party which may have or will be disclosed by Agent in written form, or orally or disclosed by samples which embody or display such information obtained by the Prospect through observation.

As a condition to being furnished such information, Agent, Landlord and Prospect (hereinafter referred to collectively as the "Parties") agree to treat any Proprietary Information concerning the transaction and the respective business which is furnished to or on behalf of a the Parties, whether furnished before or after the date of this Agreement in accordance with the provisions of this Agreement. The term "Proprietary Information" does not include information:

- 1.1. Which was or becomes generally available to the Parties on a non-confidential basis from a source other than the Agent, provided that such source is not bound by a confidentiality agreement with the Agent; or
- 1.2. Which was known or within the possession of any member of the Parties prior to it being furnished to the Agent, Landlord or Prospect by or on behalf of and member of the Parties, provided that the source of such information was not bound by a confidentiality agreement with the Agent, Landlord or Prospect in respect thereof; or
- 1.3. Which is or becomes public knowledge through no wrongful act of any member of the Parties; or
- 1.4. Which is approved for disclosure to any third party by prior written authorization of any member of the Parties.

Any member of the Parties shall have the burden of proving by clear and convincing evidence the applicability of any of the foregoing exceptions.

2. **Non-Disclosure/Non-Use.** The Parties agree they will not disclose or furnish the Proprietary Information to any person or entity, however, nothing herein shall preclude the Parties from filing the Proprietary Information with the Court to address the issue of adequate assurance of future performance. In such an event, the Proprietary Information will be filed under seal with the Court. The Parties agree that the Proprietary Information shall be used only for the purpose of the Prospect evaluating the potential purchase and Landlord to evaluate the acceptability of the Prospect to sublease the property at 1021 Broad Ripple Avenue, Indianapolis, Indiana 46220. Notwithstanding the foregoing, however, in the event that the Prospect is the successful bidder at the auction and becomes the tenant at 1021 Broad Ripple Avenue, Indianapolis, Indiana 46220, nothing herein shall preclude the Landlord from later utilizing the Proprietary Information provided by the Prospect in the event a conflict arises between the Landlord and the Prospect, however, such information must be filed under seal.
3. **Indemnity.** The Prospect and Landlord agrees it shall indemnify Agent for any damages related to any unauthorized disclosure of the Proprietary Information by Prospect, Landlord or its agents.
4. **Return or Destruction of Proprietary Information.** If Prospect is not the successful purchaser of the assets, Prospect and Landlord shall promptly return to Agent or destroy any Proprietary Information in its possession.
5. **No Rights.** Nothing in this Agreement or any disclosure of Proprietary Information by Agent hereunder, shall be deemed, either expressly or implied, to convey any right, title, license, or interest of any kind to the Prospect receiving Proprietary Information.
6. **No Further Obligations.** The furnishing of Proprietary Information by the Parties or the entering into the discussions referenced above shall not obligate any member of the Parties to enter into any further agreement or negotiation with another Party or to refrain from entering into an agreement or negotiation with any other party, unless specifically agreed by separate agreement.
7. **No Representations or Warranties.** Except as expressly set forth in a definitive agreement between the Parties, Agent has not made any representation or warranty as to the accuracy or completeness of any Proprietary Information furnished. Prospect and

Landlord agrees that the Agent shall have no liability to either respective Party or its representatives resulting from the use of the Proprietary Information.

8. **General Terms.** It is further understood and agreed that:
- 8.1. This Agreement may be amended only in writing;
 - 8.2. This Agreement shall not be assigned by Prospect or Landlord;
 - 8.3. This Agreement shall be effective as of the date of execution as shown below and shall cover any Proprietary Information disclosed by Agent to the Prospect or Landlord before or after the execution of this Agreement;
 - 8.4. No failure or delay by Agent in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege by an Agent;
 - 8.5. Money damages would not alone be a sufficient remedy for any breach of this Agreement by the Prospect or Landlord; that any Agent shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and that Prospect and Landlord shall waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for a breach of this Agreement, but shall be in addition to all other remedies available at law or in equity to an Agent.
 - 8.6. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral, written and other agreements between the Parties with respect to said subject matter;
 - 8.7. The agreement to maintain the confidentiality of the Proprietary Information and the business sources shall survive any termination of the evaluation by Prospect or Landlord for a period of five (5) years subsequent to the disclosure of Proprietary Information by Agent;
 - 8.8. All activities relating to the review and evaluation of Proprietary Information shall be conducted and undertaken at the sole cost and expense of Prospect and/or Landlord, unless otherwise agreed;
 - 8.9. This Agreement may be executed in counterpart by the Parties and shall be deemed to be valid and legally binding as regarding same;
 - 8.10. This Agreement shall benefit and shall be binding on each Party executing same and its respective successors, permitted assigns and personal representatives; and
 - 8.11. This Agreement shall be governed by and construed in accordance with the internal laws of the state of Indiana, without giving effect to the principles of conflict of laws thereof.

By executing this Agreement in the place provided below, each Party agrees to the foregoing and agrees that it will constitute the agreement of the Parties with respect to the subject matter hereof.

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Signature Blocks.

AGREED AND ACCEPTED:

Key Auctions, LLC dba Key Auctioneers

By: _____

Printed: Seth Seaton, President

Dated: _____

AGREED AND ACCEPTED:

Moore Summit, LLC

By: _____

Printed: Matthew Moore, Member

Dated: _____

AGREED AND ACCEPTED:

Prospect: _____

By: _____

Printed: _____

Dated: _____

Email Address: _____

Phone: _____