

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (Agreement) is made as of this _____ day of _____, 20__ (Effective Date), by and between _____, its officers, directors, members, shareholders, employees, agents, attorneys, successors, assigns, and anyone acting on its behalf (Recipient) and SHELDON K. GLASSCO (Broker), (collectively, Parties).

RECITALS

WHEREAS, Broker is a commercial real estate broker in the State of Hawaii affiliated with Obsidian Real Estate Hawaii;

WHEREAS, Broker is representing PACIFIC UNITED, LTD. (Owner), as owner of that certain real property located in the State of Hawaii, more particularly described in **Exhibit A** (Property);

WHEREAS, in connection with a potential purchase of the Property by Recipient and in order to evaluate and/or facilitate such potential purchase, Broker may be providing and/or making available to Recipient certain non-public information and/or documents describing, concerning, or related to the Property, which information may be presented in various forms, including hard copies, photocopies, and digital information (Confidential Information);

WHEREAS, the Parties acknowledge that the Confidential Information is confidential, proprietary, and a business advantage of Owner;

WHEREAS, Broker has agreed to furnish Recipient with the Information, provided that Recipient executes and delivers this Agreement;

NOW THEREFORE, in consideration of the Recitals, the mutual covenants, conditions and promises of the Parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Confidential Information. Recipient acknowledges that in the course of its review and efforts with respect to the Property, Recipient may obtain certain proprietary information of Owner which may include, but not be limited to, (i) financial, loan, and business information, documents, or contracts; audited and unaudited financial statements; balance sheets; tax returns and tax information; loan/equity proposals; projections, business plans, products, projects, processes, private placement summaries or terms; and other ancillary documents; (ii) business facts, trade secrets, and non-public information of Owner and its products, projects, loans, owners, members, and exchange guests; (iii) proposals related to the Property, including projections, financial terms, structure, development plans, blueprints, forecasts, studies; and (iv) sales and marketing, systems, processes, procedures, reports, studies, strategies, compensation, and similar data, financial condition, trade secrets, intellectual property, computer data, software, codes, and other technical information or know-how related to Owner's operations and business or of any

other person or entity as to which Owner is obligated to maintain information and documents in confidence.

2. Non-Disclosure. The use of and access to any and all Confidential Information furnished to Recipient shall be on a strictly “need to know” basis by, and restricted exclusively to the Recipient’s officers, directors, employees and professional advisors directly involved in negotiations or discussions between the parties or internal analysis and who are subject to an obligation of confidentiality at least as restrictive as that set forth herein (collectively Representatives). Said access and use shall be solely for the purpose of determining the feasibility of purchasing the Property, and Recipient and its Representatives agree not to disclose such Confidential Information to any third-party, except to representatives, agents, employees, officers, or consultants of Recipient that are involved in evaluating the potential purchase of the Property, with prior written consent from Broker or Owner, or to comply with any subpoena or court order to produce such Confidential Information. If Recipient discloses the Confidential Information to any of its Representatives for the purpose of evaluating the potential purchase of the Property, such parties must also agree not to disclose the Confidential Information to any third-party. Recipient shall provide Broker with written notice if Recipient receives any subpoena or court order requiring production of the Confidential Information, as soon as possible after receiving service of the subpoena or court order. Recipient shall indemnify and hold Broker and Owner harmless from any disclosure of Confidential Information to any third-party that is in breach of this provision. Recipient and its Representatives shall not, without Broker or Owner’s prior written consent, make any copies of any of the Confidential Information, except to the extent necessary to review and evaluate the Confidential Information, and Recipient and its Representatives shall not make any further use of the Confidential Information. Without Broker or Owner’s prior written consent, neither Recipient, its Representatives, nor any person or entity to whom the Confidential Information has been shown, will disclose that discussions and/or negotiations are taking place regarding a potential business relationship or of any terms, conditions or facts with respect thereto. Upon Broker’s written request, Recipient shall promptly return to Broker or destroy all copies or other duplication of the Confidential Information and all notes and materials prepared by Recipient, its Representatives, or their respective personnel in connection with such evaluation.

3. No Warranty. Recipient and its Representatives acknowledge and agree that Broker does not make any representation or warranty as to the accuracy or completeness of the Confidential Information and shall not be liable for use or reliance upon the Confidential Information.

4. Exceptions. The term “Confidential Information” does not include any information which (i) at the time of disclosure or thereafter is generally available to and known by the public (other than as a result of its disclosure by Recipient or its Representatives in breach of this Agreement); (ii) was available to Recipient or its Representatives on a non-confidential basis prior to disclosure by such party; or (iii) becomes available to Recipient or its Representatives on a non-confidential basis from a person who, to their knowledge, is not otherwise bound by a confidentiality agreement with such party or is not otherwise prohibited from transmitting the information to them. As used in this Agreement, the term “person” shall be broadly interpreted to include, without limitation, any corporation, partnership, limited liability company and individual.

5. No Offer and Acceptance. The Parties expressly acknowledge that execution of the Agreement shall not constitute an offer by Recipient nor acceptance by Owner of an offer for purchase of the Property. Recipient and Owner shall only be bound by a mutually executed Purchase and Sale Agreement with respect to the Property. Recipient acknowledges and understands that Owner may, at its sole discretion, withdraw the Property for sale and/or accept an offer for the Property by a third-party at any time. Recipient acknowledges and understands that any and all site visits to the Property shall be arranged through Broker.

6. Notices. Any notice required by the Agreement shall be in writing and delivered to the party to whom notice is required in person, by registered or certified mail, or by email at the following:

If to Recipient:

Address

Email: _____

Phone: _____

Attn: _____

If to Broker:

Sheldon K. Glassco
Obsidian Real Estate Hawaii
345 Queen Street, Suite, 608
Honolulu, HI 96813

Address

Email: sglassco@obsidianhawaii.com

Phone: (808) 372-5964

Any party may change the address designated for receiving notice by providing written notice of same to the other party.

7. Agency. The brokerage agreement between Owner and Obsidian Real Estate Hawaii may provide for a certain commission to any properly licensed broker representing a buyer of the Property. If a properly licensed real estate broker represents Recipient, Recipient must provide the information below simultaneously with the execution of this Agreement. If Recipient's broker is not listed below at the time of Recipient's execution hereof, none of Owner, Broker, or Obsidian Real Estate Hawaii shall be obligated to compensate any alleged brokerage representative of Recipient making claims to commissions at a subsequent date and Recipient shall indemnify, defend and hold Owner, Broker, and Obsidian Real Estate Hawaii harmless from any

brokerage commission claims. If a properly licensed real estate agent represents itself as Recipient or if a real estate agent is a principal or owner of Recipient, none of Owner, Broker, or Obsidian Real Estate Hawaii shall be obligated to compensate Recipient. No commission will be accrued or paid unless the sale is closed, and proceeds distributed to Owner.

Recipient's Broker: Company: _____
 Agent: _____
 License No.: _____
 Address: _____

 Phone No.: _____
 Email: _____

(if not represented please write "NONE")

8. Non-Circumvention. Recipient agrees that, unless otherwise authorized in writing, it will not contact the Owner, its employees or consultants and will not, directly or indirectly, either for itself or any other person, (a) induce or attempt to induce the Owner, or any employee or consultant in any way to interfere with the relationship between the Discloser and the Owner, or (b) induce or circumvent, or attempt to induce or circumvent the Discloser, to cause the Owner to cease doing business with the Discloser, or in any way interfere with the relationship between Discloser and the Owner.

9. Entire Agreement. This Agreement contains and embodies the entire agreement of the Parties with regard to the matters covered herein with the exceptions specifically noted in this Agreement, and no representations, inducements, or other agreements, verbal or otherwise, not embodied herein, exist nor shall they be of any force or effect, and the Parties waive any claims based upon representations, inducements, or other agreements, verbal or otherwise, which are subsequently found to exist or have existed. This Agreement may not be modified, changed, amended or waived in whole or in part, orally or in any other manner, other than by an agreement in writing duly signed by the Parties. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any Party, except as specifically set forth herein. All prior discussions and negotiations with respect to the subject matter hereto have been and are merged and integrated into, and are superseded by, this Agreement.

10. Dispute Over Agreement. In the event of any dispute arising from this Agreement to enforce or interpret the terms herein, the Parties agree that the Circuit Court of the First Circuit, State of Hawai'i, shall have exclusive jurisdiction and venue over any and all claims arising herein. The prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

11. Interpretation. The Parties shall each be deemed to have drafted this Agreement, such that no ambiguity contained herein, if any, shall be construed against one Party in favor of the other.

12. Survival of Terms. If any term, covenant, condition or provision of this Agreement is deemed to be unenforceable by a court of competent jurisdiction, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

13. Authority. Each Party expressly warrants and represents that he, she, or it has the authority to bind and do so bind themselves and their successors and assigns to the terms of this Agreement by signing below.

14. Governing Law. This Agreement is entered into and shall be exclusively subject to the laws of the State of Hawai'i, unless federal law is applicable, and shall be construed and enforced in accordance with such laws.

15. Paragraph Heading. Paragraph headings in this Agreement are intended to be guides only and shall not be construed to enlarge, restrict, or otherwise change the meaning of the paragraph.

16. Counterpart Signatures. This Agreement may be signed in two or more counterparts and each counterpart, when executed, shall be deemed an original, and all such counterparts shall be construed as one agreement binding on all of the Parties.

IN WITNESS WHEREOF, the Parties executed this Agreement as of the Effective Date.

By: _____
Its _____

Recipient

SHELDON K. GLASSCO

Broker

**EXHIBIT A
PROPERTY DESCRIPTION**

All of that certain parcel of land situate at Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 27, area 9,129 square feet, more or less, as shown on Map [12](#), filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 6 of Bishop Trust Company, Limited, Trustee for Hobron Land Trust.

Being land(s) described in Transfer Certificate of Title No. 57,791 issued to PACIFIC UNITED, LTD., a Hawaii corporation.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : WONG SO PAK and ETHEL SHUT LIN WOO
 : WONG, husband and wife, and TAI CHIEN
 : and FEN LIU TAI, husband and wife

GRANTEE : PACIFIC UNITED, LTD., a Hawaii
 : corporation

DATED : April 14, 1954

FILED : Land Court Document No. [159857](#)

All of that certain parcel of land situate at Kalia, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOTS 32, area 9,000 square feet, as shown on Map 12,
and
 38-A, area 500 square feet, as shown on Map 13,

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 6 of Bishop Trust Company, Limited, Trustee for the Hobron Land Trust.

Together with an easement for road purposes in common with all others entitled thereto, over, along, across and upon Lot 52, as shown on Map 12, and Lot 25, as shown on Map 10 of said Consolidation No. 6.

Note:- Roadway Lot 25, as shown on Map 10, has been subdivided into Lots 25-A and 25-B.

Being land(s) described in Transfer Certificate of Title No. 104,855 issued to PACIFIC UNITED, LTD., a Hawaii corporation.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : SONIA LEWIS, unmarried, and KWAN DOO
 PARK, husband of Helen Pyo Park

GRANTEE : PACIFIC UNITED, LTD., a Hawaii
 corporation

DATED : August 9, 1965

FILED : Land Court Document No. [368240](#)

All of that certain parcel of land situate at Kalia, Waikiki, Honolulu, City and County of Honolulu, State of Hawaii, described as follows:

LOT 38-B, area 5,000 square feet, more or less, as shown on Map [13](#), filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 6 of Bishop Trust Company, Limited, Trustee for Hobron Land Trust.

Together with an easement in common with all others entitled thereto across Lot 52 (5-foot Path), as shown on Map 12 of said Consolidation, as provided in instrument filed as Land Court Document No. [91637](#).

Being land(s) described in Transfer Certificate of Title No. 213,409 issued to PACIFIC UNITED, LTD., a Hawaii corporation

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : WAI TONG CHONG and CONSTANCE CHUN CHONG, husband and wife, LAURA CHUN WONG, unmarried, ROBERT ALLAN WONG, husband of Nhung Thi Wong, PATRICK LAI and CAROLE CHUN LAI, husband and wife, SAMUEL DAU MING CHING and VICTORIA CHUN CHING, husband and wife, and JARED HUNG WO AUYONG, unmarried, and DAYTON HUNG CHEW AUYONG, husband of Ann Ada Auyong

GRANTEE : PACIFIC UNITED, LTD., a Hawaii corporation

DATED : May 30, 1979

FILED : Land Court Document No. [950173](#)