

## CONFIDENTIALITY AGREEMENT

This CONFIDENTIALITY AGREEMENT (hereafter "Agreement") is entered into between Fortune Franchising Inc, dba: Fortune Business Brokers (hereafter "FBB") and the prospective purchaser (hereafter "Buyer") of a business offered for sale through FBB. "Seller" shall refer to any business being offered for sale by or through FBB as well as the owners of such business. Based upon good and valuable consideration, including, but not limited to the provision of confidential and proprietary information, FBB and Buyer agree as follows:

1. **NON-DISCLOSURE OF INFORMATION:** Buyer acknowledges that the owner of the Business ("Seller") desires to maintain the confidentiality of the information disclosed. Buyer agrees not to disclose or permit access to any Confidential Information without the prior written consent of Seller to anyone other than Buyer's legal counsel, accountants, lenders, or other agents or advisors to whom disclosure or access is necessary for Buyer to evaluate the Business. Disclosure of Confidential Information shall be made to these parties only in connection with the potential acquisition of the Business, and then only if these parties understand and agree to maintain the confidentiality of such Confidential Information. Buyer shall be responsible for any breach of this Agreement by these parties, and neither Buyer nor these parties shall use or permit the use of Confidential Information in any manner whatsoever, except as may be required for Buyer to evaluate the Business or as may be required by legal process. If the Buyer does not purchase the Business, Buyer, at the close of negotiations, will destroy or return to FBB (at Seller's direction) all information provided to Buyer and will not retain any copy, reproduction, or record thereof.
2. **DEFINITION OF "CONFIDENTIAL INFORMATION":** The term "Confidential Information" shall mean all information including the fact that the Business is for sale, all financial, production, marketing and pricing information, business methods, business manuals, manufacturing procedures, correspondence, processes, data, contracts, customer lists, employee lists, and any other information whether written, oral, or otherwise made known to Buyer (a) from any inspection, examination, or other review of the books, records, assets, liabilities, processes, or production methods of Seller; (b) from communication with FBB, Seller, or Seller's directors, officers, employees, agents, suppliers, customers or representatives; (c) during visits to Seller's premises; or (d) through disclosure or discovery in any other manner. However, Confidential Information does not include any information which is readily available and known to the public.
3. **BUYER'S RESPONSIBILITY AND DISCLAIMER OF FBB'S LIABILITY:** FBB has received information about the Business from the Seller, which may include, but is not limited to, tax returns, financial statements, equipment lists, and facility leases. Based on information provided by sellers, FBB has prepared a summary description of the business which may include a cash flow projection, an adjusted income statement, or a seller discretionary cash flow statement. Buyer understands that FBB does not audit or verify any information given to FBB or make any warranty or representation as to its accuracy or completeness, nor in any way guarantee future business performance. Buyer is solely responsible to examine and investigate the Business, its assets, liabilities, financial statements, tax returns, and any other facts, which might influence Buyer's purchase decision, or the price Buyer is willing to pay. Any decision by Buyer to purchase the Business shall be based solely on Buyer's own investigation and that of Buyer's legal, tax, and other advisors and not that of FBB.
4. **NON-CIRCUMVENTION AGREEMENT:** The Seller has entered into an agreement providing that Seller shall pay a fee to the listing broker if, during the term of that agreement or up to twenty-four months thereafter, the Business is transferred to a buyer introduced by FBB or a cooperating broker. Buyer shall conduct all inquiries into and discussions about the Business solely through FBB and shall not directly contact the Seller or the Seller's representatives. Should Buyer purchase all or part of the stock or assets of Business, acquire any interest in, or become affiliated in any capacity with Business, with or without FBB's participation, and in any way interfere with FBB's right to a fee, Buyer shall be liable to FBB and any cooperating broker for such fee and any other damages including reasonable attorney's fees and costs.
5. If the seller's business, represented by FBB for sale, is a **franchise**:
  - a. then the franchisor is a third-party beneficiary with independent right to enforce this agreement, and FBB will, at any time that a franchisor requests, provide the respective franchisor a list of all Prospective Buyers of this listing.

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- b. this Agreement will be governed by and interpreted under the laws of the state of the franchisor's principal place of business, without reference to its 'conflicts of laws' provisions. Any action between the parties may be brought in the federal court covering the location at which the franchisor has its principal place of business at the time the action is commenced or, if the federal court would not have subject matter jurisdiction, the state court within the judicial district in which the franchisor has its principal place of business at the time the action is commenced. The parties waive all questions of personal jurisdiction or venue for the purpose of carrying out this provision.
6. **FURTHER TERMS:** Neither Buyer nor Buyer's agents will contact Seller's employees, customers, landlords, or suppliers, nor linger, or otherwise observe the Business, without Seller's consent. For two years, Buyer shall not directly or indirectly solicit any employees of Seller for employment. FBB may act as a dual agent representing both Buyer and Seller, or as a "Transaction Broker" if in FL. Seller, Seller's successors, and Seller's franchisor are specifically intended to be beneficiaries of the duties and obligations of this Agreement and may prosecute any action at law or in equity necessary to enforce its terms and conditions as though a party hereto. This Agreement can only be modified in writing, signed by both FBB and Buyer. Waiver of any breach of this Agreement shall not be a waiver of any subsequent breach. This Agreement supersedes all prior understandings or agreements between the parties with respect to its subject matter. All parties to this agreement agree to mediate, in good faith, any dispute prior to initiating arbitration or litigation. The prevailing party in the event of arbitration or litigation shall be entitled to costs and reasonable attorney fees except that any party found in those proceedings, to have failed to mediate in good faith shall not be entitled to attorney fees and costs. If Buyer is a corporation, partnership, or other such entity, the undersigned executes this Agreement on behalf of Buyer and warrants that he/she is duly authorized to do so. Buyer acknowledges receipt of a fully completed copy of this Agreement.
7. This agreement and its terms shall expire twenty-four (24) months from the date of this agreement.
8. Please do not interact or communicate with Employees during your visit to the seller's place of business.

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

SAVE completed document and email to [FortuneBusinessBrokers@gmail.com](mailto:FortuneBusinessBrokers@gmail.com)

and / or

[Mike@FortuneBizness.com](mailto:Mike@FortuneBizness.com)

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