



Confidentiality Agreement – Non-Disclosure Agreement

Please return signed agreement via email to jgates@thekasegroup.com

This Confidentiality Agreement and Agreement for the Release of Due Diligence Materials and Waiver of Claims (“Agreement”) is dated _____, by (“Buyer”) regarding the Dollar General Portfolio (the “Property”).

1. **Marketing Representatives.** Buyer is evaluating certain property owned by Owner for the purpose of purchasing the property from Owner (the “Transaction”), and, to assist Buyer in evaluating a possible transaction with Owner, Owner is prepared to make available to the Buyer certain confidential, non-public or proprietary information concerning the property and the tenants (the “Confidential Materials”). As a condition to the Confidential Materials being furnished to Buyer and its Representatives, Buyer agrees to treat the Confidential Materials in accordance with the provisions of this Agreement and to take or abstain from taking certain other actions hereinafter set forth.

2. **Excluded Information.** The Confidential Materials shall not include information that: (i) is or becomes publicly available other than as a result of acts by Buyer in breach of this Agreement; (ii) is in Buyer’s possession before disclosure by the Owner or is independently derived by Buyer without the aid, application or use of the Confidential Materials; (iii) is disclosed to Buyer by a third party on a non-confidential basis; or (iv) counsel for Buyer advises must be disclosed by law.

3. **Non-Disclosure of Confidential Materials.** Buyer and its Representatives shall use the Confidential Materials solely for the purpose of evaluating a possible transaction with Owner. Buyer shall keep the Confidential Materials confidential and shall not disclose any of the Confidential Materials in any manner whatsoever, provided, however, that (i) Buyer may make any disclosure of information contained in the Confidential Materials to which Owner gives its prior written consent; and (ii) any information contained in the Confidential Materials may be disclosed to Buyer’s Representatives who need to know that information for the purpose of evaluating a possible Transaction with Owner and who agree to keep that information confidential. Buyer shall be responsible for any breach of this Agreement by any of its Representatives.

4. **Disclaimer of Warranty.** Neither Owner nor its Representatives has made or makes any representation or warranty regarding the accuracy or completeness of the Confidential Materials.



Buyer agrees that neither Owner nor its Representatives shall have any liability to Buyer or any of its Representatives resulting from Buyer's use of the Confidential Materials, except as may be expressly set forth in a definitive written agreement, between the parties hereto with respect to a Transaction in accordance with the terms hereof.

5. **Release and Waiver of Warranties and Claims.** Except as set forth herein, Buyer expressly acknowledges that the Confidential Materials are being provided solely as a courtesy and without any representation or warranty of any kind. As part of Buyer's agreement to accept and use the Confidential Materials and Audit as such use is defined herein, and as consideration for the release of the Confidential Materials by Owner, BUYER HEREBY WAIVES ANY AND ALL ACTUAL OR POTENTIAL RIGHTS, CLAIMS, CAUSES OF ACTION OR DEMAND BUYER MIGHT HAVE REGARDING ANY FORM OF WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR TYPE, RELATING TO THE CONFIDENTIAL MATERIALS.

6. **Due Diligence.** Buyer acknowledges they will be conducting due diligence with regard to the Property and that such due diligence is the sole responsibility of Buyer. Buyer shall at all times conduct its due diligence review, inspections and examinations in a manner so as to not cause damage, loss, cost or expense to Owner, the Property or the tenants of the Property and so as to not interfere with or disturb any tenant at the Property, and Buyer will indemnify, protect, defend, and hold Owner and the Property harmless from and against any such breach of this Agreement. Without limitation on the foregoing, in no event shall Buyer contact any tenant of the Property without Owner's express written consent. Owner shall have the right, at its option, to cause a representative of Owner to be present at all inspections, reviews and examinations conducted hereunder.

7. **Remedies.** Buyer acknowledges that if this Agreement is breached, Owner could not be made whole by monetary damages. Accordingly, Owner, in addition to any other remedy to which it may be entitled by law or in equity, shall be entitled to an injunction to prevent breaches of this Agreement, and to an order compelling specific performance of this Agreement. Buyer shall reimburse Owner for all costs and expenses, including reasonable attorney's fees, incurred by Owner if Owner successfully enforces the obligations of Buyer and its Representatives hereunder.

8. **Brokerage Entities.** Buyer has been advised that The Kase Group ("TKG") is acting on behalf of Owner as broker ("Broker") in connection with the proposed sale of the Property, and Owner has agreed to pay a commission to TKG upon a sale of the Property in accordance with a separate agreement between Owner and TKG. In the event the sale of the Property is consummated and the Buyer represented by a Buyer's Broker as disclosed herein, TKG shall pay to Buyer's Broker per a separate agreement out of the commissions received by TKG from Owner. Buyer and Buyer's Broker agree to indemnify and hold harmless TKG and Owner, their respective affiliates, partners, subsidiaries, reasonable attorney's fees arising out of any claim or claims by any broker, finder or similar agent (including but not limited to Broker) for commissions, fees or other



compensation for bringing about any sale of the Property. Buyer shall be responsible for their broker's confidentiality in regards to the Confidential Materials.

9. Miscellaneous

- a) **Assignment; Binding Effect.** All of the covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of the respective successors, permitted assigns and designees of Owner, and the successors of Buyer. Buyer may not assign this Agreement.
- b) **Severability.** If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and every provision of this Agreement shall remain in full force and effect and enforceable to the fullest extent permitted by law.
- c) **Survival.** Except as otherwise provided in this Agreement, Owner and Buyer agree that the covenants, warranties and representations contained herein shall survive the completion of the services and the termination of this Agreement.
- d) **Waiver.** Neither party's waiver of the other's breach of any term, covenant or condition contained in this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition in this Agreement.
- e) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- f) **Entire Agreement: Modification.** This Agreement constitutes the entire agreement of the parties concerning its subject matter. There are no promises or other agreements, oral or written, express or implied, between them other than as set forth in this Agreement concerning the subject matter of this Agreement. No change or modification of, or waiver under, this Agreement shall be valid unless it is in writing and signed by duly authorized representatives of Owner and Buyer.

IN WITNESS WHEREOF the Buyer has caused this Agreement to be duly executed as of the date set forth above.





The Kase Group

Investment Real Estate

BUYER

Signed

Company

Name

Address

Date

City State Zip

Phone

Email

BROKER

Signed

Company

Name

Address

Date

City State Zip

Phone

Email

