

## **Confidentiality Agreement**

This **CONFIDENTIALITY AGREEMENT** is made **by** and **between**  
**RE/MAX Alliance**

**And**

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(each of whom shall be hereinafter referred to as "Disclosing Party" or "Receiving Party", as appropriate) as of \_\_\_\_\_, 20\_\_\_\_.

### **Project Reference:**

Discussions and information related, but not limited to,

Americas Best Value Inn,

4333 E Mulberry St., Fort Collins, CO 80524

In consideration of the joint commitments and promises contained in this Agreement, and the joint exposition of not to be disclosed information to each other, the parties hereto agree as follows:

## 1. Confidential Information and Materials

(a) **"Confidential Information"** shall mean any nonpublic information that Disclosing Party specifically highlights and allocates, either orally or in written, as not to be disclosed or which, under the situations adjacent the disclosure, must be treated as confidential. "Confidential Information" includes, but is not limited to, product schematics or drawings, evocative material, conditions, source code or article code, sales and customer information, Disclosing Party's business policies or practices, information received from others that Disclosing Party is obligated to treat as confidential, and other materials and information of a confidential nature.

(b) **"Confidential Information"** shall not contain any materials or information which the Receiving Party shows: (i) is at the time of disclosure generally known by or available to the public or which becomes so known or available afterward through no fault of the Receiving Party; or (ii) is legally known to the Receiving Party at the time of disclosure; or (iii) is furnished by the Disclosing Party to third parties without limit; or (iv) is furnished to the Receiving Party by a third party who legally obtained said information and the right to make known it; or (v) is developed alone by the Receiving Party where the Receiving Party can document such independent development.

(c) **"Confidential Materials"** shall mean all physical materials containing Confidential Information, including without limitation drawings, schematics, written or printed documents, computer disks, tapes, and compact disks (CD), whether machine or user readable.

## 2. Restrictions

(a) Receiving Party shall not make known any Confidential Information to third parties for a period of two (2) years following the termination of its relationship with Disclosing Party or two (2) years from the date of this Agreement, whichever is longer, except to Receiving Party's consultants as provided below. However, Receiving Party may disclose secret Information in harmony with judicial or other governmental order, provided Receiving Party shall give Disclosing Party reasonable notice before such disclosure and shall fulfill any appropriate protective order or equivalent.

(b) Receiving Party cannot use any not to disclose information other than for reason of assessment in association with the above-referenced Project or as otherwise particularly certified by the Disclosing Party.

(c) Receiving Party shall take realistic safety measures, at least as great as the precautions it takes to defend its own secret information, to keep confidential the Confidential Information. Receiving Party may expose Confidential Information or Confidential Materials only to employees of Receiving Party or consultants on a need-to-know basis. Receiving Party shall instruct all employees given access to the information to maintain privacy and to abstain from making illegal copies. Receiving Party shall maintain appropriate written agreements with its employees, mentors, parent, contributories, affiliates or related parties, who receive, or have right to use, Confidential Information adequate to enable it to obey the terms of this Agreement.

(d) Confidential Information and Confidential Materials may be made known, repeated, summarized or distributed only in pursuance of Receiving Party's business relationship with Disclosing Party, and only as otherwise provided hereunder. Receiving Party makes agreement to separate out all such Confidential Materials from the confidential materials of others to avoid commingling.

### **3. Rights and Remedies**

- (a)** Receiving Party shall inform Disclosing Party straight away upon detection of any unlawful use or disclosure of Confidential Information or Confidential Materials, or any other violation of this Agreement by Receiving Party, and will cooperate with Disclosing Party in every sensible way to help Disclosing Party recover control of the Confidential Information and/or Confidential Materials and avoid more unofficial use or disclosure.
- (b)** Receiving Party shall return all originals, copies; reproductions and summaries of Confidential Information and/or Confidential Materials then in Receiving Party's ownership or control at Disclosing Party's demand or, at Disclosing Party's choice, certify destruction of the same.
- (c)** Receiving Party recognizes that financial damages may not be a adequate remedy for damages resulting from the unlawful disclosure of Confidential Information and that Disclosing Party shall be permitted, without giving up any other rights or remedies, to seek such injunctive or reasonable assistance as may be considered proper by a court of capable authority.
- (d)** Disclosing Party may visit Receiving Party's site, with realistic earlier notice and in regular business hours, to evaluate Receiving Party's fulfillment with the terms of this Agreement.

### **4. Miscellaneous**

- (a)** All Confidential Information and Confidential Materials are and shall remain the only and private belongings of the Disclosing Party. By disclosing information to Receiving Party, Disclosing Party does not allows any express or indirect right to Receiving Party in, to or under Disclosing Party patents, copyrights, trademarks, or trade secrets.
- (b)** All Confidential Information and Materials are provided "AS IS" and Disclosing Party makes no guarantee about the correctness or consistency of such information or materials. Disclosing Party does not demands that it will release any product concerning which information has been disclosed as a part of the Confidential Information or Confidential Materials. The Disclosing Party will not be accountable for any cost or losses caused by or any action undertaken by the Receiving Party as a result of the receipt of Confidential Information or Confidential Materials. The whole threat arising out of the use of the Confidential Information and Confidential Materials stays with the Receiving Party.
- (c)** Receiving Party makes agreement that it shall stick on to all state Administration laws and regulations and shall not sell abroad or re-export any practical data or products received from the Disclosing Party or the direct product of such technical data to any forbidden country listed in the State Export Administration policies unless properly authorized by both the Disclosing Party and the U.S. Government.
- (d)** The terms of confidentiality under this Agreement shall not be interpreted to bind either party's right to independently expand or obtain products without use of the other party's Confidential Information.
- (e)** This Agreement comprises the whole Agreement among the parties with respect to the question hereof. It shall not be customized apart from by a printed agreement dated successive to the date of this Agreement and signed by both parties. None of the provisions of this Agreement shall be considered to have been given up by any act or agreement on the part of the Disclosing Party, its agents, or employees but only by an instrument in writing signed by an certified officer of Disclosing Party. No waiver of any provision of this Agreement shall comprise a waiver of any other provision(s) or of the same provision on another event. Failure of either party to implement any provision of this Agreement shall not comprise waiver of such provision or any other provisions of this Agreement.

(f) If any deed at law or in equity is necessary to enforce or interpret the rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which it may be entitled.

(g) This Agreement shall be construed and controlled by the laws of the State of [State], and both parties further consent to jurisdiction by the state and federal courts sitting in the State of [State].

(h) If any condition of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect. Should any of the obligations of this Agreement be found illegal or unenforceable as being too broad with respect to the duration, scope or subject matter thereof, such obligations shall be deemed and construed to be reduced to the maximum duration, scope or subject matter allowable by law.

(i) All responsibilities formed by this Agreement shall endure change or termination of the parties' professional relationship.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement by their duly authorized representatives as of the date first set forth above.

**RE/MAX Alliance**

**Address:** 4703 A Boardwalk Dr, Fort Collins CO 80525

**By:** *Kim Choi*

**Name:** Kim Choi

**Title:** Associate Broker

**Potential Buyer**

**By:** \_\_\_\_\_

**Buyer Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Buyer's Broker:** \_\_\_\_\_

**Contact Info:** \_\_\_\_\_