



THIS NONDISCLOSURE AGREEMENT (the “*Agreement*”) is effective the ____ day of _____, 20__ (the “*Effective Date*”), by and between OTTOMOTO, LLC a Georgia limited liability company (the “*Company*”) and _____, (the “*Recipient*”). The Company and the Recipient may be individually referred to as a “*Party*” and collectively as “*Parties.*”

WHEREAS, the Company has developed a business model, ideas, plans, and processes which includes Proprietary Information and Trade Secrets (as defined below);

WHEREAS, the Parties are exploring the possibility of engaging in a potential business relationship (collectively, the “*Proposed Transaction*”);

WHEREAS, the Proposed Transaction may require the Company to disclose to the Recipient Proprietary Information, and therefore, the Parties desire to enter into this Agreement addressing the rights and obligations of each Party pertaining to the Proprietary Information (the “*Purpose*”).

Therefore, in consideration of the foregoing and the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the Company and the Recipient hereby agree as follows:

1. The above recitals are hereby incorporated into this Agreement as if fully set forth herein.
2. For the purpose of this Agreement, “*Proprietary Information*” shall mean any data or information having commercial value and which is not generally known to the public; including but not limited to Trade Secrets as defined below, business plans, strategies, marketing data, reports, figures, projections, operations data, sales history, pricing, strengths and weaknesses, creative works, data, data bases, product plans, strategies, forecasts, research procedures methodologies, protocols and development, marketing techniques procedures and materials, customer names and other information related to customers, price-lists, pricing policies and financial information which the parties consider sensitive.
3. For the purpose of this Agreement, “*Trade Secrets,*” as used in this Agreement shall mean information, without regard to form, including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which is not commonly known by or available to the public and which information:
 - (a) Derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
 - (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

- 4.** The Recipient shall not disclose or distribute the Proprietary Information to any third-party, nor reproduce any Proprietary Information, except that the Recipient may disclose or reproduce the Proprietary Information to the Recipient's employees or agents who are required to have the information in order to evaluate or engage in discussions concerning the Proposed Transaction, and only to those representatives or employees who have signed a non-use and non-disclosure agreement in content at least as protective as the provisions hereof, prior to any disclosure of Proprietary Information or use the Proprietary Information, except as required (i) in furtherance of the Purpose or (ii) as reasonably required by Recipient's legal counsel, accountants or auditors. The Recipient shall hold Proprietary Information in confidence using the same degree of care the Recipient affords its own
- 5.** The Recipient shall have no obligation of confidentiality with respect to information received hereunder, which is **(a)** already known to the Recipient at the time of disclosure as evidenced by written records of the Recipient produced for the Company's inspection within 14 days of disclosure of the information; **(b)** either known or becomes publicly known without the wrongful act or breach of this Agreement; **(c)** rightfully received by the Recipient on a non-confidential basis from a third party with a lawful right to disclose; or **(d)** approved for release to a third party by the written authorization of the Company.
- 6.** The Recipient shall not be liable to the Company for the disclosure of Proprietary Information that he is obligated to be disclosed by applicable law or court order provided that if such disclosure becomes necessary, the Recipient promptly notifies the Company in writing of such demand or obligation to enable the Company to seek, at its sole discretion, the appropriate remedy, or relief. Further, the Recipient agrees to furnish only that portion of the Proprietary Information which is legally required to be disclosed. In no event shall any provision in this Agreement be interpreted to require either the Recipient to violate any lawful order.
- 7.** Any information related to and provided for the Proposed Transaction and/or Purpose which is disclosed by the Company to the Recipient shall be treated as Proprietary Information. All other information disclosed by the Company to the Recipient shall not be considered Proprietary Information unless the Company indicates to the Recipient at the time of such disclosure that the information is proprietary and within thirty (30) days of such disclosure provides the Recipient with an appropriately marked writing which identifies the Proprietary Information.
- 8.** All Proprietary Information (including, without limitation, all copies, extracts and portions thereof) is and shall remain the sole property of the Company. Nothing in this Agreement shall be construed to grant the Recipient any right, title, interest, or license in any Proprietary Information received hereunder other than the right to evaluate such Proprietary Information for the purpose of exploring the Proposed Transaction.
- 9.** The Recipient may not assign or transfer its rights or obligations under this Agreement without the prior written consent of the Company.
- 10.** If either Party hereto shall determine that it does not wish to proceed with the Proposed Transaction, such Party shall promptly advise the other Party of that decision by written notice.
- 11.** The Recipient agrees to return or destroy all Proprietary Information received under this Agreement to the Company upon either Party advising the other in writing that it will not proceed with the Proposed Transaction, or upon the request of the Company.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. The Parties agree that any and all actions or proceedings seeking to enforce any provision of, or based on any right arising out of, this Agreement shall be brought in the courts of the State of Georgia, County of Fulton, including Federal Courts located therein, should Federal jurisdiction requirements exist. Each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world. The Parties hereto specifically waive any right to a jury trial with respect to any matter arising under this Agreement.

13. Both Parties acknowledge that the Proprietary Information to be disclosed hereunder is of a unique and valuable character, and that the unauthorized dissemination of the Proprietary Information would destroy or diminish the value of such information. The damages to the Company that would result from the unauthorized dissemination of the Proprietary Information would be impossible to calculate. Therefore, both parties hereby agree that the Company shall be entitled to injunctive relief preventing the dissemination of any Proprietary Information in violation of the terms hereof. Such injunctive relief shall be in addition to any other remedies available hereunder, whether at law or in equity. the Company shall be entitled to recover its costs and fees, including reasonable attorneys' fees, incurred in obtaining any such relief. Further, in the event of litigation relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses.

14. Unless expressly terminated, this Agreement will automatically terminate one (1) year from the Effective Date of this Agreement. The obligations of confidentiality and non-use of Proprietary Information shall remain in force for five (5) years from the initial disclosure of each piece of Proprietary Information and in the case of Trade Secrets, such obligation shall continue in perpetuity.

[signatures on following page]

IN WITNESS WHEREOF, the Company and the Recipient have caused this Agreement to be executed by their duly authorized representatives.

OTTOMOTO, LLC

Paul Nicholas, Manager

Date

RECIPIENT

Signature

Date