

# MNDA between Wiretooth Technologies and Chima Alaebo

09 February 2015

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## **MUTUAL NONDISCLOSURE and NON-CIRCUMVENTION AGREEMENT**

This Agreement (this "Agreement") is entered into as of February 9<sup>th</sup> 2015 by and between **Wiretooth Technologies (www.wiretooth.com)**, having its present office at **13, Adedoyin Street, Aguda-Ogba, Lagos, Nigeria** and

\_\_\_\_\_, \_\_\_\_\_),

whose address is \_\_\_\_\_.

(Wiretooth Technologies and \_\_\_\_\_ are referred to herein as **Party** and / or **Parties** as appropriate)

### **RECITAL**

WHEREAS, the parties wish to protect and preserve the confidential and/or proprietary nature of information and materials to be disclosed or made available to each other in connection with certain discussions, negotiations or dealings between the parties in accordance with the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree to the following terms and conditions, which set forth the rights, duties, and obligations of the parties:

### **AGREEMENT**

#### ***Definitions.***

**"Proprietary Information"** shall mean all information disclosed by one party (the "Disclosure") to the other party (the "Recipient") in connection with the Purpose, whether in oral, written, graphic or electronic form, and that is clearly marked or labeled "Confidential" or "Proprietary" (or with a similar legend), or if disclosed orally or in other intangible form or in any form that is not easily marketable, that is reduced to writing and transmitted to the Recipient within thirty (30) days of such oral, intangible or unmarketable disclosure. Without limiting the generality of the foregoing, Proprietary Information shall be deemed to include, whether marked Confidential or not, and without limitation, any trade secret, know-how, idea, invention (whether patentable or not), process, technique, algorithm, computer program (source and object code), design, schematic, drawing, formula, data, product development plan, strategy, forecast and other technical, engineering, manufacturing, product, marketing, servicing, financial, personnel and other information and materials relating to the Disclosure or any of its employees, consultants, investors, affiliates, licensors, suppliers, vendors, customers or clients.

**"Purpose"** shall mean the evaluation of a potential business relationship, the execution of a business relationship, and / or the ongoing conduct of any business relationship, between the parties (including, without limitation, any discussions and negotiations in connection therewith) relating to, but is not limited to, any information, technical data, or know-how provided by Wiretooth Technologies to \_\_\_\_\_ and \_\_\_\_\_ to Wiretooth Technologies. As a result of such discussions and negotiations, if the parties mutually agree to enter into a business relationship and do not enter into a new confidentiality agreement, "Purpose" shall also include any activities related to, or undertaken in connection with, carrying out such business relationship.

### **NONDISCLOSURE AND LIMITED USE**

**Restrictions.** Each party may, at its sole discretion, disclose Proprietary Information to the other party in connection with the Purpose. Recipient shall maintain all Proprietary Information of Disclosure in trust and strict confidence for the sole benefit of Disclosure and shall not disclose such Proprietary Information to any third party without Disclosure's prior written consent. Recipient may disclose Disclosure's Proprietary Information only to Recipient's employees and agents who have a need to know such Proprietary Information in order to carry out the Purpose, and who have each signed a written agreement which obligates such employee or agent to refrain from any unauthorized use and disclosure of the confidential and proprietary information and materials of

- i. Recipient and



- ii. any third parties who have disclosed confidential and proprietary information or materials to Recipient.

Recipient shall not use any of Disclosure's Proprietary Information for Recipient's own benefit (or the benefit of any third party) or for any purpose other than in connection with carrying out the Purpose. Recipient shall take all reasonable measures, but in any event no less than the same degree of care that it uses to protect its own confidential and proprietary information of similar nature and importance, to protect the confidentiality and avoid the unauthorized use, disclosure, publication, or dissemination of Disclosure's Proprietary Information. Disclosure's Proprietary Information shall not be reproduced in any form except to the extent reasonably required to accomplish the Purpose.

**Exclusions.** The foregoing restrictions on disclosure and use shall not apply with respect to any Proprietary Information which:

- i. was or becomes publicly known through no wrongful act or omission of Recipient;
- ii. was known by Recipient before receipt from Disclosure;
- iii. becomes known to Recipient without confidential or proprietary restriction from a source other than Disclosure that does not owe a duty of confidentiality to Disclosure with respect to such Proprietary Information; or
- iv. is independently developed by Recipient without the use of the Proprietary Information of Disclosure. In addition, Recipient may use or disclose Proprietary Information to the extent
  - a. Approved by Disclosure or
  - b. Recipient is legally compelled to disclose such Proprietary Information, provided, however, that prior to any such compelled disclosure, Recipient will first notify Disclosure and shall cooperate fully with Disclosure in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Proprietary Information.

**Term of Obligations.** The commitments of each party set forth herein shall remain in effect for a period of three (3) years from the Effective Date.

**Ownership.** All Proprietary Information (including without limitation all copies, extracts and portions thereof) shall be and remain the sole property of Disclosure. Recipient does not acquire (by license or otherwise, whether expressly or implied) any intellectual property rights under this Agreement or any disclosure hereunder. Where the Proprietary Information is computer code, and the recipient makes changes to or additions to that code, the computer code thus added, and the combined computer code, and any Intellectual Property vested in that code shall become the property of Wiretooth Technologies.

**Return of Proprietary Information.** Upon conclusion of the Purpose or at any time at Disclosure's request, Recipient shall promptly return to Disclosure all materials (in written, electronic or other form) containing or constituting Proprietary Information, including any copies and extracts thereof, provided that Recipient may retain one (1) copy of all such Proprietary Information for archival purposes only as the record of Proprietary Information received and

Recipient shall not use the Proprietary Information in any way for any purpose.

**Remedies.** Recipient acknowledges and agrees that due to the unique nature of Disclosure's Proprietary Information, there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach may allow Recipient or third parties to unfairly compete with Disclosure resulting in irreparable harm and significant injury to Disclosure, which will be difficult to estimate and ascertain, and therefore, that upon any such breach or any threatened breach thereof, Disclosure shall be entitled to seek an immediate injunction, temporary restraining order and/or other appropriate equitable relief, in addition to whatever remedies it might have at law. Recipient shall notify Disclosure in writing immediately upon the occurrence of any such unauthorized release or other breach.

**Confidentiality of Discussions and Business Relationship.** Unless required by law, and except to assert its rights hereunder or for disclosures to its own employees or agents on a "need to know" basis pursuant to "Nondisclosure and Limited Use", each party agrees not to disclose the existence or subject matter of any negotiations or business relationships governed by this Agreement, or any terms of this Agreement or any related written agreement entered into by the parties (or any matters relating thereto), without the prior written consent of the other party.





**Business Relationships.** Each party acknowledges that the other party's employees and contractors are valuable business assets. Each party agrees that, during the period until the Purpose is completed and for one (1) year thereafter, it shall not (for itself or for any third party) divert or attempt to divert from the other party any employee or contractor, through solicitation or otherwise.

**Non-Circumvent.** The parties will not in any manner solicit, nor accept any business in any manner from sources or their affiliates related to a specific opportunity brought by the other party for (a), which sources were made available under this Agreement, without the express permission of the party who made available the source. In the event that a party is able to produce reasonable proof that the party had contacted any such disclosed source within the one (1) year period before the date of this Agreement or the disclosure of the name of any such source, whichever is later, in an attempt to solicit a business relationship, then the party shall notify the other within fifteen (15) business days of the disclosure and such source shall be excluded from the applicability of this Agreement. The parties also undertake not to make use of a third party to circumvent this paragraph.

**Miscellaneous.** This Agreement constitutes the entire agreement between the parties concerning the parties relationship and the subject matter hereof and supersedes all prior or contemporaneous representations, discussions, proposals negotiations, conditions, communications and agreements, whether oral or written, between the parties relating to the subject matter hereof and all past courses of dealing or industry custom. No Agreement or modification of any provision of this Agreement shall be effective unless in writing and signed by duly authorized signatories of both parties. The waiver by either party of a breach of or a default under any provision of this Agreement shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy. This Agreement will be governed by and construed in accordance with the laws of the Republic of Singapore except as to copyright and other proprietary matters, which may be preempted by international treaties. Should legal action arise concerning this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and related costs, in addition to any other relief which may be awarded by any arbitration or court of competent jurisdiction. This Agreement may not be assigned by Recipient without the prior written consent of Disclosure. Subject to the foregoing, this Agreement shall be binding upon and for the benefit of the parties and their respective successors and assigns. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction be invalid or unenforceable, the remaining portions hereof shall remain in full force and effect, and such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed to the extent necessary to make such provision valid and enforceable. The parties are independent contractors, and neither party shall have any authority of any kind to bind the other party in any respect whatsoever.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by duly authorized representatives of the parties as of the Effective Date.

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Name:** David Alozie  
**Title:** Founder  
**For:** Wiretooth Technologies

**And**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_