

## NONDISCLOSURE AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into on \_\_\_\_\_ by and between HTOA, Inc., a California corporation dba Holiday Travel of America (“Holiday Travel”) and \_\_\_\_\_ (“\_\_\_\_\_”) and its employees, officers, directors, shareholders, attorneys, accountants, consultants, financial advisors, agents, successors and assigns, are hereinafter sometimes referred to as “Party” or “Parties.”

WHEREAS, the Parties to this Agreement contemplate entering into a contract for the purchase by \_\_\_\_\_ of a certain product and website (A Suite Week) and ([www.asuiteweek.com](http://www.asuiteweek.com)) from Holiday Travel;

WHEREAS, in connection with the purchase and sale of the product (A Suite Week) from Holiday Travel, the parties desire to conduct certain investigations in connection with its due diligence process prior to purchasing the product.

NOW THEREFORE, in order to facilitate the needs and desires of the Parties, induce such transfer of Proprietary Information, the Parties agree as follows:

1. (a) “Proprietary Information”, as used herein, means all information, documents, ideas, concepts, data, pricing strategies, business plans, and other materials obtained by NGM from Holiday Travel in connection with its purchase of product (A Suite Week).

(b) “Transmitter” shall refer to Holiday Travel.

(c) “Receiver” shall refer to \_\_\_\_\_.

2. Receiver acknowledges and agrees that the Proprietary Information received by it hereunder shall be used solely in connection with the relationship between the parties as recited above (“Approved Uses”), and Receiver (i) shall not copy, distribute, disclose or disseminate any Proprietary Information received hereunder to Holiday Travel or to any third party including any affiliated company or entity of a Party, (ii) shall not, without prior written permission of Transmitter, commercially use or apply such Proprietary Information for any purpose, and (iii) obtains no rights of any kind with respect to such Proprietary Information. The Receiver shall provide adequate security at all premises at which the Receiver stores the Transmitter’s Proprietary Information and shall place such information in locked storage during non-working hours.

3. All Proprietary Information delivered pursuant to this Agreement:

(a) shall be maintained in confidence using the same degree of care which Receiver employs with respect to its own Proprietary Information, but in no event maintained with less than a reasonable standard of care, and may only be disclosed to those employees and agents (including legal counsel, accountants, lenders and financial advisors) of Receiver who have a need to know the same in order to use the same for the Approved Uses, and have by their signatures to this Agreement expressly agreed to be personally bound by the obligations of this

Agreement (and such access shall be limited to only so much of the Proprietary Information as is necessary for the particular employee or agent to perform a required function); and

4. The obligations set forth in paragraphs 2 and 3 shall not apply to any information which:

(a) is already in the public domain at the time of disclosure or later becomes available to the public through no breach of this Agreement by Receiver;

(b) was, as between Transmitter and Receiver, lawfully in Receiver's possession prior to receipt from Transmitter;

(c) is received by Receiver independently and through no improper action or inaction of Receiver from a third party without any obligation of confidentiality to Transmitter; or,

(d) is independently developed by Receiver without the use of any of Transmitter's Proprietary Information, as evidenced by Receiver's business records.

In the event that a Receiver receives a request or is required (by deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose all or any part of the Proprietary Information, the Receiver or its agents, as the case may be, agree to (i) immediately notify the Transmitter of the existence, terms and circumstances surrounding such a request, (ii) consult with the Transmitter on the advisability of taking legally available steps to resist or narrow such request and (iii) assist the Transmitter in seeking a protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained or that the Transmitter waives compliance with the provisions of this paragraph, (i) the Receiver or its agents, as the case may be, may disclose to any tribunal only that portion of the Proprietary Information which the Receiver is advised by counsel is legally required to be disclosed, and shall exercise Receiver's best efforts to obtain assurance that confidential treatment will be accorded to such Proprietary Information and (ii) the Receiver shall not be liable for such disclosure unless disclosure to any such tribunal is caused by or resulted from a previous disclosure by Receiver or its agents not permitted by this Agreement.

The Receiver shall bear the onus of showing its entitlement to any exemption set forth in this paragraph 5.

5. Proprietary Information shall not be deemed to be in the public domain merely because any part of said information is embodied in general disclosures or because individual features, components or combinations thereof are known or become known to the public.

6. Each Party agrees not to circumvent, avoid, bypass or obviate each other, directly or indirectly, in any transaction with any entity or individual revealed by one Party to this Agreement to the other Party, including, but not limited to banks, financial institutions, investors or other entities or persons. In addition, no Party shall enter into or form any business, contract, transaction, partnership, joint venture, limited partnership, limited liability company, corporation or any other entity or transaction with any person or entity introduced by the other Party to this

Agreement without the express written consent of the introductory Party and, then, only after a mutually acceptable compensation arrangement has been negotiated and entered into by the Parties.

7. Unless the Parties shall otherwise agree in writing, Receiver's obligations hereunder with respect to each item of Proprietary Information (and with respect to the non-circumvention obligations set forth in Section 7 above) shall terminate three (3) years from the date on which such item or items of Proprietary Information are provided for or communicated to the Receiver.

8. Receiver shall have the right to refuse to accept any information under this Agreement and nothing herein shall obligate Transmitter to disclose to Receiver any particular information.

9. Unless the Parties shall otherwise mutually agree in writing, the Parties hereto shall not be obligated under the terms hereof to compensate each other for disclosures of any Proprietary Information under this Agreement and agree that no warranties of any kind are given by Transmitter with respect to such information or any use thereof.

10. Transmitter and Receiver shall have no obligation to enter into any further agreement with each other except as each, in its sole judgment, may deem advisable. It is understood that no patent, copyright, trademark or other proprietary right or license is granted by this Agreement. The disclosure of any Proprietary Information and materials which may accompany such disclosure shall not result in any obligation to grant Receiver rights therein.

11. This Agreement shall be effective as of the date recited on the first page hereof. It may be terminated by either Party, without cause, with respect to further disclosure upon ten (10) days prior written notice to the other Party hereto. This Agreement shall automatically terminate five (5) years(s) from its effective date. The rights and obligations of the Parties accruing prior to termination as set forth herein shall, however, survive the termination as set forth in Section 8 of this Agreement.

12. This Agreement represents the entire understanding and agreement of the Parties and supersedes all prior communications, agreements, and understandings relating to the subject matter hereof. The provisions of this Agreement may not be modified, amended, or waived, except by a written instrument duly executed by both Parties. Further, the terms of this Agreement are in lieu of and override any contrary terms or conditions, preprinted or otherwise, that may appear in any other agreement or instrument between the Parties. Neither the existence and terms of this Agreement nor the subject matter of the negotiations or business relationship contemplated by this Agreement shall be disclosed by either Party without the prior written consent of the other Party. This Agreement is made subject to, and shall be construed under the laws of, the State of California, without regard to its conflict of laws provisions.

IN WITNESS WHEREOF, the Parties hereto represent and warrant that they have the authority to cause this Agreement to be executed in duplicate by their duly authorized representatives.

Holiday Travel  
6405 El Camino Real  
Carlsbad, CA 92009

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

X. \_\_\_\_\_  
Randy Fish  
It's Vice President of Marketing & Services

X. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Pursuant to Paragraph 3(a) of This Agreement, the following Employees Officers, Directors, Shareholders, and/or Agents (including legal counsel, accountants, lenders and financial advisors) agree to be personally bound by the terms and obligations of this Agreement:

Name: _____ Affiliation: _____ Date: _____  Signature: _____	Name: _____ Affiliation: _____ Date: _____  Signature: _____
Name: _____ Affiliation: _____ Date: _____  Signature: _____	Name: _____ Affiliation: _____ Date: _____  Signature: _____
Name: _____ Affiliation: _____ Date: _____  Signature: _____	Name: _____ Affiliation: _____ Date: _____  Signature: _____
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Name: _____ Affiliation: _____ Date: _____  Signature: _____	Name: _____ Affiliation: _____ Date: _____  Signature: _____

# Fax

<b>To:</b>	<b>From:</b>
<b>Fax:</b>	<b>Pages:</b>
<b>Phone:</b>	<b>Date:</b>
<b>Re:</b>	<b>CC:</b>

**Urgent**     **For Review**     **Please Comment**     **Please Reply**

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● **Comments:**

Please fax to 760-431-3131 ASuiteWeek.com - 6405 El Camino Real, Carlsbad, CA 92009