

# NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (“Agreement”) is made, as of \_\_\_\_\_, 2019, by and between JKP Holdings LLC, with an office at 16 Harvard West Drive Jackson NJ 08527 and

\_\_\_\_\_, with offices at \_\_\_\_\_

\_\_\_\_\_(“Company”).

WHEREAS JKP Holdings LLC and Company would like to exchange certain information in connection with certain products and services offered by Company, JKP Holdings LLC, business and any related project or work effort (the “Purpose”) (for purposes of this Agreement, the word "exchange" shall be construed to include, without limitation, furnishing information, providing access or availability to information or the obtaining of information from any source and by any means, as a result of this Agreement); and

WHEREAS, in connection with such exchange each party may obtain, or be in a position to obtain Confidential Information (as defined); and

WHEREAS, each party wishes to ensure the protection of its Confidential Information;

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants contained herein and the agreement to exchange information as contemplated hereunder, the parties agree as follows:

1. Definition. "Confidential Information" of each party includes all information exchanged hereunder specifically relating to the Purpose (as defined above) including: (a) information relating to the past, present and future business activities (including, without limitation, agreements and other business arrangements) of each party, its affiliates and each of their respective employees, customers or third-party contractors, (b) information relating to strategic and other plans, pricing, methods, methodologies, processes, financial data, lists, inventions, customers, suppliers, apparatus, statistics, programs, research, development, technology, network designs, and/or usage data of each party, its affiliates and each of their respective employees, customers or third-party contractors, and (c) the terms and existence of this Agreement or related information.
2. Carve-Outs. Both parties acknowledge and agree that information shall not be considered "Confidential Information" only to the extent that such information is: (a) currently in the public domain and/or previously known to the receiving party, and in either case, free from any confidentiality obligation; (b) publicly disclosed by or on behalf of the disclosing party either prior to or subsequent to receipt by the receiving party of such information; (c) independently developed by the receiving party without access to or use of the Confidential Information of the disclosing party; or (d) rightfully obtained by the receiving party from a third party lawfully in possession of the Confidential Information who is not bound by confidentiality obligations to the disclosing party. The receiving party may disclose Confidential Information of the disclosing party if the receiving party is required to do so under applicable law, rule or order; provided that the receiving party, where reasonably practicable and to the extent legally permissible, provides the disclosing party with prior written notice of the required disclosure so that the disclosing party may seek a protective order or other appropriate remedy; and provided further that the receiving party discloses no more Confidential Information than is reasonably necessary in order to respond to the required disclosure.

3. Obligations. Each party agrees to regard and preserve as confidential, all Confidential Information which may be exchanged as a result of this Agreement. In maintaining the confidentiality of Confidential Information hereunder, each party agrees that (a) it shall not, without first obtaining the written consent of the other, disclose or make available to any person, firm or enterprise, reproduce or transmit, or use for its own benefit or the benefit of others, any such Confidential Information, and (b) it shall prevent disclosure to any competitor of the other party (known to be such after reasonable inquiry). Neither party shall, without obtaining the prior written consent of the other party, use such other party's Confidential Information for any purpose other than for evaluation, discussions between the parties, internal planning, the protection of its rights and performance of its duties and obligations under this Agreement, and the provision of other services to the other party. Each party agrees that its own use and/or distribution of the other party's Confidential Information shall be limited to its own employees on a "need to know" basis.

4. JKP Holdings LLC Sensitive Data. Company hereby acknowledges that JKP Holdings LLC is subject to certain privacy and information security laws and regulations, pursuant to which JKP Holdings LLC is required to ensure that Company appropriately safeguards personal or financial information regarding JKP Holdings LLC's former, current or prospective clients or employees ("JKP Holdings LLC Sensitive Data"). To the extent that Company receives any JKP Holdings LLC Sensitive Data as a result of any exchange of information under this Agreement, and notwithstanding anything to the contrary contained in this Agreement, Company agrees that it shall (a) not disclose or use any JKP Holdings LLC Sensitive Data except to the extent necessary to carry out its obligations under this Agreement and for no other purpose, (b) not disclose JKP Holdings LLC Sensitive Data to any third party, including, without limitation, its third party service providers without the prior written consent of JKP Holdings LLC and subject to the further requirements of this Section, (c) employ administrative, technical and physical safeguards, including proper information disposal procedures to prevent unauthorized use or disclosure of JKP Holdings LLC Sensitive Data, (d) promptly provide such information regarding its privacy and information security systems, policies and procedures as JKP Holdings LLC may request relating to its due diligence and oversight obligations under applicable laws and regulations, (e) in the event of any actual or apparent theft, unauthorized use or disclosure of any JKP Holdings LLC Sensitive Data, immediately commence all reasonable efforts to investigate and correct the causes and remediate the results thereof, and (f) as soon as practicable following discovery of any event described in clause (e) hereof, provide JKP Holdings LLC notice thereof, and such further information and assistance as may be reasonably requested.

5. Independent Parties. Neither party shall be required to exchange with the other any particular information, and the exchange of any information by either party is entirely voluntary and is not intended to and shall not create or modify any contractual, fiduciary or other relationship or obligation of any kind beyond the terms of this Agreement. Nothing contained in this Agreement, nor any exchange of information hereunder, shall grant or confer upon any party any right, license or authority in or to the information exchanged or otherwise. Correspondingly, except as expressly provided herein, neither party shall be liable to the other in any manner whatsoever for any decisions, obligations, costs or expenses incurred, changes in business practices, plans, organization, products, services, or otherwise of the other party, as a result of this Agreement or any exchange of information.

6. Return of Information. At any time at the request and option of the disclosing party, the receiving party agrees to promptly: (a) return to the disclosing party the Confidential Information and/or JKP Holdings LLC Sensitive Data, as applicable; or (b) destroy or permanently erase (on all forms of recordation) the Confidential Information and/or JKP Holdings LLC Sensitive Data, as applicable and, if requested by the disclosing party, acknowledge in writing that all such Confidential Information and/or JKP Holdings LLC Sensitive Data, as

applicable, has been destroyed or permanently erased. Notwithstanding the foregoing, each party may retain copies of the Confidential Information and/or JKP Holdings LLC Sensitive Data, as applicable, to the extent required to comply with applicable legal and regulatory requirements, provided, however, that such Confidential Information and/or JKP Holdings LLC Sensitive Data, as applicable, shall remain subject to the terms and conditions herein.

7. Injunctive Relief. Notwithstanding anything to the contrary contained herein, in the event of a breach or threatened breach by the receiving party of the provisions of this Agreement, the disclosing party may have no adequate remedy in money or damages and, accordingly, may seek injunctive relief, provided, however, that no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition against any other legal or equitable remedies in the event of a breach of a provision of this Agreement.

8. Title. The parties acknowledge and agree that any disclosure of Confidential Information, and in the case of JKP Holdings LLC, under this Agreement shall in no way be construed to be an assignment, transfer, or conveyance of title to or ownership rights in such Confidential Information or JKP Holdings LLC Sensitive Data.

9. Assignment. Neither this Agreement nor any rights and/or obligations hereunder may be assigned (whether by operation of law or otherwise) by either party without the other party's prior written consent, and any such assignment shall be void. Notwithstanding the foregoing, JKP Holdings LLC may assign this Agreement and any of its rights and/or obligations hereunder upon written notice to Company, to any of its affiliated companies or to an entity with or into which it is merged or consolidated or to which it sells all or substantially all its capital stock or assets associated with the operations related to this Agreement, without the consent of Company. This Agreement shall benefit and be binding upon the parties hereto and their respective successors and assigns. Each receiving party shall be responsible for acts and omissions of its permitted assigns and disclosees.

10. No Publicity. Neither party shall use the other party's name or marks, refer to, or identify the other party or any of its respective affiliate in publicity releases, promotional or marketing materials, announcements, customer listings, testimonials, or advertising.

11. Severability. If any information exchanged under this Agreement is held by any court with jurisdiction over the subject matter of this Agreement not to be Confidential Information and/or JKP Holdings LLC Sensitive Data, as applicable, any remaining information that the parties have exchanged and that would otherwise be deemed Confidential Information and/or JKP Holdings LLC Sensitive Data, as applicable, within the meaning of this Agreement will be unimpaired and will continue to be protected as Confidential Information and/or JKP Holdings LLC Sensitive Data, as applicable, in accordance with the terms of this Agreement. In addition, if any of the provisions of this Agreement are held invalid, illegal or unenforceable, the remaining provisions shall be unimpaired.

12. Governing Law. In all respects this Agreement shall be governed by the substantive laws of the New Jersey without regard to conflict of law principles.

13. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but which together shall constitute one and the same instrument. This Agreement may be executed and delivered by facsimile. Any facsimile signatures shall have the same legal effect as manual signatures.

14. Entire Agreement; Amendment; Waiver. This Agreement, which constitutes the entire agreement between the parties as to the subject hereof, shall be construed and interpreted fairly, in accordance with the plain meaning of its terms, and there shall be no presumption or inference against the party drafting this Agreement in construing or interpreting the provisions hereof. No modification or amendment of, or supplement to, this Agreement will be binding upon the parties unless made in writing and signed by a duly authorized representative of both parties. At no time will any failure or delay on the part of any party in exercising any right or remedy provided in the Agreement operate as a waiver thereof, nor will any single or partial exercise of or failure to exercise any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy provided herein or available at law or in equity.

15. Other Agreements. The termination of any other agreement or business relationship between, or involving both parties, shall not relieve either party of its obligations with respect to the information exchanged pursuant to the terms hereof.

IN WITNESS WHEREOF, the parties hereto have had their duly authorized representatives execute this Agreement as of the date first written above.

Company Name:
By: _____
Name: _____ (Type, Print or Stamp)
Title: _____
Date: _____
Address:
_____
_____

JKP Holdings LLC
By: _____
Name: <u>David F. Putz Jr.</u>
Title: President/Managing Member
Address:
16 Harvard West Drive
Jackson NJ 08527

(Signature Page to Non-Disclosure Agreement)