

NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (the “**Agreement**”), dated _____, 2014, is made by and between Jamesport Development LLC (the “**Debtor**”) at 2080 River Road, Calverton, , New York, and _____ (“**Prospect**”) at _____ (address).

RECITALS

WHEREAS, the Debtor filed a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code under Case No. 14-70202-REG (the “**Bankruptcy Case**”) on January 21, 2014 (the “**Petition Date**”), in the United States Bankruptcy Court for the Eastern District of New York (the “**Bankruptcy Court**”); and

WHEREAS, the Debtor has continued in the management of its business and the operation of its affairs and property as a debtor and debtor in possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code; and

WHEREAS, the Debtor and Prospect wish to commence discussions regarding a potential sale and purchase transaction of substantially all of the assets of the Debtor’s bankruptcy estate (the “**Transaction**”); and

WHEREAS, in connection with the undersigned parties’ consideration of the Transaction, the Debtor and Prospect anticipate exchanging certain financial, technical, and other non-public information, and providing Prospect access to such information hereinafter referred to as, and defined below as, the “**Confidential Information**”; and

WHEREAS, in connection with the foregoing and in order to provide for the protection of the Confidential Information, the Debtor and Prospect wish to enter into this Agreement.

AGREEMENT

1. Confidential Information. This Agreement provides for the protection of “**Confidential Information**”, which, as such term is used herein, means information, including, but not limited to: products, customers, referral sources, suppliers, employees, software, software programs, processes, procedures, “know-how”, models, schematics, marketing and business plans, corporation organization and finances, research, trade secrets, technology, computer programs, computer systems, product or program development, distribution plans, contractual arrangements, profits, sales, pricing policies, operational methods, technical processes, other business or financial affairs and methods, plans for future development, programs, business transactions, and other confidential and proprietary business information, budgets, projections, forecasts, business strategies and marketing, sales and development plans, whether or not reduced to writing, together with all notes, analyses, compilations, studies and other documents, which are not publicly available and may be communicated by any means whatsoever, including without limitation oral, visual, written and/or electronic transmission (collectively, the “**Confidential Information**”) of, and/or prepared by, the party hereto disclosing the same (the “**Discloser**”) to the party hereto receiving such Confidential Information (the “**Recipient**”) which, under the circumstances of such disclosure, Recipient knows, or reasonably should know, are treated by Discloser as confidential. Recipient shall keep in confidence and not disclose to any third party (as that term is defined below), without the written permission of Discloser, the Confidential Information made known to it under this Agreement.

2. Restrictions on Use of Confidential Information. The Recipient agrees: (i) to use the Confidential Information solely in connection with evaluating the proposed Transaction, (ii) to hold the Discloser’s Confidential Information in strict confidence, and to take all reasonable precautions to protect such Discloser’s Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its confidential materials), (iii) except with respect to paragraph 4 below, not to divulge any such Confidential Information, or any information derived therefrom, to any third person (provided however, that the Confidential Information may be disclosed to Congress or Recipient’s “**Representatives**” (as that term is defined below) and (iv) not to copy, reproduce or directly or indirectly reverse engineer all or any part of such Discloser’s Confidential Information except as directly required for the evaluation of a Transaction. Any officer, director, employee, affiliate, attorney, auditor, financial advisor or consultant (hereinafter a “**Representative**”) of the Recipient shall be advised of the existence of this Agreement and of its terms, and by virtue of the receipt of such Confidential Information shall be deemed to be bound by the terms and provisions of this Agreement with the same force and effect as if it were the

Recipient. Any agreement which may be undertaken by the parties after Recipient's evaluation of the Confidential Information shall be the subject of a separate negotiation and agreement between the parties with respect hereto.

3. Return or Destruction of Confidential Information. The Recipient agrees to cease using Confidential Information upon receipt of a written request to do so by the Discloser, and with respect to such Confidential Information provided in writing or some other tangible form, to return it to the Discloser within three (3) business days after receipt of a written request to do so, except that Recipient may retain one copy of the Confidential Information if required by law or for compliance with internal policy.

4. Information not Deemed to be Confidential. The obligations of the Recipient under this Agreement shall not apply to information which:

- (a) is in the public domain through no wrongful act of Recipient;
- (b) is rightfully received by the Recipient from a third party who is not bound by a restriction of nondisclosure;
- (c) is already in the Recipient's possession without restriction as to disclosure;
- (d) was independently developed by Recipient; or
- (e) is required to be disclosed by operation of law or by order of a court or administrative body of competent jurisdiction, (provided that prior to such disclosure, Discloser shall first receive notice thereof from Recipient and have the opportunity to contest such order or requirement of disclosure or seek appropriate protective order).

5. Required Disclosure. Notwithstanding any other provision herein, the Debtor or Prospect may disclose Confidential Information if legally compelled to do so pursuant to a requirement or request of a governmental agency or pursuant to a court or administrative deposition, interrogatory, request for documents, subpoena, civil investigative demand or other similar legal process or requirement of law, or in defense of any claims or causes of action asserted against it; provided, however, that it shall (a) first notify the other of such request or requirement, unless such notice is prohibited by statute, rule or court order, (b) attempt to obtain the other's consent to such disclosure, and (c) in the event consent is not given, to agree to permit the other party to seek a motion to quash, or other similar procedural step, to seek protection against the production or publication of information. Nothing herein shall require either party to fail to honor a subpoena, court or administrative order, or a similar requirement on a timely basis.

6. Ownership. Recipient agrees and acknowledges that all Confidential Information shall be and remain the sole property of Discloser. Nothing contained in this Agreement shall be construed as granting to Recipient any right, title or interest of any kind, by license or otherwise, to the Confidential Information, any intellectual property therein or any part or copy thereof. Recipient further acknowledges and agrees that nothing contained herein shall be construed as granting Recipient any right to distribute or otherwise use any of the Confidential Information, or authorize or in any way assist others to do so. Recipient may not make, sell license or distribute copies of the Confidential Information and may not sublicense, transfer or assign in any manner whatsoever this Agreement or any of Recipient's rights or obligations under this Agreement.

7. Term. This Agreement is effective for a period of one (1) year from the date of this Agreement (the "**Term**"), unless the parties hereto, prior to the end of the Term, enter into a definitive agreement that supersedes this agreement. If this Agreement shall terminate on its Term, then, upon such termination, all copies of Confidential Information in tangible form, including without limitation any all computer and/or electronic files, which are in Recipient's possession (or in possession of any consultant who has received such Confidential Material from Recipient or any of Recipient's agents or employees) will be promptly returned to Discloser or destroyed by Recipient, and Recipient hereby agrees that it shall thereafter retain no photocopies, backup copies, or other reproductions or transcriptions of any portion of the Confidential Information, except that Recipient may retain one copy of the Confidential Information if required by law or for compliance with internal policy. Notwithstanding the termination of this Agreement, Recipient agrees that, subject to the provisions of Paragraphs 1 and 2, above, the obligation to maintain the confidentiality of the Confidential Information shall survive the termination of this Agreement.

8. **DISCLAIMER OF WARRANTY: THE CONFIDENTIAL INFORMATION DISCLOSED HEREIN IS MADE AVAILABLE TO RECIPIENT "AS IS" AND WITHOUT WARRANTY OF ANY KIND,**

EXPRESS, IMPLIED OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ANY EMPLOYEE OR REPRESENTATIVE OF DISCLOSER WILL CREATE A WARRANTY FOR THE CONFIDENTIAL INFORMATION, AND RECIPIENT MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE.

9. Injunction: Recipient acknowledges that its failure to perform any of the terms or conditions of this Agreement may result in immediate and irreparable damage to Discloser. Recipient also acknowledges that there may be no adequate remedy at law for such failures and that in the event thereof Discloser shall be entitled to seek equitable relief in the nature of injunction and to all other available relief, at law and/or equity.

10. Entire Agreement, Amendments. This Agreement sets forth the entire understanding between the parties hereto relating to the subject matter hereof and cannot be changed, modified, amended or terminated except by an instrument in writing executed by both Recipient and Discloser. The headings and captions used herein are inserted for convenience of reference only and shall not affect the construction or interpretation of this agreement.

11. Waiver. No waiver shall excuse the performance of any act other than those specifically referred to therein and shall not be deemed or construed to be a waiver of such terms or conditions for the future or any subsequent breach thereof. Except as otherwise provided in this Agreement, all rights and remedies herein or otherwise shall be cumulative and none of them shall be in limitation of any other right or remedy.

12. Relationship of the Parties. This Agreement does not constitute a partnership or joint venture between the parties hereto. Neither party shall have any right to obligate or bind the other in any manner whatsoever, and nothing contained shall give or is intended to give any rights of any kind to any third persons.

13. No Commitment. Nothing in this Agreement, nor this Agreement itself, shall constitute or be construed to be an obligation or commitment by the Debtor or Prospect to enter into a Transaction.

14. Governing Law; Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of New York applicable to contracts made and to be wholly performed in the State of New York (without regard to choice of law). Any claim, dispute or disagreement in respect of this Agreement may be brought only in the United States Bankruptcy Court for the Eastern District of New York, while the Debtor's bankruptcy case is still pending. Prospect consents to the Jurisdiction of the Bankruptcy Court for the Eastern District of New York for that purpose.

15. Severability. If any provision of this Agreement is or becomes or is deemed invalid, illegal or unenforceable under the applicable laws or regulations of any jurisdiction, either such provision will be deemed amended to conform to such laws or regulations without materially altering the intention of the parties or it shall be stricken and the remainder of this Agreement shall remain in full force and effect.

16. Counterparts. This Agreement may be signed in counterparts. Facsimile or emailed signature pages shall be deemed to be original signatures pages and delivery of the same shall constitute a binding obligation on the party delivering the facsimile or emailed signature page.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the day and year first above written.

Jamesport Development, LLC

Prospect: _____

By: _____

By: _____

Its: Managing Member

Its: _____

Date: _____

Date: _____