



PURCHASE ORDER TERMS AND CONDITIONS
(Placement Deliverables)

These Purchase Order Terms and Conditions (these “**Terms and Conditions**”) shall govern the performance of Deliverables for a Customer (each such Customer, as applicable, “**we**”, “**us**” or “**our**”) by vendor (“**you**” or “**your**”), as specified in an Issued Order.

1. Definitions.

“**Customer**” means, as applicable, JACK Ohio Finance LLC and/or any of its direct or indirect affiliates, including by way of example only, JACK Cleveland Casino LLC, JACK Thistledown Racino LLC, May Garage Property LLC, JACK Ohio LLC, Quintus Landlord LLC, or Cleveland Public Square Hospitality LLC.

“**Candidate**” means an individual identified by you for direct hire by the applicable Customer.

“**Contract**” means the Issued Order and these Terms and Conditions.

“**Contractor**” means an individual identified by you that provides temporary services to the applicable Customer.

“**Contract Price**” means the amount identified in the Issued Order to be paid for the Deliverables or as may otherwise be adjusted pursuant to, or set forth, in these Terms and Conditions.

“**Deliverables**” means either: (a) providing a Contractor for temporary staffing services, or (b) conducting searches for, identifying, and processing Candidates.

“**Issued Order**” means the SOW and/or Purchase Order related to the applicable Deliverables.

“**JACK**” means JACK Ohio Finance LLC.

“**Purchase Order**” means a purchase order issued by a Customer to you, together with any attachments incorporated or referred therein, that identifies the Deliverables to be provided by you to the applicable Customer.

“**Start Date**” means the earlier of the first performance of any portion of the Deliverables or the date of the Issued Order.

“**SOW**” means an agreement executed between a Customer and you that identifies the Deliverables to be provided by you to the applicable Customer, together with any underlying agreement pursuant to which the SOW is issued.

2. Deliverables - Generally.

(a) **Provision of Deliverables.** All Deliverables provided by you to us must be pursuant to an Issued Order. Without an Issued Order, we are not responsible for any payment to you for any Deliverables you provide to us. You acknowledge that if the parties enter into an SOW, the Customer may also issue you a Purchase Order for all or part of the Deliverables described in the SOW; in such case, the terms of the SOW shall control. Additionally, a Purchase Order may be issued by JACK solely on behalf of, and for the benefit of, the Customer(s) to whom Deliverables shall be provided; in such case, each such Customer shall be deemed to have issued the Purchase Order to you solely

for its benefit as set forth in further detail in subsection (c) below. Your agreement to furnish, or your commencement of performance with respect to, the Deliverables constitutes your unqualified acceptance of the Contract.

(b) **Terms and Conditions.** All Deliverables provided by you to us pursuant to an Issued Order shall be governed by these Terms and Conditions. Notwithstanding the foregoing, if a written agreement (including an SOW) governing the provision of the Deliverables is entered into between the parties (the “**Written Agreement**”), the terms and conditions set forth in the Written Agreement unless and to the extent the Written Agreement explicitly references these Terms and Conditions as the governing terms, in which case these Terms and Conditions shall control.

(c) **Applicable Customer.** Each Contract shall be a stand-alone agreement between Customer and you. Customer shall be responsible for its own obligations under its respective Contract. You acknowledge that any rights you may have against a Customer shall be limited to each particular Customer and you may not otherwise exercise any rights under the Contract or available at law against other Customers with whom you may have a Contract. JACK may, however, exercise any rights a Customer may have against you, in whole or in part, to the extent you breach your obligations with respect to any Customer under any Contract, whether or not explicitly provided herein; such rights afforded to JACK shall apply only to the extent that such Customer continues to remain affiliated with JACK.

(d) **Acceptance.** Our acceptance of the Deliverables shall be in accordance with the acceptance criteria set forth in the Contract, if any. Our payment to you for the Deliverables shall not mean that you have provided the Deliverables in accordance with the Contract.

3. Contractor Deliverables.

(a) **Work Product.** All work product of every kind performed by or created by any Contractor on our behalf shall become our sole and exclusive property. In furtherance thereof, you shall cause each Contractor to enter into an agreement acceptable to us reflecting the foregoing, including Contractor’s assignment of any intellectual property rights related to the Contractor’s work product.

(b) **Contractor Performance.** We are the sole judge of a Contractor’s performance. Accordingly, we have the right at all times to end a Contractor’s assignment and cancel the Issued

Order related to such Contractor for any or no reason by written notice to you. If we cancel a Contractor’s assignment during the first fifteen (15) days of the assignment with us, you shall not bill us for the time worked by such Contractor, and shall, at our request, provide us with a replacement Contractor at no additional cost for locating such replacement.

(c) Travel. We shall reimburse you for all reasonable documented travel expenses (limited to transportation, lodging and meals) incurred by a Contractor while performing Deliverables on our behalf that require Contractor to travel away from the Contractor’s primary job site, but only to the extent the Contractor is required to travel on our specific written request and such expenses were approved by us in advance.

(d) Overtime. Overtime shall be billed at the rates listed on the applicable Issued Order, or as otherwise agreed by both parties in advance and in writing, for hours worked by a Contractor in excess of forty (40) hours per week, or as otherwise required by law. For weeks that have one (1) National or Customer-observed holiday, overtime rates shall be billed for hours worked in excess of forty (40) hours per week, or as otherwise required by law.

4. Direct Hiring of Candidates and Contractors.

(a) Hiring of Contractor.

(i) If we desire to hire any Contractor (each a “**Hired Contractor**”), we shall pay you the following fee based on the Hired Contractor’s base salary (the “**Hired Contractor Fee**”):

Time employed by Customer	Hired Contractor Fee
180 days or more	0% of the base salary
121 to 179 days	5% of the base salary
91 to 120 days	10% of the base salary
61 to 90 days	15% of the base salary
31 to 60 days	20% of the base salary
30 days or less	25% of the base salary

(ii) If we hire a Contractor, you shall invoice us for the applicable Hired Contractor Fee. Fifty percent (50%) of the Hired Contractor Fee shall be due upon the later of thirty (30) days of the actual start date of the Hired Contractor or our receipt of a correct invoice reflecting the Hired Contractor Fee. The remainder of the Hired Contractor Fee shall be due upon the later of ninety (90) days of the actual start date of the Hired Contractor or our receipt of a correct invoice reflecting the remaining Hired Contractor Fee.

(iii) All Hired Contractors are unconditionally guaranteed for ninety (90) calendar days from the date of employment by us. Notwithstanding anything herein to the contrary, if within the first ninety (90) calendar days of employment, the Hired Contractor does not perform to our satisfaction and is released from our employment, then after notice thereof to you, you shall promptly reimburse us any Hired Contractor Fee paid for the Hired Contractor. If within the first ninety (90) calendar days of employment, the Hired Contractor for any reason elects to leave our employment, then after notice thereof to you, you shall find a suitable replacement at no

additional cost to us, and if a suitable replacement, as determined by us, cannot be located within thirty (30) days, you shall promptly reimburse us any Hired Contractor Fee paid for the Hired Contractor. If after the first ninety (90) calendar days but prior to the first anniversary of a Hired Contractor’s employment by us, the Hired Contractor for any reason elects to leave our employment, then you shall reimburse us a pro rata portion of the Hired Contractor Fee equal to the Hired Contractor Fee actually paid by us multiplied by a fraction, the numerator of which is the number of days left in such year, and the denominator of which is 365.

(b) Direct Hiring of Candidates.

(i) If, pursuant to an Issued Order for placement services, you submit a resume to us for a Candidate who is subsequently hired by us (thereafter, a “**Hired Candidate**”), we agree to pay to you a placement fee equal to a percentage of the Hired Candidate’s first year base salary as set forth in the Issued Order (the “**Placement Fee**”). We are not responsible for any expenses you may incur in connection with providing the placement services, including hours worked, long-distance telephone, travel, interviewing time, sourcing expenses, website advertising, postage, fax, office support, photocopy or other ordinary recruiting expenses required to conduct Candidate searches. You acknowledge and agree that you shall incur such expenses for the placement services on a risk based contingency basis and shall be remunerated through payment of the Placement Fee upon successful hire of a referred Candidate. Notwithstanding anything to the contrary herein, the Placement Fee shall not be due and payable, and any previously paid Placement Fee for the subject Candidate, or portion thereof, shall be promptly reimbursed to us, if:

1. the Candidate was previously known to us or any of our Customers;
2. the Candidate is hired one hundred eighty (180) days or more after your submittal of the Candidate’s resume to us;
3. a candidate Unknown to Vendor is hired by us at any time during or after the term of the Contract. “**Unknown to Vendor**” shall mean that you have not forwarded the resume of such candidate prior to a hire being made by us and also that we do not ask you to process (e.g. interview, reference, present, or recruit) such candidate; or
4. the Hired Candidate is not approved by the Gaming Commission for an occupational license to work for us.

(ii) If we hire a Candidate, you shall invoice us for the applicable Placement Fee. Fifty percent (50%) of the Placement Fee shall be due upon the later of thirty (30) days of the actual start date of the applicable Candidate or our receipt of a correct invoice reflecting the Placement Fee. The remainder of the Placement Fee shall be due upon the later of ten (10) days of the expiration of the 180-day guarantee period referenced in subsection (iii) below or our receipt of a correct invoice reflecting the remaining Placement Fee.

(iii) If: (1) the Hired Candidate should for any reason elect to leave our employment (excluding reasons solely attributable to organizational realignment and restructuring) within one hundred and eighty (180) days of employment by us, or (2) the Hired Candidate does not perform to our satisfaction and is released from our employment within one (1) year of employment by us, then we shall notify you thereof. Thereafter, you shall endeavor to find a suitable replacement acceptable to us at no cost to us. In connection with locating a suitable replacement, you shall have a two (2) week exclusivity period (commencing as of the date that we notify you of the Hired Candidate leaving), and following such 2-week period, we may engage other recruiters to locate a suitable replacement. In connection with the foregoing, you shall promptly reimburse us any Placement Fee paid by us upon the earlier of: (x) you not locating a suitable replacement Candidate within forty-five (45) days of the date that we notify you of the Hired Candidate leaving, or (y) us hiring a replacement Candidate that was not first identified by you.

(c) **Base Salary.** As used herein, "base salary" means the annual base salary that is agreed to be paid to the Hired Candidate or Hired Contractor, not including any benefits that are and bonuses that may be payable to such Hired Candidate or Hired Contractor.

5. Payment.

(a) For Deliverables properly provided pursuant to the Contract, you shall be paid the Contract Price. The Contract Price includes all taxes related to the Deliverables and you agree to remit all applicable taxes to the appropriate taxing authorities. For Contractor Deliverables, we shall pay you the undisputed portion of the billed Contract Price within sixty (60) days after our receipt of a proper invoice and supporting documentation (as set forth below or that we may request) to substantiate the requested payment. For Candidate Deliverables, we shall pay you the undisputed portion of the billed Contract Price within the timeframes set forth in Section 4.

(b) Invoices shall be submitted no more frequently than monthly and no later than the 10th day of each month covering the Deliverables provided in the previous calendar month. All invoices shall be emailed to us at accountspayable@jackentertainment.com and to such other mailing or email address as the Issued Order may indicate, or to such other mailing or email address as we may advise you of from time-to-time. Each invoice shall identify the corresponding Issued Order and shall contain detailed entries describing the Deliverables provided, the date(s) the Deliverables are provided, detailed entries for the dollar amount owed, and the timekeeper and amount of time billed (if applicable). For Contractor Deliverables, the invoice shall set forth the number of hours worked by each Contractor for each week of the previous month. A Customer timecard shall be the official time record for purposes of payment related to Contractor Deliverables under any applicable invoice.

(c) We are entitled to withhold payment for disputed portions of the billed Contract Price, including by way of example only, requested payments related to defective or non-conforming Deliverables or costs billed to us for which you are responsible. Moreover, we are entitled to offset against the Contract Price costs we may expend to correct your defective, non-conforming, or non-delivered Deliverables. In the event of a dispute regarding payment, you shall not suspend, withhold, or slow down the performance of the Deliverables or otherwise terminate the Contract. The parties shall endeavor to resolve such dispute within thirty (30) days of our notice to you of the disputed amount.

6. Term and Termination. The Contract shall commence on the Start Date and shall continue until such time as all of the Deliverables under the Contract have been provided in accordance with the terms of the Contract. We or JACK may terminate the Contract as follows: (a) for any reason upon advance notice to you, or (b) immediately for your breach of your obligations under the Contract. If the Contract is terminated for reasons other than a breach by you, you shall be entitled to payment under the Contract only for all documented, actual direct costs for the Deliverables expended or incurred by you prior to the effective termination date, and you hereby waive all claims for other damages; you shall promptly reimburse us for any payment we made that covers a period following the effective termination date. As used herein, "direct costs" means Goods previously procured for us but not yet delivered or Services actually rendered, and specifically excludes any costs expended or incurred by you while in breach of your obligations, any equipment purchased by you to provide the Deliverables, and any fixed costs incurred by you. Any right, obligation or required performance of the parties in the Contract that by its express terms or nature and context is intended to survive termination or expiration of the Contract, shall survive any such termination or expiration.

7. Independent Contractor. You agree that you and your employees and agents are independent contractors and shall not have any employee status with us. Neither party has any authority to act for any other party as an agent, partner, or joint venturer as a result of the Contract. You have no authority to bind us to any agreements, promises, or undertakings. The Contract shall not be construed as creating or constituting a partnership or joint venture between any of the parties. You shall report for federal, state and local income tax purposes all amounts received by you under the Contract as income. You shall have sole responsibility for the withholding of all federal, state and local income taxes, unemployment insurance tax, social security tax, and other withholding with respect to payments you make to your employees, agents, contractors and other persons performing the Deliverables pursuant to the Contract.

8. Warranties. You represent and warrant that:

(a) You shall only provide competent, trained personnel to perform the Deliverables for us.

(b) The services provided and work product created by each Contractor shall be of professional quality and performed in a professional and timely manner in accordance with the highest applicable industry standards and practices.

(c) You shall at all times maintain all necessary business licenses or approvals necessary for you to fully perform your obligations under the Contract. Similarly, each Contractor must maintain all necessary business licenses or approvals (including any that may be required pursuant to Gaming Requirements) before they are able to provide services to us.

(d) You are free to enter into the Contract and are not a party to or otherwise bound by any contracts or restrictive covenants preventing full performance of your duties hereunder. Similarly, any Contractor or Candidate you provide to us are not a party to or otherwise bound by any contracts or restrictive covenants that would prevent the full performance of their duties to us.

(e) You shall: (i) supply only Candidates and Contractors legally authorized to work in the United States; (ii) complete and maintain I-9 forms in compliance with the Immigration Reform and Control Act of 1986; (iii) **conduct background checks to ensure the Candidates and Contractors have no felony convictions nationally and by county of residence during the seven years prior to the Start Date; (iv) complete a urine 5 panel non DOT drug screen of Candidates and Contractors;** and (v) maintain all necessary personnel and payroll records with respect to each Contractor.

(f) You shall, and shall cause your Contractors to, observe our rules as the same are disclosed to you, including without limitation, those rules involving health, safety, the environment, and security, when working at or around any of our facilities.

(g) You are financially solvent and possess sufficient experience, authority, and working capital to perform and complete your obligations under the Contract in a timely manner.

(h) You, your Contractors and any Candidate you provide to us are not bound by the terms of any agreement with any other party to refrain from: (i) using or disclosing any trade secret or confidential or proprietary information that may be used in the course of performing the Deliverables, or (ii) competing, directly or indirectly, with the business of any such third party that would prevent performing the Deliverables.

(i) The Deliverables provided by you and any work product provided by a Contractor shall not violate or in any way infringe upon any rights of third parties including any copyrights, patents, trademark, trade secrets, or other proprietary rights.

9. Insurance.

(a) During the term of the Contract, you shall maintain, at your expense (and cause any subcontractor to maintain at their expense), the following insurance coverages:

(i) Commercial General Liability (“**CGL**”) insurance providing coverage against all claims, including premises/operations, independent contractors,

products/completed operations, bodily injury, property damage, and personal and advertising injury in the following limits:

Each Occurrence Limit: \$1,000,000

General Aggregate Limit: \$2,000,000

Personal & Advertising Injury Limit: \$1,000,000

Products/Completed Operations Limit: \$2,000,000

(ii) Umbrella insurance with a limit of not less than \$5,000,000 per occurrence and aggregate.

(iii) Business automotive liability insurance providing coverage for all owned, non-owned and hired vehicles in an amount not less than \$1,000,000 per accident.

(iv) Workers’ compensation and employer’s liability insurance in such minimum limits as required by applicable law in any state in which the Deliverables shall be provided, but in any event not less than \$1,000,000 for each accident for bodily injury by accident or \$1,000,000 for each employee for bodily injury by disease. This limit may be satisfied in conjunction with the umbrella insurance.

(v) Professional liability insurance (also known as “errors and omissions insurance”) with limits of \$2,000,000 per occurrence and aggregate that provides coverage for errors and omissions caused by your negligence in the performance of any Services. The foregoing insurance obligation shall be required only to the extent that you are providing professional services or regularly providing advice to us, and shall otherwise be maintained in force for so long as you are providing such services.

(vi) Such other insurance and/or bond required by applicable law and/or as we may require.

(b) You shall furnish us certificates of insurance, duly executed by an authorized representative of each insurer, evidencing the insurance required hereunder prior to furnishing any Deliverables. Upon request, you shall promptly provide copies of any or all policies of insurance, and required endorsements, maintained in fulfillment hereof.

(c) All of the insurance policies required hereunder:

(i) shall be endorsed to name us, JACK, and other parties we identify from time-to-time as an additional insured, as well as contain such other riders and endorsements as we deem necessary (provided, however, that such additional insured requirements only apply to the coverages required under sections (a)(i) and (a)(ii) above);

(ii) shall be endorsed to contain a waiver of subrogation and evidence thereof provided to us; moreover, you also waive the right of your insurer to subrogate against us any claims the insurer may have paid;

(iii) shall provide that the coverage afforded to the additional insureds shall be primary insurance of the additional insureds with respect to claims arising out of operations performed by or on their behalf, and not excess over, or contributing with, any insurance purchased or maintained by the additional insured; and

(iv) must: (1) be written on an “occurrence” basis rather than a “claims-made” basis (except that the Professional Liability coverage may be written on “claims-made” basis); (2) be issued by a financially responsible company or companies

authorized to issue such policy or policies acceptable to us; and (3) provide that the insurance policy shall not be subject to cancellation, termination or material change except after thirty (30) days' prior written notice to us (10 days' notice for non-payment of premium).

(d) Failure by us to demand any certificate, endorsement or other evidence of full compliance with these insurance requirements or failure by us to identify and/or notify you of any deficiency hereunder shall not be construed as a waiver of your obligations to maintain such insurance. You agree that the obligation to provide the insurance required hereunder is your sole responsibility and that this requirement cannot be waived by any conduct, action, inaction, or omission by us. Furthermore, nothing contained in the insurance requirements hereunder is to be construed as limiting your liability.

10. Regulatory Requirements.

(a) General. You acknowledge we hold privileged gaming licenses and we are required to adhere to all applicable gaming statutes and the regulations, resolutions and orders promulgated pursuant thereto (collectively, as replaced, amended, supplemented, or construed, the "**Gaming Requirements**") that may be imposed or enforced by the applicable gaming commission (each, as applicable, the "**Gaming Commission**"). You agree to comply with all Gaming Requirements that may apply to you before providing any portion of the Deliverables. If at any time any Gaming Commission disapproves of the Contract, in whole or in part, we may immediately terminate the Contract. Additionally, we may immediately terminate the Contract if we determine, in our sole discretion, that it violates any Gaming Requirements, or that it would be in our best interest to protect our or JACK's privileged gaming licenses or status with any Gaming Commission. Notwithstanding any other terms to the contrary, if the Contract is terminated pursuant to this Section 10, we shall only be liable for paying costs incurred under the Contract through the date of termination to the extent allowable under applicable Gaming Requirements.

(b) Suitability of Persons Providing Deliverables on Property. Prior to any of your employees or agents or a Candidate providing the Deliverables on any portion of our property, you shall conduct appropriate background checks on such persons to ensure they have not been convicted of any felony, or any misdemeanor relating to gambling, dishonesty, theft or fraud. You also agree that we may prohibit your employees or agents from providing the Deliverables on any portion of our property due to a variety of reasons (without specifically identifying the reason), including by way of example, that such person is participating in a state exclusion program, such person is on a state exclusion list, such person self-excluded themselves from our property, or such person was temporarily or permanently evicted from our property.

(c) Ohio Specific Regulatory Requirements.

(i) For any Deliverables provided directly or indirectly to a Customer subject to the Ohio Casino Control Commission

Gaming Requirements that equal or exceed \$100,000.00 in a rolling 12-month period, you acknowledge that you must promptly execute vendor certifications prior to reaching such threshold pursuant to Ohio Administrative Code Section 3772-10-30 (or any successor provision) in a form approved by the Ohio Casino Control Commission. So as to minimize interruption of you providing Deliverables to us, you agree to execute such certification at such time the aggregate value of the Deliverables you provide to such Customer reaches \$80,000.00 in a rolling 12-month period.

(ii) You shall ensure that any of your employees or agents (including those of your subcontractors) providing the Deliverables on any portion of our property shall report to our property's Security Command Center to be issued an appropriate vendor or visitor badge.

(d) Indemnification. You agree to indemnify and hold us, JACK, and our and JACK's direct or indirect affiliates, parents, and subsidiaries, and each of the foregoing's respective qualifiers, officers, shareholders, members, directors, managers, employees, or agents (individually and collectively, the "**Indemnitees**") harmless from and against any and all direct or indirect claims, actions, demands, liabilities, losses, fines, costs, damages (including, without limitation, incidental damages, consequential damages and lost profits) and expenses (including, without limitation, attorneys' fees, experts' fees and court costs) that may be made by anyone, including the Indemnitees, directly or indirectly arising out of or relating to your or your subcontractor's failure to comply with this Section 10. Your foregoing indemnity obligations shall survive expiration or termination of the Contract.

11. Confidentiality.

(a) You shall treat any and all information we or JACK provides you in connection with the Contract or that you obtain in connection with providing the Deliverables as confidential (the "**Confidential Information**") whether provided or obtained before or after the Start Date. Notwithstanding the foregoing, Confidential Information does not include information that: (i) has become public knowledge through legal means without your fault; (ii) is shown by written record that it was known by you prior to the transactions contemplated by the Contract and not otherwise restricted by contract or law; or (iii) is demonstrated by documentary evidence became available to you on a non-confidential basis from a third party not restricted by contract or law regarding such information.

(b) You shall use the Confidential Information solely to provide the Deliverables. You shall use the same degree of care in safeguarding the Confidential Information as you use for your own confidential information, but in no event less than reasonable care, and you shall restrict disclosure of the Confidential Information to those of your employees and professional advisors who have a need to know the same in furtherance of providing the Deliverables and who are bound by obligations of non-disclosure and limited use at least as strict as those contained herein. Upon request by us or JACK, you shall

return, or otherwise destroy, all copies of the Confidential Information, and in either case, you shall certify in writing your compliance with the terms of this provision. After such destruction or delivery, you shall not retain any copies of the Confidential Information. You are responsible for any breach of the confidentiality provisions of the Contract by your employees or agents. You expressly acknowledge that damages alone shall be an inadequate remedy for any breach or violation of the confidentiality provisions of the Contract and in view of the difficulties of placing a monetary value on any such breach, we or JACK shall be entitled to a preliminary and final injunction to prevent any breach or further breach of the confidentiality provisions of the Contract. This remedy is separate and apart from any other remedy we or JACK may have at law or in equity. In connection with the foregoing, you shall not raise the defense of an adequate remedy at law.

(c) If you are directed to disclose any Confidential Information pursuant to an order of a court or governmental agency (including any Gaming Commission), you shall first use reasonable efforts to provide us and JACK with advance notice to permit us or JACK to seek a protective order or otherwise restrict the disclosure of the Confidential Information. In such event, you shall cooperate in good faith with us and JACK in our efforts to obtain a protective order or take such other action we or JACK deems necessary, and if a protective order or other remedy is not obtained despite our or JACK's efforts, you shall disclose only that portion of the Confidential Information you are legally required to disclose and shall make reasonable efforts to obtain reliable assurance that confidential treatment shall be afforded to the Confidential Information.

(d) Regardless of the expiration or termination of the Contract, your obligations concerning the Confidential Information shall remain in effect until such time as the Confidential Information loses its status as Confidential Information.

(e) You agree that the terms and conditions set forth in the Issued Order are confidential. Accordingly, you shall not disclose the terms of the Issued Order to any party (except to those of your employees and professional advisors who have a need to know the same in furtherance of providing the Deliverables) without our prior written consent.

(f) To ensure the confidential treatment of our Confidential Information, prior to the commencement of any Deliverables by a Contractor, each Contractor must enter into an agreement acceptable to us reflecting Contractor's agreement to so keep our Confidential Information confidential.

12. Intellectual Property Rights. If you or your subcontractors develop, improve upon, or create any intellectual property or derivative works using or related to our Confidential Information, you hereby irrevocably assign, and agree to assign (and shall cause your subcontractors to so irrevocably assign), to us all right, title and interest in and to any such intellectual property or derivative works, including all patents, copyrights, trademarks, registrations and such other intellectual property rights therein,

whether developed solely by you or jointly by the parties, without the requirement of further consideration and free from any claim or lien or retention of rights. All such copyrightable works shall be considered "works made for hire" as accorded to such definition of Title 17 of the United States Copyright Code. You further agree to execute all instruments or documents required or reasonably requested to perfect or record our right, title or interest and hereby irrevocably designate and appoint us and our duly authorized officers and agents, as your agents and attorney in-fact, coupled with an interest to do all other lawfully permitted acts to further the purposes set forth above in this Section 12. You further agree not to utilize or incorporate any intellectual property rights, open source software, or Confidential Information owned by any third party ("**Other Rights**") into the Deliverables or any Deliverables hereunder without first obtaining our prior written approval; notwithstanding the foregoing, to the extent that Other Rights are incorporated into the Deliverables or any Deliverables hereunder, you hereby grant, and agree to grant, an irrevocable, worldwide, perpetual, transferable, royalty free, fully paid-up license, and non-exclusive license to fully exploit such Other Rights for any purpose without further consideration. Your foregoing obligations shall survive expiration or termination of the Contract.

13. Assignment; Subcontracting.

(a) You may not assign the Contract without our prior written consent. Any merger, reorganization, or sale of all or substantially all your assets or stock or equity interests, or any direct or indirect change in the control of your stock or equity interests, shall be deemed to be an assignment. We may freely assign the Contract without your consent, including in connection with any merger, reorganization, or sale of all or substantially all our assets or stock or equity interests, or any direct or indirect change in the control of our stock or equity interests.

(b) You acknowledge that we have selected you on the basis of, and we are relying on, your expertise in providing the Deliverables. Accordingly, you shall not use any subcontractor, consultant, agent, or other third party to provide the Deliverables without our prior written approval. Any consent by us to an assignment or subcontracting shall not constitute a consent to any subsequent assignment or subcontracting. Any consent by us to an assignment or subcontracting shall be conditioned on all requirements and obligations applicable to you under the Contract applying to the assignee or subcontractor.

(c) The assignment or subcontracting of any rights under the Contract shall not relieve you of primary liability for your obligations under the Contract, and as between the parties, you shall continue to be liable for all of your obligations under the Contract as though no assignment or subcontracting had been made. You shall also be responsible for ensuring that any subcontracting party fully complies with all applicable Gaming Requirements, including any licensure requirements for such

party or their respective employees or agents.

14. Indemnification.

(a) You agree to indemnify and hold the Indemnitees harmless from and against any and all direct or indirect claims, actions, demands, liabilities, losses, fines, costs, damages (including, without limitation, incidental damages, consequential damages and lost profits) and expenses (including, without limitation, attorneys' fees, experts' fees and court costs) that may be made by anyone, including the Indemnitees, directly or indirectly arising out of or relating to: (i) any actual or alleged infringement or misappropriation by the Deliverables of the intellectual property rights of any third party by you or your subcontractor; (ii) any actual or alleged injury to any person, damage to any property, or any other damage or loss resulting or claimed to result in whole or in part from any actual or alleged defect in the Deliverables; (iii) any actual or alleged violation of any law, statute, rule or regulation relating to any Deliverables, or failure to comply with any industry standards by you or your subcontractor; (iv) any breach or alleged breach of any of your or your subcontractor's obligations, representations or warranties under the Contract; or (v) any act, activity or omission by you or any of your affiliates, employees, subcontractors, agents, or contractors. Your foregoing indemnity obligations shall survive expiration or termination of the Contract.

(b) You waive any and all claims that may directly or indirectly arise against us in the performance of the Deliverables, unless and to the extent such claim arises out of our gross negligence. In no event shall we be responsible for any claims for consequential, incidental and special damages.

15. Non-Solicitation. During the term of the Contract and for a period of six (6) months thereafter, you agree you shall not knowingly solicit for employment or employ (directly or indirectly, whether as an employee, consultant or otherwise), for yourself or for the benefit of any of your affiliates or customers, any employee or consultant of ours, without our prior written approval.

16. Force Majeure. Neither party shall be liable for any delay in performing or failing to perform its obligations hereunder to the extent that and for so long as the delay or failure results from an event beyond its reasonably foreseeable control such as war, riot, strikes, government action or acts of God. The party affected by the event of force majeure shall promptly notify the other party in writing of the occurrence thereof, shall indicate the expected duration of such interruption, and shall use all reasonable efforts to mitigate the effect of the force majeure event in the best possible way. If the force majeure event continues beyond a period of seven (7) days or if more than one force majeure event occurs within a six (6) month period, the other party shall have the right to terminate the Contract by written notice, without having to pay any form of compensation.

17. Compliance with Laws; Permits. You shall give all notices required by and otherwise comply with all applicable laws, ordinances, rules, regulations, restrictions and/or orders of any public authority and/or governmental entity (which includes any

Gaming Commission) related to the performance of the Deliverables. You shall obtain and pay for all permits, approvals, inspections required for the Deliverables.

18. Notices. All notices, requests, demands, and other communications that are required or permitted to be given under the Contract shall be in writing and shall be deemed to have been duly given: (a) upon receipt if delivered in person; (b) the third business day after mailing by first-class certified or registered mail, return receipt requested and postage prepaid; (c) the following business day after mailing by recognized overnight courier, with proof of delivery requested and charges prepaid; or (d) the same business day if sent by email prior to 4:00 pm ET (the following business day if sent after 4:00 pm ET) and proof of such email delivery can be reasonably established, when sent to the mailing or email addresses set forth in the Issued Order, or to such other mailing or email address as a party may specify by written notice to the other party in accordance with this section. Notices to us shall be sent to the attention of the Corporate VP of Purchasing with a required copy sent to our Legal Department (legalnotices@jackentertainment.com).

19. Publicity; Use of Trademarks. You shall not issue any public statements or promotional materials disclosing the existence of the Contract or the delivery or performance of the Deliverables or use any of our or JACK's trademarks, service marks, trade names, logos, or domain names without our prior written approval. We may issue such public statements or promotional materials concerning the existence of the Contract or performance of the Deliverables.

20. Audit. You shall keep and maintain accurate records relating to the Contract and shall retain the same for the five (5) year period following the termination or expiration of the Contract. Within ten (10) days of our request, you shall provide access to those of your records that are reasonably necessary for us to confirm your compliance with the Contract. Your foregoing obligations shall survive expiration or termination of the Contract with respect to obligations arising prior to such expiration or termination.

21. Labor Disputes. You shall give us prompt notice of any actual or potential labor dispute that delays or may delay timely performance of your obligations under the Contract.

22. No Exclusivity. Nothing within the Contract is intended nor shall be construed as limiting our ability to procure the same or similar services from any other party.

23. Miscellaneous.

(a) **Entire Contract; Amendments.** Subject to any Written Agreement (in which case, the Written Agreement shall control as specified herein), the Contract constitutes the entire agreement of the parties with respect to the subject matter of the Contract. No representation or warranty has been made by either party, or is relied on by the other, unless set out in this Agreement or any Issued Order. The Contract may not be amended or modified by you except by a document signed by authorized persons of each party. If there is a conflict between these Terms and Conditions and the Issued Order, the Issued

Order shall prevail. The terms and conditions set forth in your invoice, quotation, purchase order or other document (even if attached to or referenced in a document attached to the Issued Order) shall not be binding and shall not supersede, supplement or modify the Contract; any such terms and conditions are hereby expressly objected to and rejected. We may change these Terms and Conditions at any time by posting such on our website or by email, and such revised Terms and Conditions shall supersede and replace the earlier Terms and Conditions for Deliverables provided thereafter. Any provision of Services or delivery of Goods after such revision shall constitute your acceptance of the revised Terms and Conditions.

(b) Headings. The headings contained in the Contract are for ease of reference only and shall not affect the meaning or interpretation of the Contract.

(c) Severability. If any provision of the Contract is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of the Contract, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties.

(d) Interpretation. The Contract is entered into among competent and experienced businesspersons and has been negotiated and reviewed by the parties and their counsel. Therefore, the language in the Contract shall not be construed against any particular party as the drafter of such language.

(e) Beneficiaries. The Contract, and the rights and obligations under it, shall be binding on and shall inure to the benefit of each party's successors and permitted assigns. The Contract is intended for the benefit of the parties to the Issued Order (including JACK) and nothing contained herein shall be deemed to give any third-party (except JACK) any intended or incidental claim or right of action against either party that does not otherwise exist without regard to the Contract.

(f) Waiver of Contractual Right. The failure of either party to enforce any provision of the Contract shall not be construed as a waiver or limitation of the party's right to subsequently

enforce and compel strict compliance with every provision of the Contract. To be effective, each waiver of any right must be in writing and signed by the party waiving its rights.

(g) Applicable Law. The Contract shall be governed by, and construed in accordance with, the laws of the state of Ohio, without giving effect to its conflict of law principles. The parties irrevocably consent to the jurisdiction and venue of the state courts in Ohio, and if original jurisdiction can be established, in the applicable federal court as the forum for any such relief under the Contract. The parties stipulate that the venue referenced herein is convenient.

(h) Waiver of Jury Trial. Each party irrevocably and unconditionally waives any right it may have to a trial by jury for any court proceeding arising out of or relating to the Contract or the transactions contemplated hereby for which a party may bring such a court proceeding.

(i) Attorneys' Fees. The prevailing party in any dispute arising out of the Contract shall be entitled to an award of costs and attorneys' fees, including, but not limited to, in-house counsel fees calculated at market rate. For purposes of the Contract, prevailing party shall be defined as the party for whom a court of competent jurisdiction renders judgment.

(j) Remedies Not Exclusive. The remedies provided for in the Contract are in all cases cumulative and not exclusive.

(k) Due Authority. For any Issued Order or other document requiring signatures, a person who signs on behalf of a party is authorized to execute the Issued Order or other document on behalf of such party and bind such party and any of its affiliated companies to the terms and conditions thereof.

(l) Counterparts; Electronic Transmission. Any Issued Order or other document requiring signatures may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Your online acceptance of any or all portions of the Contract shall be deemed an execution for purposes of the preceding sentence. You have no right to object to the manner (i.e., online acceptance, electronic signatures, fax, or scanned images of signature pages) in which the Contract was executed as a defense to the enforcement of the Contract.

[END OF PURCHASE ORDER TERMS AND CONDITIONS]