

**PRIME SPONSORSHIP AGREEMENT
FOR
MISS UNIVERSE CELEBRATION OF NATIONS EVENT**

THIS PRIME SPONSORSHIP AGREEMENT is made between **DORAL PRO HEALTH CORP.**, an active, not-for-profit Florida Corporation, validly engaging in business in the state of Florida (hereinafter the “DPH”), and the **CITY OF DORAL, FLORIDA**, a Florida municipal corporation, (hereinafter the “City”). DPH and the City may be referred to individually herein as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, the City is the host of the 2014 Miss Universe Pageant (the “Pageant”), which will be held in and near the City in January 2015; and

WHEREAS, as host, the City has the right, but not the obligation, to produce a variety of officially-sanctioned, Pageant ancillary events, one of which is a cultural festival and parade, now known as the 2014 Miss Universe Celebration of Nations, as further defined herein (the “Event”); and

WHEREAS, DPH expressed to the City an interest in serving as the prime sponsor for, and underwriting the costs of, the Event, and the City is amenable to having DPH sponsor the Event, so as to comply with City Council direction with regard to the ancillary events; and

WHEREAS, the City and DPH, through mutual negotiation, agreed on the main terms and conditions of a sponsorship relationship, which was memorialized in a Letter of Commitment dated and executed December 10, 2014, which is attached hereto as Exhibit “A”; and

WHEREAS, the Parties desire to more fully detail the nature of the sponsorship relationship, the terms and conditions on which DPH will underwrite the cost of the Event, and the manner by which the Parties will share sponsorship revenue generated by the Event, pursuant to the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the aforementioned recitals, which are incorporated herein and made a part hereof by this reference, the mutual covenants and conditions contained herein, and other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, DPH and the City agree as follows.

1. Scope of Services/Deliverables.

- 1.1 DPH shall be designated, along with the City, as the prime sponsor for the Event, and shall assist in the planning and promoting of the Event.

- 1.2 DPH agrees and confirms, and the City acknowledges, that DPH shall be the prime sponsor of the Event, responsible for paying for the costs associated with planning, promoting, and producing the Event, with such sponsorship not to exceed ONE HUNDRED TEN THOUSAND DOLLARS AND NO CENTS (\$110,000.00). DPH shall provide the City proof of payment deposit and/or contract price for the costs of the Event no less than forty-eight (48) hours prior to the start of the Event. For any such costs not payable until after the Event, DPH shall provide the City with proof of available funds to pay such costs no less than forty-eight (48) hours prior to the start of the Event. For any costs associated with time provided by City staff in executing the event, DPH shall be separately invoiced by the City and shall be responsible for paying such costs within fifteen (15) days of receiving the invoice from the City.
- 1.3 The Event shall be comprised of a parade and street festival, which will feature food, music, art and artists of the countries of all Pageant contestants, to occur in and about Downtown Doral Park on January 11, 2015. The Parties hereby agree that the City and DPH shall jointly develop the final lay-out and program of the Event. Once approved, the City shall execute the Event as planned, unless the plan is modified by mutual, written agreement of the Parties. The City reserves the right to stop, change, and/or prevent the execution of any portion of the Event, which: creates a risk to the health, safety, and welfare of the public; inordinately interferes with a function of the City, including, but not limited, use of right-of-ways by the public or the operation of any City Department; and/or exceeds the funds that have committed by DPH or otherwise paid by additional sponsors.
- 1.4 The City approves the use of the City Seal and/or Logo, as well as the use of the Miss Universe name and logo—to the same extent as the City is authorized pursuant to the City's Principal Host Agreement—for the promotion of the Event in various materials, including, but not limited to, invitations, flyers, brochures, banners, and/or electronic publications. DPH hereby approves the use of its name and logo for any and all promotions associated with the Event. Both the City and DPH shall use its best, commercially practical, and reasonable efforts to promote the Event.
- 1.5 The Parties understand that the City shall not be responsible for any costs associated in any way with Event, except for any costs associated with the City's own promotional efforts. It is understood that the City shall make provisions for Event, as a City event, to be covered under the City's insurance, provided that individual vendors that perform any service for the Event will be independently insured in accordance with City policies.
- 1.6 The City agrees that the sale of alcohol will be permitted during the Event on the conditions of this section. Restaurant vendors which are selling

food at the Event will be permitted to sell alcohol pursuant to the liquor licenses for their retail restaurant establishment. Otherwise, only one (1) stand-alone liquor vendor will be permitted. All purveyors of alcohol shall be required to provide proof of an active liquor license

2. **Term/Commencement Date.**

- 2.1 This Agreement shall become effective upon execution by both Parties and shall remain in effect through the completion of the Event and/or remaining tasks associated with the Event of Agreement.
- 2.2 The Parties agrees that time is of the essence and the Parties shall complete each deliverable for the Event within the timeframes set forth in the Project Schedule, unless extended by the City Manager.

3. **Consideration.**

- 3.1 To induce the City into this Agreement making DPH the Prime Sponsor, the City acknowledges the commitment of funds pursuant to DPH's sponsorship pledge in Section 1.1 above.
- 3.2 To further induce the City into delegating, in part, the production of the event to DPH, DPH hereby agrees that the City shall be offered: a percentage of the net revenue generated from the Event to be determined by mutual agreement; the right to record, reproduce, display and disseminate audio and visual recordings of the Event for promotion of the City through various media, including, but not limited to, the City's integration video during the 2014 Miss Universe Pageant, Doral TV, the City and the Miss Universe Websites, and several social media platforms available to the City; and the right to audit the financial records of DPH associated with the Event.
- 3.3 The City hereby agrees to assist DPH to obtain sponsors to further underwrite the costs of the Event. Such assistance may include, without limitation, promotional efforts and such

4. **Sub-Contractors.**

- 4.1 DPH shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Project.
- 4.2 Any subcontractors used on the Project must have the prior written approval of the City Manager or his designee.

- 4.3 DPH shall provide proof of payment of a deposit and/or full contract price for any and all subcontractors used in the Event no later than forty-eight (48) hours prior to the start of the Event

5. **City's Responsibilities.**

- 5.1 Furnish to DPH, at the DPH's written request, all available maps, plans, existing studies, reports and other data pertinent to the services to be provided by DPH, in possession of the City.
- 5.2 Arrange for access to and make all provisions for DPH to enter upon real property as required for DPH to perform services as may be requested in writing by the DPH (if applicable).

6. **DPH's Responsibilities.**

- 6.1 The DPH shall exercise the same degree of care, skill and diligence in the performance of the Event as is ordinarily provided by a contractor under similar circumstances. It shall be solely responsible for all the costs associated with the Event, and the City in no way assumes or shares any responsibility or liability of the DPH or Sub contractors under this agreement.

7. **Termination.**

- 7.1 This agreement can not be cancelled except by the City upon a determination by the City Manager that DPH is conducting and/or has conducted acts of maleficence, acts in contravention of City, State of Florida, and/or Federal laws, and/or intentional, reckless, and/or negligent acts that endanger the health, safety, and welfare of the public.
- 7.2 Upon receipt of the City's written notice of termination, DPH shall stop work on the Event. The DPH shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Event to the City, in a hard copy and electronic format specified by the City on the date of termination.

8. **Insurance.**

- 8.1 Insurance Coverage for the Event shall be provided by the City of Doral under its current active insurance coverage. DPH shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by Exhibit "B". The insurance carrier shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida.

- 8.2 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted, or in accordance to policy provisions. The City further reserves the right to solicit additional coverage, or require higher limits of liability as needed, and depending on the nature of scope, or level of exposure.
- 8.3 It shall be the responsibility of DPH to ensure that all subcontractors, vendors and Event participants used for the Event have appropriate insurance coverage. Proof of such insurance shall be required prior to commencement of any work by any subcontractors at the Event.

9. **Nondiscrimination.**

- 9.1 During the term of this Agreement, DPH shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination

10. **Attorneys' Fees and Waiver of Jury Trial; Remedies.**

- 10.1 In the event of any litigation arising out of this Agreement, each party shall be responsible for their attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.
- 10.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

11. **Indemnification.**

- 11.1 DPH shall defend, indemnify, and hold harmless the City, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with DPH's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from Agreements between the DPH and third parties made pursuant to this Agreement. DPH shall reimburse the City for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with DPH's performance or non-performance of this Agreement. This section shall be

interpreted and construed in a manner to comply with any applicable Florida Statutes, including without limitation Sections 725.06 and 725.08, Fla. Stat., if applicable.

11.2 The provisions of this section shall survive termination of this Agreement.

11.3 Ten dollars (\$10) of the payments made by the City constitute separate, distinct, and independent consideration for the granting of this indemnification, the receipt and sufficiency of which is voluntary and knowingly acknowledged by the DPH.

12. **Notices/Authorized Representatives.**

12.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City: Edward Rojas
City Manager
City of Doral, Florida
8401 NW 53rd Terrace
Doral, Florida 33166

With a Copy to: Daniel A Espino, Esq.
City Attorney
Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.
2525 Ponce De Leon Boulevard, 7th Floor
Coral Gables, FL 33134

For The DPH: Dr. Alberto Pierini
President
Doral Pro Health, Corp
8353 NW 36th Street
Doral, FL 33166

13. **Governing Law.**

13.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Miami-Dade County, Florida, or the Southern District of Florida.

14. **Entire Agreement/Modification/Amendment.**

- 14.1 This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.
- 14.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

15. **Ownership and Access to Records and Audits.**

- 15.1 All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from DPH providing services to the City under this Agreement shall be the property of the City.
- 15.2 The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of DPH involving transactions related to this Agreement.
- 15.3 The City may cancel this Agreement for refusal by DPH to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

16. **Nonassignability.**

- 16.1 This Agreement shall not be assignable by DPH unless such assignment is first approved by the City Manager. The City is relying upon the apparent qualifications and personal expertise of DPH, and such firm's familiarity with the City's area, circumstances and desires.

17. **Severability.**

- 17.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

18. **Independent Contractor.**

- 18.1 DPH and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the City with

respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

19. **Representations and Warranties of DPH.**

19.1 DPH hereby warrants and represents, at all times during the Term of this Agreement, inclusive of any renewals thereof, that:

19.1.1 DPH, and its employees and/or subcontractors, shall maintain in good standing all required licenses, certifications and permits required under federal, state and local laws necessary to perform the Services hereunder;

19.1.2 DPH is a corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey and duly registered, validly doing business and in good standing under the laws of the State of Florida;

19.1.3 The execution, delivery and performance of this Agreement by DPH has been duly authorized and no consent of any other person or entity to such execution, delivery and performance is required to render this Agreement a valid and binding instrument enforceable against DPH in accordance with its terms; and

19.1.4 DPH has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.

20. **Compliance with Laws.**

20.1 DPH shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the services.

21. **Non-collusion.**

21.1 DPH certifies that it has not divulged, discussed or compared his/her/its information with other individuals and/or entities that provided quotes to the City for the Services and has not colluded with any other individual or entity whatsoever.

22. **Truth in Negotiating Certificate.**

22.1 DPH hereby certifies, covenants, and warrants that wage rates and other factual unit costs supporting the budget for the Event are accurate, complete, and current. DPH further agrees that the revenue sharing

amount entitled to the City shall be adjusted to exclude any significant sums by which the City determines the agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such agreement adjustments shall be made within one (1) year following the end of the Term or any Extension term.

23. **Waiver**

23.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

24. **Survival of Provisions**

24.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

26. **Force Majeure.**

26.1 It is understood that performance of any act by the City or DPH hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any cause beyond the reasonable control of such party, provided however, the City shall have the right to provide substitute service from third parties or City forces as may be necessary to meet City needs, and, in such event, the City shall withhold payment due Contractor for such period of time, if any. If the condition of force majeure exceeds a period of fourteen (14) days, the Town may, at its option and discretion, cancel or renegotiate the Agreement


27. **Counterparts**

27.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

[THIS SPACE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]


IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature:

Attest:




Connie Diaz, Interim City Clerk

CITY OF DORAL

By: 

Edward Rojas, City Manager
Date: 1.6.15

Approved As To Form and Legal Sufficiency for the Use
And Reliance of the City of Doral Only:



Weiss Serota Helfman Cole Bierman & Popok, PL
City Attorney

Doral Pro Health



Dr. Alberto Pierini
President