

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

THIS INDEMNIFICATION AND HOLD HARMLESS AGREEMENT (the “Agreement”) is executed by and between **BRAINWAVE, ADVERTISING, LLC**, a Florida limited liability company (“Indemnitor”), and **THE CITY OF DORAL, a Florida municipal corporation** (the “City”). Indemnitor and the City may be referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, Indemnitor is in the advertising and promotions industry and designs, produces, publishes and distributes a free local publication, called the Discover Doral City Map (the “Map”); and

WHEREAS, the Map depicts a map of the City of Doral with various points of interest around the City, commercial advertising, a letter from the Mayor of the City, and the City’s logo; and

WHEREAS, though the Map is a private endeavor and City did not request or authorize the creation and/or publication of the map, the Parties recognize that third parties may perceive a business relationship between the Parties and/or the establishment of apparent authority in favor of Indemnitor, thereby exposing the City to potential liability; and

WHEREAS, Indemnitor desire to reinforce its relationship with City by assure the City that Indemnitor will indemnify and hold the City harmless against any and all claims related to the Map that might expose the City to liability.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and such other valuable consideration the receipt and sufficiency of which is hereby acknowledged, Indemnitor and City agree:

1. Recitals. The parties acknowledge and agree that the Recitals above are true and correct and incorporated herein by this reference.

2. Indemnification and Hold Harmless. Indemnitor covenants and agrees to indemnify, defend (with counsel acceptable to City), and hold harmless the City, its officers, agents, servants and employees, and its successors and assigns, from any and all losses, liabilities, obligations, charges, expenses, fees (including, without limitation, attorneys’ fees at trial and appellate levels), costs (including, without limitation, costs of any settlement), judgments or claims and demands of any kind whatsoever, asserted against the City, its officers, agents, servants and employees, to the fullest extent allowed by law, by any person or entity arising out of or in any way relating to the Map. This Agreement shall not terminate but shall continue in full force and effect, and be applicable until all applicable statute of limitations have run on any potential causes of action that may accrue as a result of the map.

3. Miscellaneous Provisions.

- a. Indemnitor and City hereby acknowledge that they have fully reviewed this Agreement and its attachments and have had the opportunity to consult with legal counsel of their choice, have participated in the negotiating and drafting of this Agreement and that this Agreement shall not be construed against any party as if they were the drafter of this Agreement.
- b. No modification of this Agreement shall be binding on Indemnitor or City unless reduced to writing and signed by duly authorized representative of the Indemnitor and City.
- c. In the event a court of competent jurisdiction determines any sentence, provision, paragraph or section of this Agreement to be null and void, the remaining parts of this Agreement shall continue in full force and effect as though such sentence, provision, paragraph or section had been omitted from the Agreement.
- d. This Agreement incorporates and includes all negotiations, correspondence, conversations, agreements, or understanding applicable to the matters contained herein, and Indemnitor and the City agree that there are no commitments, warranties or understandings concerning the subject matter of this Agreement that is not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.
- e. This Agreement shall be deemed to have been executed and entered into within the State of Florida. Accordingly, any dispute arising hereunder shall be governed, interpreted and construed according to the laws of the State of Florida. Venue for any legal action initiated to interpret construe or enforce this Agreement shall be in Miami-Dade County, Florida.
- f. No delay or failure on the part of any party to exercise any right or remedy accruing to such party upon the occurrence of an event of default or violation shall affect any such right or remedy or be held to be an abandonment thereof or preclude such party from the exercise thereof at any time during the continuation of any event of default or violation. No waiver of a single event of default or violation shall be deemed to be a waiver of any subsequent event of default or violation.
- g. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument. A facsimile copy of other electronic copy (i.e. PDF or TIFF format) of this Agreement and any signatures herein shall be considered for all purposes as originals.
- h. All notices, demands, requests, consents, approvals, and other communications (collectively, "Notices"), required or permitted to be given hereunder, shall be in writing and sent by either: (i) registered or certified air mail, postage prepaid,

return receipt requested; or, (ii) special delivery service (e.g. Federal Express, DHL, UPS, etc.); addressed to the party to be so notified as follows:

If to Indemnitor:

Brainwave Advertising, LLC
10145 NW 19th Street
Doral, FL 33172
Telephone No.: (305) 938-5599
Attention: Pedro Hernandez

If to City:

The City of Doral
8401 nW 53rd Terrace
Doral, FL 33166
Telephone No.: (305) 593-6690
Attention: Edward A. Rojas, City Manager

With a Copy to:

Daniel A. Espino, Esq.
Weiss Serota Helfman Cole & Bierman, PL
City Attorney
2525 Ponce De Leon Boulevard, Suite 700
Coral Gables, FL 33134

Each notice sent in accordance with the requirements of this section shall be deemed effectively given upon actual receipt. Each person designated herein to receive any Notice or a copy thereof may change the address at which, or the person to whom, Notice or a copy thereof is to be delivered, by Notice given in accordance with the requirements of this section.

- i. The Agreement shall inure and be binding upon the parties hereto and their respective successors and assigns.
- j. THE INDEMNITOR AND CITY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED UPON THE AGREEMENT OR ARISING OUT OF, UNDER OR IN CONNECTION WITH ANY OTHER AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

INDEMNITOR:

BRAINWAVE ADVERTISING, LLC, a Florida limited liability company

By: Pedro Hernandez
Name: ~~_____~~
Title: President

Date Signed: 6/22, 2016

CITY:

CITY OF DORAL, a Florida municipal corporation

By: (Edward)
Name: Edward A. Rojas
Title: City Manager

Date Signed: 6.22.16

ATTEST:

Connie Diaz
Connie Diaz
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE SOLE AND EXCLUSIVE USE OF THE CITY OF DORAL:

Weiss Serota Helfman Cole & Bierman, PL
Weiss Serota Helfman Cole & Bierman, PL
City Attorney