

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is entered into as of May 1st, 2015 (the “Effective Date”) by and between the **PENNSYLVANIA HORTICULTURAL SOCIETY** (“PHS”), a Pennsylvania non-profit corporation with its principal place of business at 100 N. 20th Street, 5th Floor, Philadelphia, PA 19103-1495, and **ENTERTAINMENT ON LOCATION, INC** (“Consultant”), an event production and consulting firm with its principal place of business at 2410-8 Sylvan Drive, Point Pleasant, NJ. PHS and Consultant are each sometimes referred to in this Agreement each as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the PHS Philadelphia Flower Show (“Show”) is an annual event at the Pennsylvania Convention Center from Friday, March 4th 2016 through Sunday, March 13th 2016 at the Pennsylvania Convention Center (“PCC”) 1101 Arch Street, Philadelphia, PA 19104. The Marketplace is the Show’s shopping experience for visitors.

WHEREAS, PHS desires to engage the Consultant, and the Consultant desires to accept such engagement, to execute operational aspects of a successful show and market place contemplated by the Project (the “Work Product”).

NOW THEREFORE, intending to be legally bound, the Parties do hereby agree to the terms of this Agreement as set forth below.

ARTICLE 1 SCOPE OF SERVICES

1.1 Professional Services. Consultant shall provide services to PHS as set forth in the Scope of Work attached hereto as Exhibit A (the “Services”). All work done by Consultant pursuant to this Agreement shall be performed to PHS’s satisfaction. Unless otherwise agreed between the Parties, Consultant shall furnish, at its own expense, the equipment, supplies and other materials used to perform the Services.

1.2 PHS Obligations and Evaluation of Services. PHS shall monitor the implementation and progress of the Project.

1.3 Term. The initial term of this Agreement shall be Twelve (11) months, commencing on May 1st, 2015 and terminating on April 30th, 2016 term of this Agreement.

1.4 Compensation and Schedule.

(a) **Compensation.** In consideration for providing the Services and creating the Work Product, PHS shall pay to the Consultant a total fee of _____ in Five (5) installments as follows:

- (i) _____ on or about September 1st, 2015
- (ii) _____ on or about December 1st, 2015
- (iii) _____ on or about January 2nd, 2016

(iv) _____ on or about February 1st, 2016

(v) _____ or about March 1st, 2016.

(b) PHS shall provide payment to Consultant for within thirty days (30) of receipt of invoice.

(c) Travel Expenses. PHS shall pay for and make arrangements for a total of Thirteen (13) nights in a hotel for the consultant and on other employee in Philadelphia, Pennsylvania.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 Quality. Consultant shall perform all Services in a competent, professional and workmanlike manner in accordance with then-current industry standards to the satisfaction of PHS. Consultant shall utilize sufficient personnel possessing the skills, experience and abilities necessary to perform the Services, all in accordance with such additional requirements as may be reasonably imposed by PHS from time to time.

2.2 Infringement. Consultant represents and warrants that the Work Product does not infringe any third party's intellectual property or other rights.

2.3 Conflict of Interest. Consultant represents and warrants that it is under no obligation or restriction that would conflict with its provision of the Services or any of its obligations under this Agreement.

2.4 Compliance with Laws. Consultant represents and warrants that it is in compliance with, and shall perform the Services in compliance with, all applicable laws.

ARTICLE 3 INDEMNIFICATION

3.1 Indemnification. Consultant will defend, indemnify and hold harmless PHS, and its personnel, employees, directors, successors and assigns, against all damages, losses, and reasonable expenses (including reasonable attorneys' fees, costs and expenses) and other liabilities arising out of any claims, demands, suits, or causes of action by third parties, arising out of or in connection with Consultant's provision of services pursuant to this Agreement or any material breach by Consultant of any representation, warranty or obligation set forth in this Agreement.

3.2 Marketing Materials. Marketing Materials. PHS shall provide marketing materials for use in the Consultant's performance of the Services (the "Marketing Materials"). The Consultant's hereby agrees that:

(a) The Marketing Materials, including any registered trademarks therein, are and shall remain the sole and exclusive property of PHS;

(b) Consultant shall display and use the Marketing Materials solely as directed by PHS, and solely in connection with providing the Services; and

(c) PHS shall have exclusive ownership and control over the creation, contents, and methods of the Consultant's display and use of the Marketing Materials.

3.3 Intellectual Property. PHS and Consultant agree all intellectual property, including but not limited to designs, marketing materials, images, and likenesses associated with PHS is and shall remain the sole intellectual property of PHS.

3.4 Insurance.

(a) Consultant represents that, as of the date hereof, it carries, and during the term of this Agreement and any renewal terms, at its own expense and in full force and effect, at a minimum, the types and amounts of insurance coverage listed on Exhibit B attached hereto.

(b) During the term of this Agreement and any renewal terms, PHS may request, no more than once annually, and Consultant agrees to provide, certificates of insurance showing the coverages set forth in Section 3.4(a).

ARTICLE 4 TERM AND TERMINATION

4.1 Termination for Breaches. Either Party may terminate the Agreement at any time in the event the other Party engages in an act or omission constituting a material breach of any term or condition of this Agreement. The Party electing to terminate shall provide the breaching Party fifteen (15) days' advance written notice specifying the nature of the breach. The breaching Party shall have thirty (30) days from receipt of notice to remedy the breach, and conform its conduct to the Agreement. If the breaching Party fails to cure such breach within the specified time, the Agreement shall terminate at the end of the thirty (30) day notice period without further notice or demand; provided, however, that in the event the breach is not able to be cured within the thirty (30) day notice period, the breaching Party shall begin implementation of a plan, approved by the other Party, which approval shall not be unreasonably withheld, to cure such breach within sixty (60) days of receipt of written notice from the other Party specifying the nature of such breach; provided further, that any plan to cure such breach shall be completed and such breach cured within ninety (90) days after receipt of written notice of such breach.

4.2 Effect of Termination. Upon termination of the Agreement, neither Party shall have further rights against, or obligations to, the other Party except with respect to any rights or obligations accruing prior to the date and time of termination and any obligations, promises or agreements that expressly extend beyond the termination, including but not limited to, those set out in Article 3 (Indemnification) and Article 5 (Miscellaneous).

ARTICLE 5 MISCELLANEOUS

5.1 Entire Agreement. This Agreement, together with all exhibits attached hereto, represents the entire agreement of the Parties and supersedes all oral and written agreements with regard to the subject matter hereof, if any, between the Parties. No amendment or modification of this Agreement shall be effective unless made in writing and signed by the parties.

5.2 Severability. If any provision of this Agreement is determined by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect or impair the validity and enforceability of the other provisions of this Agreement, which shall be considered severable and shall remain in full force and effect.

5.3 Waiver. No term or provision hereof shall be deemed waived and no breach of contract excused unless such waiver or consent is in writing and signed by the Parties. The waiver by either Party of a breach or violation of the provisions hereof shall not be construed as a waiver of any subsequent breach of the same provision or another provision hereof.

5.4 Third Party Beneficiaries. The Agreement is entered into for the sole benefit of PHS and Consultant. Nothing contained herein or in the course of the Parties' dealing should be construed as conferring any third party beneficiary status on any person or entity not a party to the Agreement.

5.5 Confidentiality. Except as and to the extent required by law, Consultant hereby agrees that it will not, directly, indirectly or otherwise, disclose, publish, make available to, or use for its own benefit or the benefit of any person or entity for any reason or purpose whatsoever, any Confidential Information (defined below). As used in this Agreement, the term "Confidential Information" means information disclosed to Consultant or known by Consultant as a consequence of or through its relationship with PHS, about the members, donors, sponsors, employees, business methods, public relations methods, organization, procedures or finances, including, without limitation, information of or relating to suppliers, member lists, donor or sponsor lists, copyrights, know-how, research, product plans, prices and costs, markets, developments, test data, forecasts, budgets and other confidential or proprietary business, technical, personnel or financial information; provided, however, that "Confidential Information" shall not include any information that:

- (a) Was publicly known at the time of disclosure to Consultant;
- (b) becomes publicly known or available thereafter other than by any means in violation of this Agreement or any other duty owed to PHS by any person or entity, which duty is known to Consultant; or
- (c) Is lawfully disclosed to Consultant by a third party owing no duty of confidentiality to PHS.

The Parties hereto stipulate and agree that the foregoing matters are important, material and confidential proprietary information that affects the successful conduct of the business of PHS. Consultant shall keep the Confidential Information in strictest confidence and trust.

5.6 Independent Contractor. Consultant is performing Services under this Agreement as an independent contractor and not as an employee, agent, partner of, or a joint venturer of PHS. Consultant shall have the sole responsibility, and shall bear the entire cost and expense relating to, all of its employees and contractors, including but not limited to terms of employment, compensation, benefits, payment of withholding and all other federal and state taxes related to employment, hours, discipline, and discharge. In performing Services required by this Agreement, no Consultant employee or contractor shall be deemed to be an employee of PHS by reason of his or her provision of Services in accordance with this Agreement.

5.7 Headings. Section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

5.8 Assignment. Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other party.

5.9 Notices. All notices or other communications to be given hereunder shall be in writing and shall be deemed to have been received (a) three days after deposit in the United States mail, postage prepaid, registered or certified, (b) upon personal delivery, (c) one day after deposit with an overnight courier service for next day delivery with charges prepaid, or (d) upon sending electronic mail to the e-mail address provided by the receiving Party. Such notices shall be addressed as set forth below:

If to PHS:
The Pennsylvania Horticultural Society
Attention: Dean Dortone
100 North 20th Street, 5th Floor
Philadelphia, PA 19103-1495
Fax: (215) 988-8810
E-Mail: ddortone@pennhort.org

With a copy to (which shall not constitute notice):
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
Attention: Kaleena F. Laputka
Fax: (215) 864-8999
E-Mail: laputkak@ballardspahr.com

If to Consultant:
Entertainment on Location, Inc.
Attention: Ira Rosen
2410-8 Sylvan Drive
Point Pleasant, NJ
E-Mail: ira@eolproductions.com

5.10 Gender, Etc. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context indicates is appropriate.

5.11 Governing Law and Venue. This Agreement and all acts and transactions contemplated hereunder shall be governed, construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflict of laws principles. Any legal action, suit or proceeding arising out of or relating to this Agreement or the breach thereof will be instituted in a federal or state court of competent jurisdiction in the Commonwealth of Pennsylvania, Philadelphia County, and each Party hereby consents and submits to the personal jurisdiction of such court, waives any objection to venue in such court including any defense of forum non conveniens.

5.12 Waiver of Jury Trial. THE PARTIES KNOWINGLY, UNCONDITIONALLY AND ABSOLUTELY WAIVE THE RIGHT TO A JURY TRIAL WITH RESPECT TO CLAIMS ARISING FROM THIS AGREEMENT.

5.13 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. This Agreement, to the extent signed and delivered by means of a facsimile machine or by other electronic transmission of a manual signature (by portable document format (.pdf) or other method that enables the recipient to reproduce a copy of the manual signature), shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. Neither Party hereto shall raise the use of a facsimile machine or other electronic transmission to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or other electronic transmission as a defense to the formation of a contract and each such Party forever waives any such defense.

5.14 Work Space. PHS shall provide a work space for Consultant at their offices when necessary, as well as at the Show and shall provide database resources for the sole purpose of the execution of this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

The Pennsylvania Horticultural Society

By: _____

Name: Dean Dortone

Title: Chief Financial Officer

Entertainment on Location, Inc.

By: _____

Ira Rosen

Title: President and Chief Executive Officer

EXHIBIT A – SCOPE OF WORK

1. **Scope of Services.** The services listed below constitute the work product the Consultant will provide PHS with the requirements to host a PHS Philadelphia Flower Show (“Show”) at the Pennsylvania Convention Center (“PCC”), and will provide PHS with the services outlined below.

- (a) Contractor assistance and oversight
- (b) Assistance in management of PCC F Hall parking and enforcement
- (c) Providing appropriate levels of Show Floor management, as mutually agreed upon
- (d) Work in conjunction with PCC and/or other designated entities with respects to Show labor
- (e) Attendance at all designated meetings
- (f) Assistance in the review of PCC and Show Operations manuals
- (g) Management and oversight of Marketplace to include all staffing
- (h) Provide assistance in all projects as mutually agreed upon

2. **Time.** The Consultant shall perform its services as expeditiously as is consistent with professional skill and care.

EXHIBIT B – INSURANCE REQUIREMENTS

1. Insurance Requirements. Insurance Requirements Prior to the Effective Date, the Project Manager shall provide PHS with an Association for Cooperative Operations Research and Development (ACORD) certificate of insurance for the minimum limits of insurance specified below or the limits of the Project Manager’s policies, whichever is greater, establishing that the PHS and its directors, officers, and employees as additional insured for the Term of this Agreement and obligating the insurer to provide PHS with a least fifteen (15) days prior notice in the event of cancellation or nonrenewal of the Licensee’s insurance. The Project Manager shall also provide a copy of its insurance policies to PHS establishing that PHS and its directors, officers and employees have been named as an additional insured under the Project Manager’s policies for the minimum limits of insurance specified below or the limits of the Project Manager’s policies, whichever is greater. All insurance companies evidencing the coverage required hereunder must be licensed to do business in the Commonwealth of Pennsylvania and must have a minimum Best’s rating of “A-VII” or better (or otherwise be acceptable at the discretion of the Licensor). The Licensee shall furnish an ACORD certificate of insurance to PHS at least thirty (30) days before commencement of the project.

(a) **Commercial General Liability** – Coverage to include the following minimum limits:

- | | |
|-------------------------------------|-------------|
| i. Each Occurrence | \$1,000,000 |
| ii. Personal and Advertising Injury | \$1,000,000 |
| iii. General Aggregate | \$2,000,000 |

(b) **Automobile Liability** – Coverage to include the following minimum limits:

i. \$1,000,000 combined single limit of coverage, per accident.

(c) **Workers Compensation and Employers Liability** – Coverage to include statutory coverage as per the state of operation with minimum Employers Liability limits of:

- | | |
|---|-----------|
| i. Each Accident | \$100,000 |
| ii. Each Employee for Injury by Disease | \$100,000 |
| iii. Aggregate for Injury by Disease | \$500,000 |