

1. **Susan G. Komen for the Cure.** Komen Affiliate is a non-profit organization exempt from federal income tax pursuant to Internal Revenue Code §501(c)(3). Komen Affiliate is affiliated by agreement with The Susan G. Komen Breast Cancer Foundation, Inc. d/b/a Susan G. Komen for the Cure ("Komen"). Sponsor and Komen Affiliate agree that Komen is an intended third party beneficiary under this Agreement.

2. **Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end on completion of the last Race set forth on Page 1 of this Agreement; provided, however, that the provisions of Sections 5, 6, 7, 10, 12, 13, 14, and 15 shall survive termination of this Agreement.

3. **Sponsor Contributions.** Sponsor shall receive the Sponsorship Benefits set forth in Schedule B of this Agreement in consideration for the Sponsorship Contribution. Komen Affiliate may require Sponsor to provide additional documentation to support the value of in-kind donations prior to accepting such donations as credit toward the Sponsorship Contribution. The total value of any goods and services provided by Sponsor as part of its sponsorship of the Race(s) shall be designated in this Agreement. As indicated on Page 1 of this Agreement, all cash Sponsorship Contributions shall be either (i) sent to Komen Affiliate by check at the address set forth on Page 1 of this Agreement; or (ii) transmitted through ACH transfer to an account designated in writing by Komen Affiliate. All cash payments made to Komen Affiliate, whether by check or ACH transfer, shall reference the Sponsor Ref. No. set forth on Page 1 of this Agreement. All in-kind Sponsorship Contributions shall be delivered to Komen Affiliate in accordance with the delivery instructions provided by Komen Affiliate to Sponsor. In the event Sponsor has a presence at a Race, Sponsor shall present to Komen Affiliate for prior approval all items that are to be distributed by Sponsor at such Race.

4. **Komen Marks.** Komen Affiliate is a licensee of Komen with respect to the Komen Marks. Komen Affiliate grants to Sponsor a limited, non-exclusive sublicense to use the Komen Marks during the term of this Agreement. Sponsor may use the Komen Marks solely to promote its sponsorship of the Race(s) in conjunction with promotions, marketing and advertising, as agreed upon in advance by Komen Affiliate and in accordance with the terms of this Agreement. Sponsor shall not change or alter the Komen Marks in any way, including without limitation, in appearance or spelling or change the case of the letters. Sponsor is prohibited from transferring, sublicensing or assigning its rights to use the Komen Marks. At its sole discretion, Komen Affiliate may require the removal of the Komen Marks at any time from any materials developed in connection with the Race(s). Sponsor acknowledges and agrees that any materials, advertisements, promotional items, brochures, signage or other Komen-branded items provided by Komen Affiliate may not be used, reproduced, distributed or disseminated except as specifically authorized by Komen Affiliate and solely in accordance with Komen's standard terms of use, as may be amended from time to time. Komen Affiliate and Sponsor agree that all right, title and interest in and to the Komen Marks shall inure to the sole benefit of Komen.

5. **Sponsor Marks.** Sponsor grants Komen Affiliate a limited, non-exclusive license to the Sponsor Marks during the term of this Agreement, solely for acknowledging Sponsor's sponsorship of the Race(s). Sponsor represents and warrants that it owns the Sponsor Marks and Komen Affiliate's use of such marks in accordance with the terms of this Agreement shall not infringe on the rights of any third party. Komen Affiliate shall not sublicense or transfer the use of the Sponsor Marks to any person or entity without the prior written consent of Sponsor. It is Sponsor's responsibility to inform Komen Affiliate of any changes in the Sponsor Marks that occur following execution of this Agreement. Upon notice of such changes, Komen Affiliate shall make good faith efforts to make the necessary changes to new Race materials it creates, but shall not be required to make any changes to any Race materials that have already been created or are in the process of being created at the time such notice is given. Komen Affiliate and Komen agree that all right, title and interest in and to the Sponsor Marks shall inure to the sole benefit of Sponsor.

6. **Confidentiality.** Each party agrees to hold in strict confidence, during and for three (3) years after the term of this Agreement, all information, material, and data that have been disclosed one to the other during the term of this Agreement and is marked "Confidential", including the terms of this Agreement (other than Sponsorship Levels). Each party agrees that it will not use any such confidential information of the other party for any purpose not directly associated with the former party's obligations hereunder, without prior approval from the other party; provided, however, that each party may disclose such information without prior approval if required by law or court order.

7. **Indemnification.** Each party (the "Indemnitor") agrees to indemnify and hold harmless the other party (the "Indemnitee," and in the event Komen Affiliate is the Indemnitee, such term to include Komen) from and against any and all costs, losses, demands, claims or expenses (including court costs and reasonable attorneys' fees) whatsoever brought by a third party against, or incurred by, the Indemnitee arising from: a) the negligence, intentional or willful misconduct of the Indemnitor; b) Indemnitor's performance or failure to perform pursuant to this Agreement; or c) any claim arising out of, or in connection with, any service or product sold or obligations hereunder provided by the Indemnitor in connection with the Race(s). In no event shall either party be liable to the other party for any indirect, special, or consequential damages (including, without limitation, damages for loss of profits or expected savings or other economic losses) arising out of or in connection with this Agreement or its subject matter, regardless of whether such party knows or should know of the possibility of such damages. The foregoing exclusions and limitations shall apply to all claims and actions of any kind, whether based on contract, tort (including, but not limited to, negligence), or any other grounds, regardless of the form of action.

8. **Insurance.**

(A) Sponsor shall maintain during the term of this Agreement commercial general liability insurance in the minimum amount of \$1,000,000.00 per occurrence to cover liability for bodily injury, property damage, death and advertising injury arising out of Sponsor's activities in connection with the Race(s).

(B) In the event (i) Sponsor's contribution includes an in-kind donation; and/or (ii) Sponsor (or its products) has a physical presence at a Race (excluding signage), Sponsor shall maintain during the term of this Agreement the following insurance in addition to the insurance coverage required in Subsection (A) above: (a) workers' compensation insurance in the amount required by the law

of the state(s) in which the party's workers are located and employers liability insurance with limits of not less \$1,000,000.00; (b) business automobile liability insurance with a minimum combined single limit of \$1,000,000.00 covering all owned, hired, rented, subcontracted and non-owned vehicles and equipment used by Sponsor; and (c) excess/umbrella insurance, excess to the insurance coverage required in Subsections (A) [general liability insurance] and (B)(b) [business automobile liability insurance] above, with a limit of not less than \$5,000,000.00. Sponsor's workers' compensation insurance shall include a waiver of subrogation in favor of Komen and Komen Affiliate with respect to any losses arising from work performed by or on behalf of Sponsor. In the event a Sponsor is subject to the insurance requirements of this Subsection (B), Sponsor agrees to name Komen and Komen Affiliate as additional insureds on its commercial general liability insurance policy and any other policies required under this Subsection (B), solely with respect to the Race(s). Sponsor shall furnish a certificate of insurance to Komen Affiliate showing that such insurance policies are in place within thirty (30) days after the Effective Date of this Agreement. Furthermore, in the event a Sponsor is subject to the insurance requirements of this Subsection (B), Komen or Komen Affiliate shall name Sponsor as an additional insured on its commercial general liability insurance policy solely with respect to the Race(s) upon written request from such Sponsor. Unless due to the gross negligence or willful misconduct of either Komen or Komen Affiliate, neither Komen nor Komen Affiliate shall be responsible for any loss or damage to Sponsor's property.

(C) All insurance coverage shall be placed with insurers who have an AM Best's Insurance rating of A-VII or better. The minimum amounts of insurance coverage required in this Section 8 shall not be construed to create a limit of Sponsor's liability with respect to its indemnification obligations under this Agreement.

9. **Cancellation or Delay of a Race.** Komen Affiliate will use its good faith diligent efforts to conduct the Race(s) on the Race Date(s) set forth on Page 1 of this Agreement; provided, however, that Komen Affiliate shall not be responsible for damages that result from delays or postponements of a Race due to circumstances beyond its reasonable control; and in the event that a Race does not take place, the Sponsorship Contribution shall be treated as a donation to Komen Affiliate and shall not be refunded.

10. **Relationship of Parties.** The parties to this Agreement are not joint venturers, partners, agents, nor representatives of each other and such parties have no legal relationship other than as contracting parties to this Agreement. All individuals provided by or associated with Sponsor who perform services at the Race(s) shall perform such services at the direction of, under the supervision and control of, and for the benefit of Sponsor. Such individuals shall not perform such services on behalf of Komen Affiliate and shall not be agents or representatives of Komen Affiliate. Sponsor shall be responsible, as between Sponsor and Komen Affiliate, for any injuries or damages caused by or to said individuals.

11. **Assignment.** Neither party may assign, directly or indirectly, by operation of law, change of control or otherwise, this Agreement or any rights or obligations hereunder, without the prior written consent of the other party, which shall not be unreasonably withheld. Any attempt to assign this Agreement in contravention of this Section 11 shall be void and of no force and effect.

12. **Dispute Resolution.** In the event of any dispute arising out of this Agreement, the parties shall use good faith efforts to resolve their differences amicably. In the event they are unsuccessful, the parties agree not to commence litigation until attempting to resolve their dispute through mediation. Either party may initiate the mediation process with thirty (30) days' prior written notice to the other party. The dispute shall be submitted to mediation in the city in which Komen Affiliate's principal place of business is located. Costs of mediation shall be borne equally by the parties. Mediation of the dispute shall be completed within fifteen (15) days of commencement, unless the parties extend the time by mutual agreement or unless the mediator declares the parties to be at an impasse. Notwithstanding the above, in the event that either party believes that immediate injunctive relief is required to protect its Marks, such party may invoke the immediate powers of the appropriate court of law without the requirement to first mediate the dispute.

13. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State in which Komen Affiliate's principal place of business is located ("State of Choice") without regard to conflict of laws principles that may require the application of the laws of any other jurisdiction. With respect to any suit arising out of or in connection with this Agreement that is not resolved under Section 12 of this Agreement, each party consents and submits to the exclusive jurisdiction of competent state and federal courts in the State of Choice for any litigation or dispute arising under this Agreement and to the venue of such litigation or dispute in the city or county in which Komen Affiliate's principal place of business is located.

14. **Notice.** Any notice hereunder shall be in writing and shall be effective (i) when personally delivered or when transmitted via facsimile with receipt confirmed; (ii) the next business day following deposit with a reputable courier service for overnight delivery; or (iii) five business days following deposit in the United States mail, postage prepaid, registered or certified. All notices shall be forwarded to the address of each party listed on Page 1 of this Agreement.

15. **Entire Agreement.** This Agreement shall constitute the entire agreement of Sponsor and Komen Affiliate to be binding upon the parties as of the Effective Date. This Agreement supersedes any prior understandings or oral agreements between Sponsor and Komen Affiliate regarding the Race(s) and constitutes the entire understanding and agreement between the parties with respect to the Race(s). There are no agreements, understandings, representations or warranties between the parties other than those set forth in this Agreement. Should any section, or portion thereof, of this Agreement be held invalid by reason of any law, statute or regulation existing now or in the future in any jurisdiction by any court of competent authority or by a legally enforceable directive of any governmental body, such section or portion thereof shall be validly reformed so as to approximate the intent of the parties as nearly as possible and, if unreformable, shall be deemed divisible and deleted with respect to such jurisdiction; and this Agreement shall not otherwise be affected.

16. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be considered an original instrument. Each counterpart will be considered a valid and binding original. Once signed, any reproduction of this Agreement made by reliable means (e.g., photocopy, facsimile) is considered an original.

SCHEDULE A

SCHEDULE B