

Marketing Sponsorship Agreement

THIS MARKETING SPONSORSHIP AGREEMENT (the "Agreement") is entered as of the Effective Date (as defined in Paragraph 3.3.22, below) by and between **Tobias, LLC**, a Florida limited liability company (the "Company"), whose address is 2001 East 2nd Avenue, Unit 26, Tampa, Florida 33605 and **Polk County**, a political subdivision of the State of Florida (the "County"), situated at 330 W. Church Street, Bartow, Florida 33830.

WHEREAS, the Company will produce an independent multi-part television series (the "Project") based on the popular novel "A Land Remembered" written by Patrick D. Smith in 1984; and

WHEREAS, the Company will film the Project predominantly within Polk County, supporting local spending, producing jobs, providing destination marketing content, and long-term tourism infrastructure within Polk County; and

WHEREAS, the County, by and through its Tourism & Sports Marketing Division- ("PCTSM") promotes tourism and economic development within Polk County; and

WHEREAS, the County collects revenues pursuant to Section 125.0104, Florida Statutes, the Local Option Tourist Development Act (the "Act"), which it must use according to the requirements contained therein; and

WHEREAS, the Act permits the County to use the collected revenues to promote and advertise tourism in the State of Florida, nationally, and internationally; and

WHEREAS, the Company has requested and the County has agreed to act as a marketing sponsor for the production and corresponding national and international distribution of the Project.

NOW, THEREFORE, in consideration of the mutual covenants and agreements stated herein, the parties hereby agree, as follows:

ARTICLE 1

OBLIGATIONS OF THE COUNTY

The County shall perform or provide the following to the Company, or shall cause the following to be performed or provided to the Company with respect to the filming and marketing assets:

1.1 Sponsorship. The County will pay the Company a \$250,000.00 sponsorship fee in two equal installments of \$125,000.00. The first installment payment will be due within 30 days after the Company notifies the County it has completed principal photography Project within Polk County. The second installment payment will be due upon delivery to the County of the Promotional Video pursuant to paragraph 3.1 below.

ARTICLE 2

OBLIGATIONS OF THE COMPANY

The Company shall perform or provide the following to the County, or shall cause the following to be performed or provided to the County:

2.1 Promotional Testimonial Video. On or before sixty (60) days from the completion of principal photography, the Company will produce and deliver a minimum **three (3) minute**, ready-to-post Project promotional video (the “Promotional Video”) in **1920x1080 HD** format. At a minimum the Promotional Video will include the following:

- Testimonials from at least **three (3) above-the-line Project cast or crew members**;
- Direct references to Project filming in **Polk County**; and
- B-roll and behind-the-scenes footage highlighting local locations, community support, and production activity.

Upon delivery, the County shall have an irrevocable perpetual license in and to the Promotional Video and may freely use the Promotional Video in any and all media, worldwide, in whole or in part, and any derivative works created therefrom solely for the County’s current and future Visit Central Florida tourism promotion, advertisement, and related marketing uses. The rights granted to the County pursuant to this Section 2.1 shall survive the expiration or any earlier termination of this Agreement.

2.2 MacIvey Homestead Set Construction & Tourism Legacy Asset. To film the Project, the Company will design and construct a **MacIvey Homestead set** (the “Homestead Set”). Upon completion of all Project filming, the Company will convey the Homestead Set, or such portions thereof as the County requests, and at the Company’s cost deliver the set to a location the County designates within the geographic boundaries of Polk County, where it can serve as a long-term tourism-forward asset for Polk County. The Company will provide the County a Bill of Sale reasonably acceptable to the County which evidences the conveyance of the Homestead Set to the County, free and clear of all claims, liens, or other encumbrances. Depending upon its use as part of the Project, the Homestead Set will be delivered as either:

- A **permanent structure** built on mutually agreed-upon land within Polk County,
- or
- A **moveable set installation** available for future tourism activations and promotional use.

This Homestead Set will provide Polk County with a unique physical landmark

tied to the Project production and future visitor engagement.

2.3 Still Photography Package; Perpetual Promotional Use Rights. Within sixty (60) days after the completion of principal photography,, the Company will deliver to the County at least **twenty (20) professionally captured still photographs** in high resolution digital format which the Project's official set photographer takes during Project production to capture behind-the-scenes activities and Project crew members.

The Company hereby grants the County a perpetual right and irrevocable license to use the photograph images on websites, in printed or video presentations, at trade shows, film festivals, and governmental or community boards for marketing and promotional purposes. The rights granted to the County pursuant to this Section 2.3 shall survive the expiration or any earlier termination of this Agreement.

2.4 Polk County Media Day / Press Activation. The Company will permit the County to host an official **Media Day** at the Project set or another mutually agreeable location within Polk County. The Media Day will occur on a mutually agreeable date during Project production that will not interfere with production operations. The County will invite regional and statewide press to the Media Day and the Company will make the Project producers, directors, key cast members and creative talent available to the press.

2.5 End Credit Recognition & Branding. At the conclusion of each Project episode, the Company will include an end-credit acknowledgment thanking **Polk County and "Visit Central Florida,"** and displaying the official County and Visit Central Florida seal/logo which the County will provide to the Company. The acknowledgment will be preceded by the text credit of **"Filmed in Polk County, Florida" or similar mutually agreeable language.** These credits will serve as a permanent promotional identifier tied to the Project's release, distribution, and broadcast (in all formats). The rights granted to the County pursuant to this Section 2.5 shall survive the expiration or any earlier termination of this Agreement.

2.6 Limited Naming Rights. The Company hereby grants the County a perpetual right and irrevocable license to (i) create (at the County's expense) an "A Land Remembered" Project trail at a suitable location within Polk County which shall be mutually agreed upon by Company and the County or (ii) create a traveling exhibit of props from the Project set which the County may display at its Welcome Center, the Polk County History Center, or other venues which promote Florida or Polk County history, or natural and scenic Florida locations. The parties shall separately agree as to the Project props which the Company will provide the County from time to time for such use. The rights granted to the County pursuant to this Section 2.6 shall survive the expiration or any earlier termination of this Agreement.

ARTICLE 3
TERMS AND CONDITIONS

3.1 Intellectual Property Rights

The Company hereby represents and warrants to the County that the Company is the sole owner of all necessary copyright, trademark, and all other intellectual property rights (the "Story Rights") with respect to the Project arising from or associated with "A Land Remembered" written by Patrick D. Smith in 1984 to include without limitation the rights to reproduce, distribute, adapt, and publicly display the Project, together with any adaptations or derivative works, and original characters contained therein. All names, symbols, emblems, designs and colors, logos - whether trademarked, copyrighted, registered or unregistered, arising from or pertaining to the Project are collectively referred to as the "Marks."

In addition to the rights granted to the County in Article 2, above, the Company hereby grants the County a nonexclusive, perpetual right to use, display, and reproduce the Marks in the County's media, advertising, and other promotions of Polk County as a tourist and visitor destination. The County shall only use the Marks as they are designed and colored. The County shall not acquire any ownership or any other interest in the Marks through its permitted use. The rights granted to the County pursuant to this Section 3.1 do not include the right to use the Marks in any other way unless specifically authorized by the Company in writing. The rights granted to the County hereunder shall (i) survive the expiration or any earlier termination of this Agreement; and (ii) be non-assignable and nontransferable in whole or in part without the written authorization of the Company.

3.2 Indemnity

The Company shall be fully responsible for the negligent acts or omissions or any intentional tortious acts of its directors, officers, employees, contractors, volunteers or agents which result in claims, actions, or suits against the County (to include its agents, officials, and employees) to include without limitation claims for trademark, patent, or copyright infringement, and the Company shall be liable, defend (by counsel reasonably acceptable to the County), indemnify, keep, save, and hold harmless the County for any damages, injuries, loss, cost, or expense, including without limitation the costs of investigation, defense, reasonable attorneys' fees, costs, and expenses incurred during negotiation, through litigation and all appeals therefrom, that are proximately caused by said acts or omissions. The Company's obligations stated in this Section 3.2 shall survive the expiration or earlier termination of this Agreement.

3.3 General

1. During the term of this Agreement, the Company shall maintain sufficient levels of liability, casualty, property and all other types of insurance coverages necessary and consistent with the scope of its undertakings, obligations, and responsibilities with respect to the Project. The Company's Commercial General Liability Policy shall (by endorsement if necessary) provide contractual liability coverage for the Company's indemnity stated in Section 3.2, above.
2. If either party materially defaults in its obligations under this Agreement, then the non-defaulting party shall have the right to (i) immediately terminate this Agreement by delivering written notice to the defaulting party, and (ii) pursue any and all remedies available in law, equity, and under this Agreement.
3. **LIMITATION OF LIABILITY. IN NO EVENT SHALL THE COUNTY BE LIABLE TO THE COMPANY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS AGREEMENT BY THE COUNTY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.**
4. The parties shall comply with all applicable laws and regulations in performance of the terms of this Agreement. Any violation of applicable laws or regulations shall constitute a material breach of this Agreement and shall entitle the nonoffending party to immediately terminate this Agreement upon delivery of written notice of termination to the offending party.
5. If any term or provision, or any portion thereof, of this Agreement, or the application thereof to any person, entity or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
6. The Company and County shall be and act as independent contractors, and under no circumstances shall this Agreement

be construed as one of agency, partnership, or joint venture. Each party shall be solely responsible for the conduct of its respective employees, agents, and volunteers in connection with the performance of its obligations hereunder.

7. Any notice, list, approval, disapproval, or demand required or permitted by any provision of this Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when sent by regular mail or by certified mail, return receipt requested, all postage and other charges prepaid, addressed as follows:

If to Polk County:

Polk County Tourism & Sports Marketing
2701 Lake Myrtle Park Road
Auburndale, FL 33823

If to Tobias, LLC:

Tobias, LLC
2001 E. 2nd Avenue – Unit 26
Tampa, FL 33605\

With copies to:

Gray Schwartz LLP
207 West 25th Street – 6th Floor
New York, NY 10001
Attn.: Jonathan Gray

Notices shall be effective upon receipt or upon a party's refusal to accept receipt of a notice.

8. This Agreement constitutes the entire agreement between the parties hereto and shall not be amended, except in writing signed by all parties hereto. The parties acknowledge that the parties have negotiated this Agreement at arm's length with adequate representation on an equal basis, and the filing of a suit challenging the negotiated terms of this Agreement by either party shall be deemed a default and this Agreement shall be terminated as provided herein.
9. The titles or headings of the various Articles, sections and paragraphs hereof are intended solely for reference and are not intended, and shall not be deemed, for any purpose whatever to modify, explain or replace any construction upon any provisions of this Agreement.

10. This Agreement is delivered and executed within the State of Florida and shall be construed and enforced in accordance with and governed by the laws thereof. Any litigation with respect to the Agreement shall be brought only in the courts of Polk County, Florida, or in the United States District Court, Middle District of Florida, located in Hillsborough County, Florida.
11. The parties may not assign this Agreement, or any rights or obligations hereunder, in whole or in part, without the prior written consent of the other party, which written consent may be withheld for any reason.
12. The Company represents and warrants the following to the County:
 - (a) The Company is a limited liability company duly organized and existing in good standing, with full right and authority to transact business within the State of Florida;
 - (b) The Company's performance under this Agreement will not violate or breach any contract or agreement to which the Company is a party or is otherwise bound, or any governmental statute, ordinance, rule, or regulation;
 - (c) The Company's grant of rights to the County for the uses stated herein will not infringe, misappropriate, or violate a third party's patent, copyright, trademark, or other proprietary or intellectual property rights, or result in the violation of any applicable law or regulation;
 - (d) The Company has the full right and authority to enter this Agreement and to perform its obligations in accordance with its terms;
 - (e) The Company has no obligation or indebtedness that would impair its ability to fulfill its Agreement obligations; and
 - (f) The individual executing this Agreement on behalf of the Company has the full right and authority to do so.
13. Concurrently with its execution of this Agreement, the Company has executed an affidavit which has been signed by an officer or representative of the Company under penalty of perjury attesting that the Company does not use coercion for labor or services as those terms are defined in Florida Statutes, § 787.06, as that statute may be subsequently revised or amended. Failure to provide the required affidavit is a material default of this Agreement. The Company shall provide the County the same type of affidavit upon any renewal or extension of the Agreement as required by Section 787.06.

14. The Company warrants that it has not employed or retained any company or person, other than a bona fide employee or agent working solely for the Company to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee or agent working solely for the Company any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the County shall have the right at its sole discretion to terminate this Agreement without liability and to deduct from the Agreement price or to otherwise recover the full amount of any such fee, commission, percentage, gift or consideration.

15. A party (the "Affected Party") shall be temporarily excused from performance if an Event of Force Majeure directly or indirectly causes its nonperformance. Within five (5) days after the occurrence of an Event of Force Majeure, the Affected Party shall deliver written notice to the other party describing the event in reasonably sufficient detail and how the event has precluded the Affected Party from performing its obligations hereunder. The Affected Party's obligations, so far as those obligations are affected by the Event of Force Majeure, shall be temporarily suspended during, but no longer than, the continuance of the Event of Force Majeure and for a reasonable time thereafter as may be required for the Affected Party to return to normal business operations. If excused from performing any obligations under this Agreement due to the occurrence of an Event of Force Majeure, the Affected Party shall promptly, diligently, and in good faith take all reasonable action required for it to be able to commence or resume performance of its obligations under this Agreement. During any such time period Affected Party shall keep the other party duly notified of all such actions required for it to be able to commence or resume performance of its obligations under this Agreement.

16. The Company acknowledges that (i) the County is subject to the Florida Public Records Law (Chapter 119, Florida Statutes) requiring the County to release public records to members of the public upon request, and (ii) documents, papers and other material pertaining to this Agreement may become part of a "public record" as defined under the Florida Public Records Law which are available for personal inspection and copying by any person. The Company will not disclose any documents or information that is specifically exempt from disclosure pursuant

to the Florida Public Records Law and all other applicable laws.

17. The Company acknowledges and confirms that if the conditions stated in Section 287.133 of the Florida Statutes relating to conviction for a public entity crime applies to the Company, then this Agreement will terminate, be void and of no further effect without need of any action from the County.
18. The Company shall not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, or national origin and will ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, or national origin. This provision shall include, but not be limited, to the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
19. The Company shall not employ or utilize unauthorized aliens in the performance of this Agreement. The County shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for the County to unilaterally terminate this Agreement.
20. In connection with any dispute or any litigation arising out of, or relating to this Agreement, each party shall be responsible for its own legal and attorneys' fees, costs and expenses, including attorneys' fees, costs, and expenses incurred for any appellate or bankruptcy proceedings.
21. In addition to the parties' respective ability to terminate this Agreement as specifically stated in this Agreement, the County may terminate the Agreement for any reason whatsoever upon delivery of thirty (30) days prior written notice to the Company.
22. The term of this Agreement shall commence on the date (the "Effective Date") of its execution by the County and shall continue thereafter until completion of the parties' obligations hereunder.
23. The Company acknowledges that during any fiscal year the County shall not expend money, incur any liability, or enter into any agreement which by its terms involves the expenditure of money in excess of the amounts budgeted as available for

expenditure during such fiscal year. Accordingly, any agreement, verbal or written, the County may make in violation of this fiscal limitation is null and void, and no money may be paid on such agreement. The County may enter into agreements whose duration exceeds one year; however, any such agreement shall be executory only for the value of the services to be rendered which the County agrees to pay as allocated in its annual budget for each succeeding fiscal year. Accordingly, the County's performance and obligation to pay under this Agreement is contingent upon annual appropriation.

24. In its performance under this Agreement, the Company shall abide by all applicable statutes, ordinances, rules, and regulations including those now in effect and those hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement and shall entitle the County to terminate this Agreement immediately upon delivery of written notice of termination to the Company.
25. If any provision of this Agreement is invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the remaining provisions of the Agreement shall remain intact.
26. The Parties acknowledge that this Agreement and all the terms and conditions contained herein have been fully reviewed and negotiated by the Parties. Accordingly, any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.
27. The recitals listed at the beginning of this Agreement are true and correct and are hereby fully incorporated here.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
THE AGREEMENT CONTINUES ON THE FOLLOWING PAGE
WITH THE PARTIES' SIGNATURES.**

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the Effective Date.

ATTEST:

TOBIAS, LLC

a Florida limited liability company

By: MacIvey LLC, a Florida limited liability company

Its: Manager

By: CHRISTA BOARINI

CHRISTA BOARINI

Print Name

Its: MANAGER

By: Todd Wiseman, Jr.
Todd Wiseman, Jr., Manager

ATTEST:

STACY M. BUTTERFIELD
CLERK OF THE BOARD

POLK COUNTY, a political subdivision of
the State of Florida

By: _____
Deputy Clerk

By: _____
Martha Santiago, Ed. D., Chair

Reviewed as to form and legal sufficiency:

By: _____
County Attorney's Office