

## **BONDINGPOINT, LLC**

## **SERVICES AGREEMENT**

This Services Agreement ("Agreement") is entered into as of December 15, 2014 between BondingPoint, LLC having a principal place of business at 321 N. Clark Street, Suite 2550, Chicago, IL 60654 herein referred to as ("BP") and the Village of Orland Park, Illinois, having a principal place of business at 14700 Ravinia Avenue, Orland Park, IL 60462, herein referred to as ("Client"). BP and Client are collectively referred to herein as the "Parties".

### **RECITALS**

**WHEREAS**, Client is a municipal governmental entity;

**WHEREAS**, BP is an Illinois limited liability company that provides a managed engagement solution, inclusive of unique software, graphics, algorithms, databases and technology, collectively referred to as the "Platform",

**WHEREAS**, Client wishes to utilize BP's Platform to provide its residents with an incentive and rewards program to help drive engagement, awareness, participation and civic pride.

**NOW THEREFORE**, in consideration of the covenants and mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

### **1. Services**

#### **A. Managed Incentive and Rewards Platform**

BP agrees to license a custom-branded version of its Platform, optimized for desktop, mobile/smartphones, and tablet devices to Client. Client will maintain final approval of any site branding, content and/or sponsorship prior to launch of the Platform and throughout the term of this Agreement.

BP's cloud-based Platform will provide services including, but not limited to, registration of members, activity monitoring and measurement of member activity, real-time point accrual, auction-modules for experience/reward redemption, as well as user and site performance information and analytics. BP will integrate 3rd party sponsorships into the platform to subsidize the cost of the Platform as well as to generate additional revenue for Client, as defined in Section 3 of the Agreement.

BP shall provide technical support throughout the life of the Agreement, and shall provide any necessary updates, patches, debugging or general maintenance. Additionally, BP will provide dedicated support to manage all facets of the Program, including, but not limited to the following:

- Pre and post-launch marketing, social messaging support and related materials
- Managed Helpdesk support
- Dedicated account management - as single point of contact
- Development and sales of (Client approved) sponsorships on the Platform
- Detailed project work plans
- Management of all e-mail correspondence with Platform members regarding earning and redeeming of points
- Coordination, uploading and monitoring of all point earning opportunities to be offered on the Platform
- Coordination, uploading and monitoring of all rewards and experiences to be offered on the Platform
- Regular reporting and tracking of membership additions, points awarded and points redeemed
- Additional reporting as requested by Client
- General business development and sales assistance

**B. Member Points and Accrual**

The Platform will be provided to Client with ***an unlimited number of units*** of virtual currency, called CommunityPoints™. Members will be able to earn units of currency through a variety of Client-defined actions. These actions include but are not limited to: online promoting of events, online registrations to events and programs, checking-in at Client events and locations, scanning QR codes, sponsor partner activities including tweeting, liking and more. Members will earn CommunityPoints™ based on the business rules assigned for each activity by Client and BP. Accrued units will post to each member's account in real-time or in certain instances as soon as is reasonably possible. Client will receive a summary of all accrual activities on the 5<sup>th</sup> day of each month, for the previous month's activities.

**C. Member Rewards and Redemption**

BP will consult with Client to source potential internal experiences, source experiences from sponsors and utilize its own relationship to provide experiences whenever possible.

Although coordination, uploading and monitoring of all experiences will be BP's responsibility, only those costs arising directly and proximately from the rewards and experiences to be auctioned on the Platform are the Client's responsibility.

**D. Marketing**

Client will primarily use its own marketing channels and assets to drive member awareness of the Program. BP will consult with Client on marketing and social messaging strategy for the launch and continued growth of the Platform.

**F. Customer Service**

BP will provide customer service for any issues related to the Platform.

## 2. **Term and Termination**

### A. Term

The Term of this Agreement shall commence on the Effective Date and continue for a period of three (3) years, (“**Initial Term**”) unless or until terminated by one of the Parties as set forth in the Agreement. After the Initial Term, this Agreement shall automatically renew for successive one (1) year periods (each referred to as a “**Renewal Term**” and together with the Initial Term, the “**Term**”) unless one Party provides written notice to the other Party of its intent not to renew this Agreement thirty (30) days prior to the expiration of the Initial Term or any subsequent Renewal Term.

### B. Termination for Breach

Notwithstanding the foregoing, either Party may terminate this Agreement upon written notice of termination in the event that the other Party materially breaches this Agreement and such breach remains uncured for a period of thirty (30) days after written notice of breach is delivered to the other Party.

### C. Upon Termination

Any fees and payments fully earned prior to termination and the rights to them will survive if this Agreement expires or is terminated for any reason.

### D. Winding Up

In the event that Client terminates this Agreement, BP will wind up all dealings related to the Client’s Platform within thirty (30) days after notice from Client, (“Windup Period”).

### E. Termination Without Cause

Notwithstanding anything to the contrary in this Agreement, from the beginning of the thirteenth (13<sup>th</sup>) month of this Agreement until its termination, the Client at its sole discretion may terminate this Agreement without cause and for any reason upon ninety (90) days written notice of termination delivered to BP.

## 3. **Compensation and Fees**

### A. Services and Licensing Fee

There will not be any one-time or recurring charges or fees to Client for any services or equipment in connection with the set-up and use of the Platform throughout the term of the Agreement.

### B. Cost Recovery, Sponsorship and Revenue Sharing

The Parties have an interest in integrating sponsorship into the Platform to derive revenues. During this Agreement, except as excluded below and subject to the limitations set forth below, BP will sell and administer advertising and sponsorships on the Platform, and Client will help market the same.

Examples of inappropriate advertising or sponsorships include, but are not limited to: tobacco, drugs, gambling, adult entertainment, or other advertising that is incompatible with the dignity and property of Client as determined by Client at Client's sole discretion.

The Parties agree to the following revenue sharing of sponsorships revenues:

- i. On an annual basis, BP will receive the first thirty six thousand dollars (\$36,000.00) of sponsorship revenues "Sponsor Subsidy" generated through this Platform, regardless of the selling Party. Any loss resulting in selling less than thirty six thousand dollars (\$36,000) of sponsorship shall be born to BP.
- ii. After BP has received its Sponsor Subsidy, if any, pursuant to Subparagraph (i) above, sixty (60%) percent of the net sponsorship revenues collected will go to Client, with forty (40%) percent going to BP.
- iii. In the event that Client incorporates a sponsorship program on the Platform into a larger sponsorship program with additional assets outside of the Platform, BP will receive a commensurate share of such program revenues as negotiated in good faith between the Parties.

Except for sponsorship procured as set forth in Section B (iii) above, BP shall be responsible for all invoicing and processing of payments from sponsors or third parties associated with the Platform and will remit payment to Client on a monthly basis along with a detailed accounting of all sponsorship monies received by BP during the preceding month. In instances where sponsorship monies are a part of a larger sponsorship program as set forth in Section B (iii), Client shall remit payment to BP on a monthly basis along with an accounting of all sponsorship monies paid to Client as a part of the Platform during the preceding month.

## 4. **Ownership**

### A. Platform and Technology

BP shall maintain ownership of the Platform and all associated technologies created by BP at all times. Client understands that BP's Platform and technology are proprietary in nature and Client is a licensor of the Platform and technology. Client shall have no right to borrow, re-create or re-purpose the Platform or associated technologies at any time. BP shall retain all ownership of and right, title and interest in and to the BP technology. Neither this Agreement nor the provision of any Services contemplates the transfer of any such ownership rights from BP to Client.

**B. Data**

All data previously owned by Client shall continue to be owned by Client. Client and BP shall jointly own all data created or procured via the Platform both during and until termination of this Agreement.

**5. **Insurance****

**BP will carry the following coverage:**

**A. Worker's Compensation and Employer's Liability Insurance**

Worker's Compensation and Occupational Disease Insurance, in accordance with the laws of the State of Illinois, and Employer's Liability coverage, covering all employees of BP with limits of not less than **\$500,000** for each accident or illness.

**B. Commercial General Liability Insurance**

Commercial General Liability Insurance on an occurrence basis or equivalent, with limits of not less than **\$1,000,000** per occurrence, combined single limit and **\$1,000,000** aggregate, including but not limited to bodily injury, personal injury, property damage, products/completed operation, contractual liability, cross liability and severability of interest. The Village of Orland Park will be named as an additional insured on each insurance policy described in this Section 5.

**C. Excess Liability Insurance**

Excess Liability Insurance with limits of liability of no less than **\$2,000,000**.

**D. Automobile Liability Insurance**

When any motor vehicles are used in connection with work to be performed under this Agreement, BP and its subs (if any) shall provide **\$1,000,000** combined single limit per occurrence for bodily injury and property damage. Hired and non-owned vehicle coverage is to be included with any owned vehicle coverage.

**F. Provisions**

BP shall advise all insurers of the Agreements provisions regarding insurance.

BP's insurance is to be placed with insurers authorized to do business in the State of Illinois and with a Best's rating of no less than A, covering all operations under this Agreement.

**6. **Representations and Warranties****

The Parties further warrant that all representations and obligations made in this Agreement and included Exhibits are accurate. Both Parties warrant that they are legally able to enter into this Agreement and that no prior agreements or arrangements will prevent them from fulfilling their obligations under this Agreement.

## 7. **Indemnification**

BP hereby agrees to indemnify and hold harmless Client from and against any and all loss damage, liability cost and expense (including but not limited to reasonable attorney's fees) arising out of any third party claim, dispute, suit or recovery resulting from a breach of its representations and warranties or from a breach of any of its obligations under this Agreement. If Client shall be made a party to any litigation commenced by or against any other Party to this Agreement for which BP is required hereunder to defend Client, and if Client shall be made a party to any litigation commenced by reason of this Agreement, then BP shall defend Client and, if BP fails to do so, BP shall pay all costs, expenses and reasonable attorneys' fees incurred by Client in connection with such litigation.

Client hereby agrees to indemnify and hold harmless BP from and against any and all loss damage, liability cost and expense (including but not limited to reasonable attorney's fees) arising out of any third party claim, dispute, suit or recovery resulting from a breach of Client's representations and warranties of any of its obligations related to the fulfillment of any of its obligations under this Agreement. If BP shall be made a party to any litigation commenced by or against any other Party to this Agreement for which Client is required hereunder to defend BP, then Client shall defend BP and, if Client fails to do so, Client shall pay all costs, expenses and reasonable attorneys' fees incurred by BP in connection with such litigation.

## 8. **Right to Publicize**

The Parties agree that there is mutual benefit in the publicizing of this relationship to both the business and consumer community. Both Parties shall have the right to publicize this relationship as necessary to fulfill their business interests, including, but not limited to, press releases, mentions on the Parties respective websites, and in investor documents, except publicizing incompatible with the dignity and propriety of Client as determined by Client at Client's sole discretion. The Parties grant to one another a non-exclusive license to use each Parties respective name and likeness for the Term of this Agreement in order to meet this goal. The Parties agree to share all press releases and public communications regarding the announcement of this relationship prior to their release.

## 9. **Confidentiality**

This Agreement also expresses the intent of each Party to secure mutually binding confidentiality regarding each Party's technology and business practices. Each Party has disclosed or anticipates disclosing to the other Party certain Confidential Information (as defined below) in connection with developing the business relationship between the Parties (collectively, the "Business Purpose"). In consideration of the mutual promises and covenants contained in this Agreement and the disclosure of confidential information in connection with the Business Purpose, both Parties agree as follows:

- i. Definition of Confidential Information. "Confidential Information" shall mean all information, whether disclosed before or after the Effective Date, that is disclosed in written,

oral, electronic, visual or other form by either Party (each, as a "Disclosing Party") to the other Party (each, as a "Receiving Party") and either (i) marked or designated as "confidential" or "proprietary" at the time of disclosure or (ii) otherwise clearly indicated to be confidential at the time of disclosure. Confidential Information may include, without limitation, computer programs, software or hardware products, product development plans, code, documentation, algorithms, know-how, trade secrets, formulas, processes, procedures, ideas, research, inventions (whether patentable or not), copyrights, schematics and other technical, business, financial and marketing information, forecasts, strategies, names and expertise of employees and consultants and customer or Client information.

- ii. **Confidentiality Obligation.** Receiving Party agrees to protect the Confidential Information by using the same degree of care as Receiving Party uses to protect its own confidential or proprietary information (but not less than a reasonable degree of care): (i) to prevent the unauthorized use, dissemination or publication of the Confidential Information (ii) not to divulge Confidential Information to any third party, (iii) not to make any use of such Confidential Information except for the Business Purpose, and (iv) not to copy except as reasonably required in direct support of the Business Purpose. Any copies made will include appropriate marking identifying same as constituting or containing Confidential Information of Disclosing Party; and (v) not to reverse engineer any such Confidential Information. Receiving Party shall limit the use of and access to Disclosing Party's Confidential Information to Receiving Party's employees and to the employees of Receiving Party's respective parent, subsidiaries and affiliated entities or authorized representatives who have: (i) a need to know and have been notified that such information is Confidential Information to be used solely for the Business Purpose; and (ii) entered into binding confidentiality obligations no less protective of Disclosing Party than those contained in this Agreement. Receiving Party may disclose Confidential Information pursuant to any statutory or regulatory authority or court order, provided Disclosing Party is given prompt prior written notice of such requirement and the scope of such disclosure is limited to the extent possible.

**Survival.** This provision shall survive any termination or expiration of this Agreement for a period of two (2) years after the Agreement expiration date or termination date.

**Exclusions.** Confidential Information shall not include Confidential Information that from and after the date of disclosure: (i) is or becomes a matter of public knowledge through no fault of Receiving Party; or (ii) was rightfully in Receiving Party's possession prior to receipt from Disclosing Party free of any obligation of confidence; or (iii) was rightfully disclosed to the Receiving Party by another person without restriction as to use or disclosure; or (iv) is independently developed by Receiving Party without use of or reference to Disclosing Party's Confidential Information, or is by law required to be disclosed or revealed.

**Ownership.** All Confidential Information and any Derivatives thereof (as defined below), unless otherwise specified in writing, remain the property of the Disclosing Party. Receiving Party acquires no rights or licenses in the intellectual property of Disclosing Party including, but not limited to, patents, trademarks, copyrights or service marks under this Agreement or through any disclosure hereunder, except the limited right to use such Confidential Information in accordance with this Agreement. For purposes of this Agreement, "Derivatives" means (i) for copyrightable

or copyrighted material, any translation, abridgement, revision or other form in which an existing work may be recast, transformed or adapted; (ii) for patentable or patented material, any improvement thereon; and (iii) for material which is protected by trade secret, any new material derived from such existing trade secret material, including new material which may be protected under copyright, patent and/or trade secret laws.

Equitable Relief. Receiving Party acknowledges and agrees that due to the unique nature of the Disclosing Party's Confidential Information, there may be no adequate remedy at law for any breach of this Agreement. Upon any such breach, Disclosing Party shall be entitled to seek appropriate equitable relief, including but not limited to injunction, in addition to whatever remedies it may have at law. Receiving Party will notify Disclosing Party in writing timely upon learning of the occurrence of any unauthorized disclosure of Confidential Information or other breach of this Agreement. Receiving Party will assist Disclosing Party in remedying any unauthorized use or unauthorized disclosure of Confidential Information.

Return of Confidential Information. Receiving Party shall return all Confidential Information, any tangible or expression to the extent that such tangible incorporate any Confidential Information of Disclosing Party, and any all copies thereof upon the request of Disclosing Party. Any Confidential Information, which cannot conveniently be returned, must be destroyed and so certified by Receiving Party.

Warranty. Disclosing Party represents and warrants to Receiving Party that it has sufficient right, title and interest in and to the Confidential Information to enter into this Agreement, to disclose the Confidential Information to Receiving Party, to modify and copy the Confidential Information, and to authorize and allow Receiving Party to do so. Disclosing Party hereby agrees to indemnify, defend and hold harmless Receiving Party from any and all reasonable damages, costs, claims and expenses incurred in connection with any valid and justified claim that Disclosing Party does not have the rights set forth in this Paragraph 9, or that the access, use, or reproduction of the Confidential Information for the purpose of evaluating a possible business relationship infringes a patent or copyright or violates a third party's trade secret rights.

Export. Receiving Party will not export, directly or indirectly, any technical data acquired from Disclosing Party pursuant to this Agreement or any product utilizing any such data to any country for which the U.S. government or any agency thereof at the time of export requires an export license or other government approval without first obtaining such license or approval.

Independent Development. Receiving Party reserves the right to develop and market any technology, products or services or pursue business opportunities that compete with or are similar to those disclosed by Disclosing Party under this Agreement as long as the Receiving Party does not use the Disclosing Party's Confidential Information. Nothing contained in this Agreement shall prohibit or restrict Receiving Party from employing ideas, concepts or techniques that may be retained in the unaided human memory by Receiving Party's personnel in the course of their review of the Confidential Information. The foregoing sentence shall not, however, grant Receiving Party any rights under any patents or copyrights.

## **10. Assignment**

Either Party may assign this Agreement to a parent or subsidiary or as part of a sale or merger of the assigning Party of substantially all of the assets of the assigning Party, upon written notice to the non-assigning Party hereto. This Agreement shall be binding on, and shall inure to the benefit of, the authorized successors and assigns of Client and BP.

## **11. Notice**

Any notice given under this Agreement shall be in writing and deemed sufficiently given when delivered, whether personally, sent by registered or certified mail (postage prepaid, return receipt requested) or sent by nationally recognized overnight courier (e.g. FedEx or UPS) to the receiving Party at the address set forth above or as subsequently changed by notice duly given.

## **12. Delays**

Except for the obligation to make payments when due, a delay or nonperformance of any provisions of this Agreement caused by conditions beyond the reasonable control of the performing Party shall not constitute a breach of this Agreement, provided that the delayed Party has promptly notified the other of the delay in writing or email. The delayed Party's time for performance will be extended for a period equal to the duration of the conditions beyond its control. Conditions beyond a Party's reasonable control include, but are not limited to: natural disasters, acts of government, power failure, fire, flood, force majeure, and acts of war.

## **13. Governing Law; Dispute Resolution;**

The construction, interpretation and performance of this Agreement and all transactions related hereto shall be governed by and construed in all respects in accordance with the laws of the State of Illinois, without giving effect to the principles of conflicts of law thereof. The Parties through informal dispute resolution procedures conducted in good faith may first address any dispute arising from this Agreement. If litigation is initiated, the Parties agree that any actions or proceedings shall be tried and litigated exclusively in the State and Federal courts located in Chicago, Illinois, and both Parties agree to accept service of process inside or outside of such State. The Parties expressly agree to waive trial by jury in any such legal proceeding.

## **14. Headings**

The headings and sub headings in this Agreement are for reference purposes only and shall not be construed as a part of this Agreement

## **15. Complete Agreement**

This Agreement is the sole and entire Agreement between the Parties relating to the subject matter hereof, and this Agreement supersedes all prior and contemporaneous understandings, agreements and documentation relating to such subject matter.

## **16. Severability**

If any provision of this Agreement is held invalid, void or unenforceable under any applicable statute or rule of law, it shall to that extent be deemed omitted, and the balance of this Agreement shall be enforceable in accordance with its terms.

## **17. Amendments**

Modifications and amendments to this Agreement, including any exhibit or appendix hereto, shall be enforceable only if they are in writing and are signed by authorized representatives of both Parties.

## **18. Waiver**

No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented.

## **19. Execution**

This Agreement may be executed in counterparts, and the Parties agree that execution and delivery of this Agreement by exchange of signed documents transmitted electronically (e.g., via facsimile or email attachment) shall have the same binding effect as an original signature on an original document.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be entered into by their duly authorized representatives as of the Effective Date.

For **BONDINGPOINT, LLC:**

---

Name: John P. Calzaretta

Title: CEO

For **VILLAGE OF ORLAND PARK:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_