

Crowd Reactive Service Agreement

Order Number: ny-southbend-dm-05-18

Effective: May 3, 2018

This Crowd Reactive Service Agreement (the “Service Agreement”) is made and entered into by and between City of South Bend Indiana (“Client”) and Crowd Reactive Inc. (“Crowd Reactive”). Collectively, Crowd Reactive and Client are referred to as “the Parties.”

1. Service Performance

1.1. Activation Outline

- 1.1.1. **Activation Name** - The services described in this Service Agreement are to be used for the Best Week Ever activation.
- 1.1.2. **Activation Timeline & Location** - The services described in this Service Agreement are to be used in accordance with the below timeline.
May 28 - June 3rd - South Bend, IN - Multiple Venues
- 1.1.3. **Timeline or Location Changes** - The Client must provide written notice of any adjustments to the Activation Timeline & Location at least fifteen (15) business days prior to the activation date(s).
- 1.1.4. **Completion** - The activation will be considered complete when Crowd Reactive delivers the services outlined in this Service Agreement for use according to the Activation Timeline.
- 1.1.5. **Numeric Standards** - Crowd Reactive is not responsible for meeting any numeric standard in relation to throughput or effectiveness of the services.

1.2. Pre-Production

- 1.2.1. **Place of Performance** - Crowd Reactive will complete pre-activation work at Crowd Reactive facilities and/or vendor facilities contracted by Crowd Reactive.
- 1.2.2. **Costs** - The Client understands that the 50% pre-production cost is a non-refundable portion of the total cost.
- 1.2.3. **Completion** - Pre-production will be considered complete when Crowd Reactive have incurred the pre-production costs.
- 1.2.4. **Invoice** - The pre-production invoice will be non-refundable and independent of event delivery.

- 1.3. **License** - Crowd Reactive agrees to provide the Client with time-limited licensed access and use of the Crowd Reactive Platform (the “Platform”) and the services as described in this Service Agreement.

2. Core Services

2.1. Digital Mosaic

- 2.1.1. **User Journey** - The user journey that Crowd Reactive will deliver is outlined below:
 - 1) Content is collected and displayed onto a screen.
 - 2) Content then animates into a spot within the mosaic until all spots are full.
- 2.1.2. **Software** - Crowd Reactive agrees to provide one (1) Digital Mosaic with a time-limited license for use during the Activation Timeline
- 2.1.3. **Hardware** - The below outlines the hardware that is expected for use during the Activation Timeline.

Crowd Reactive agrees to provide:

- No hardware

Client agrees to provide:

- All screens, cables, and computers required to run the software. For an HD screen, the computer must have an i3/i5/i7 Intel Processor, 8GB RAM, an HDMI Port and the Google Chrome browser installed. For a 4K screen, the software output must be scaled down to 1920x1080.
- 2.1.4. **Creative** - The below outlines the creative that is expected for use during the Activation Timeline.
 - Crowd Reactive agrees to provide:**
 - One (1) starting image
 - One (1) final image
 - One (1) promotional slide
 - One (1) exported final grid of images
 - Client agrees to provide:**
 - All/any Brand Guidelines, Logo(s) in high resolution or vector format, Font(s) in .otf or .ttf format, Color Palettes, Hashtags, Reference Artwork or Required Graphics in high resolution or vector format, Screen Resolutions, or the like that are needed to create the creative elements

3. On-Location Services

- 3.1. **Internet**
 - 3.1.1. **Requirement** - The Client agrees to provide each of the products with wired or wireless internet that has a minimum of 5 mbps download speed and 1.5 mbps upload speed.
 - 3.1.2. **Emergency Usage** - If the Client requires Crowd Reactive to supply internet access during an activation, the Client agrees to pay any costs associated with the equipment and data usage within 30 days of being issued an invoice.
 - 3.1.3. **Liability** - The Client will not hold Crowd Reactive liable for internet-related delays in service or loss of functionality.
- 3.2. **Power**
 - 3.2.1. **Requirement** - The Client agrees to provide Crowd Reactive with one (1) standard outlet with a minimum of six (6) amps per outlet and extension cords within one (1) meter of the desired location for each of the Core Services.
 - 3.2.2. **Emergency Usage** - If the Client requires Crowd Reactive to supply power access during an activation, the Client agrees to pay any costs associated with the equipment and power usage within 30 days of being issued an invoice.
 - 3.2.3. **Liability** - The Client will not hold Crowd Reactive liable for power-related delays in service or loss of functionality.
- 3.3. **Shipping**
 - 3.3.1. **Contact** - The Client agrees to provide a direct contact for shipping and all details necessary to ensure everything shipped is received and picked-up without delay or additional fees
 - 3.3.2. **Hours** - Delivery and pickup of all Crowd Reactive equipment must be flexible during the week during normal business hours (9AM - 5PM).
 - 3.3.3. **Additional Costs** - The Client agrees to pay any costs associated with specifically required times, wait times, or venue fees within 30 days of being issued an invoice.
- 3.4. **Storage**
 - 3.4.1. **Security** - The Client agrees to provide space to store equipment and cases that is secure from theft.
 - 3.4.2. **Humidity** - The Client agrees to provide space to store equipment and cases that is safe from rain and/or excessive humidity (<80%).

- 3.4.3. **Temperature** - The Client agrees to provide space to store equipment and cases that is maintained between temperatures of 40-90 degrees Fahrenheit.

4. Additional Service Deadlines

4.1. Creative

- 4.1.1. **Assets** - All Client assets and information must be provided at least ten (10) business days prior to the Activation Timeline. For activations involving hardware branding, all Client the assets and information must be provided at least twenty (20) business days prior to the Activation Timeline.
- 4.1.2. **Elements** - All creative elements required of the Client must be provided at least three (3) business days prior to the Activation Timeline. For activations involving hardware branding, all hardware branding elements must be provided at least twenty (20) business days prior to the Activation Timeline.
- 4.1.3. **Approval** - The Client must provide written approval of all creative elements at least three (3) business days prior to the Activation Timeline.

4.2. Hardware Branding

- 4.2.1. **Approval** - The Client must provide written approval of all hardware branding at least fifteen (15) business days prior to the Activation Timeline.
- 4.2.2. **Additional Costs** - The Client agrees to pay any costs associated with adjustments to branding after that point within 30 days of being issued an invoice.

4.3. Additional Consumables

- 4.3.1. **Request** - Any consumables outside of those listed above must be requested fifteen (15) days prior to the event at which the consumables would like to be used.
- 4.3.2. **Additional Costs** - The Client agrees to pay any costs associated with the additional consumables within 30 days of being issued an invoice.

5. Payment

- 5.1. **Agreed Price** - The Client agrees to pay \$1,200 for the services rendered by Crowd Reactive.
- 5.2. **Payment Schedule** - The Client agrees to follow the below outlined schedule for payment of the Agreed Price.
 - 5.2.1. Full Balance due prior to the Activation Timeline
- 5.3. **Fees and Penalties**
 - 5.3.1. **Transaction Fees** - All payments should be made by check or Automated Clearing House (ACH) with a 4% transaction fee being assessed for credit card payments.
 - 5.3.2. **Late Payment Penalty** - With respect to the unpaid amount of any invoice not paid in full on its due date, there shall be a late payment penalty due in an amount equal to one and a half percent (1.5%) of the unpaid amount due for each day after the due date.
 - 5.3.3. **Pre-production Costs** - The 50% pre-production cost is non-refundable.

6. The Platform

6.1. Content Collection

- 6.1.1. **Limitations** - The Platform enables content to be collected from various third party services as well as Crowd Reactive's own content creation platform. The Client acknowledges that any requests outside of the limitations outlined in this section may require additional invoicing from Crowd Reactive and amendments to the Service Agreement.
- 6.1.2. **Instagram** - Content from Instagram must be publicly shared and fall within the API limitations of Instagram. Content may come from specified hashtags, but can no longer come from usernames.

- 6.1.3. **Twitter** - Content from Twitter must be publicly shared and fall within the API limitations of Twitter. Content may come from specified usernames, hashtags, or mentions.
- 6.1.4. **Facebook** - Content from Facebook must be posted to a public Brand Page on Facebook. Content cannot be pulled from a group or profile regardless of its privacy settings.
- 6.1.5. **Dropbox** - Content from Dropbox must be in JPG, MP4, PNG, or GIF format and be uploaded as directed by Crowd Reactive. The specific Dropbox account details must be connected the Platform for this collection.
- 6.1.6. **Crowd Reactive Content** - Content created using Crowd Reactive software can be collected and used for other Crowd Reactive products.
- 6.1.7. **Confirmation** - The Client agrees to finalize their content collection sources within the technical limitations above at least ten (10) business days prior to the Activation Timeline.
- 6.1.8. **Liability** - The Client will not hold Crowd Reactive liable for any issues related to a third party service being inaccessible or banning access to any accounts.
- 6.2. **Moderation**
 - 6.2.1. **Access** - Crowd Reactive agrees to provide the Client with access to moderate the Content on a per-product basis. Content can be moderated by either “Banning” content that is not desired or “Approving” content that is desired.
 - 6.2.2. **Guidelines** - The Client is responsible for moderating the content and/or providing the guidelines necessary to moderate the content.
 - 6.2.3. **Liability** - The Client will not hold Crowd Reactive liable for any mistakes on the part of the moderator unless explicitly stated within the on-site responsibilities of this agreement.
- 6.3. **Gallery**
 - 6.3.1. **Access** - Crowd Reactive agrees to provide the Client with access to a templated gallery with the content from their activation.
 - 6.3.2. **Password Protection** - Crowd Reactive agrees to provide password protection for the gallery if the Client requires it.
 - 6.3.3. **Liability** - The Client will not hold Crowd Reactive liable for the usage of any content that is downloaded from a gallery unless password protection was not provided within seventy-two (72) hours of a written request from the Client.
- 6.4. **Report**
 - 6.4.1. **Access** - Crowd Reactive agrees to provide the Client with access to a report on a per-product basis.
 - 6.4.2. **Update Frequency** - The Client understands that metrics will be updated near-live with the exception of social engagement metrics (ie: likes, comments, shares, etc.) that will be accurate as of one hour prior to the last refresh.
 - 6.4.3. **Social Metrics**
 - 6.4.3.1. **Accuracy** - The Client understands that social metrics change over time so numbers reported at a given time may not be representative of what the numbers were or will be at any other given moment.
 - 6.4.3.2. **Banned Content** - The Client understands that content that is banned using the Platform is included in overall numbers unless stated otherwise.
 - 6.4.4. **Gallery Metrics**
 - 6.4.4.1. **Location** - The Client understands that location metrics are guessed based on technical information and may not always be representative of a user's actual location.

- 6.4.4.2. **Social Shares** - The Client understands that gallery social shares are assumed based on a user's interactions on eventstag.com and may not always be representative of actual shares.
 - 6.4.5. **Liability** - The Client will not hold Crowd Reactive liable for any metrics associated with throughput, outreach, or overall success of the activation.
- 6.5. **Website Terms and Conditions**
 - 6.5.1. The Client agrees to never share login credentials with those outside of your organization. Crowd Reactive is not liable for any issues related to the Client's misuse of an EventsTag account.
 - 6.5.2. Crowd Reactive reserves the right to disable an account, if necessary, to preserve the functionality of eventstag.com. In those instances, Crowd Reactive will provide the Client with notice and provide the Client with a back-up account to ensure service continues running while the issue with that account is resolved.
 - 6.5.3. Crowd Reactive reserves the right to update eventstag.com at any time. When necessary, Crowd Reactive will contact the Client to ensure the impact is minimal.
 - 6.5.4. Crowd Reactive reserves the right to delete anything that is deemed illegal or offensive. In those instances, Crowd Reactive reserves the right to block the account from using the eventstag.com.
 - 6.5.5. Any inquiries surrounding the Client's content will be reviewed by Crowd Reactive. Information and non-public content for the Client will be kept confidential unless Crowd Reactive is legally compelled to provide the information or content. Crowd Reactive will provide notice prior to disclosing information unless legally compelled otherwise.
 - 6.5.6. Crowd Reactive owns all content on eventstag.com that has been written, photographed, designed, and/or invented by Crowd Reactive. Express written approval is required to use any content owned by Crowd Reactive.
 - 6.5.7. The Client owns all content created by the Client for use on eventstag.com or within any Crowd Reactive project.
 - 6.5.8. Crowd Reactive may require the use of other sites to provide the Client with the appropriate services. In those cases, Crowd Reactive will agree to the required terms of service and the Client accepts that Crowd Reactive will operate within those terms.

7. Remote Support

- 7.1. **Access** - Crowd Reactive will provide remote support via dedicated account managers that can provide assistance via email, phone, or VPN access software.
- 7.2. **General Queries** - General queries will normally receive a reply within four (4) business hours.
- 7.3. **Event Queries** - During events which the account managers are made aware of at least two (2) weeks prior, queries will receive a reply within 30 minutes.

8. Damaged, Lost, or Stolen Equipment

- 8.1. **Responsible Party** - The Client is responsible for any hardware or software damage or losses incurred while being used, transported, maintained, stored, or otherwise in possession of the Client. In those instances, the Client agrees to pay Crowd Reactive for damaged, lost, or stolen equipment or software supplied by Crowd Reactive within 30 days of being issued an invoice.
- 8.2. **Modifications** - No physical or permanent modifications to Crowd Reactive equipment or software are permitted without written approval from a Crowd Reactive representative.

- 8.3. **Repair or Replacement Costs** - Crowd Reactive will provide itemized costs involved in repairing or replacing equipment upon request to the best of the Crowd Reactive's ability.

9. Confidentiality

- 9.1. **Materials** - The Client agrees to not share any templates, guides, prices, or materials received from Crowd Reactive without written consent from Crowd Reactive or unless legally compelled to provide the information or content.
- 9.2. **Services** - The Client agrees to maintain confidentiality relating to all Crowd Reactive services unless legally compelled to provide the information or content.

10. Negligence or Willful Misconduct Liability

- 10.1. Each party shall hold harmless and indemnify the other party, its directors, officers, employees, agents, and other representatives (collectively "Representatives"), from and against any and all claims, demands, actions, proceedings and costs (including reasonable attorney's fees) ("Losses") in any way resulting from and/or arising out of its own negligence or willful misconduct. Furthermore, Crowd Reactive shall hold harmless and indemnify Client and its Representatives from and against any and all Losses in any way resulting from and/or arising out of: (a) products, point of sale materials and/or other product related materials and/or goods supplied in connection with this Agreement, including but not limited to, any defect in merchandise, or the purpose or use of any product manufactured, produced, or distributed by Crowd Reactive; or (b) the infringement of any patent, copyright, trademark, intellectual property or proprietary right held or used by any third party by any intellectual property, material, composition, or item provided by or on behalf of Crowd Reactive. Nothing in this paragraph relieves either party from liability for its own act, omission or negligence

11. Data Protection

- 11.1. The following definitions apply:
- 11.1.1. "data controller", "data processor", "data subject" "personal data" and "processing" bear the respective meanings given them in the Data Protection Act 1998 and after 25 May 2018 in the General Data Protection Regulation (EU) 2016/679;
- 11.1.2. "data" includes personal data;
- 11.1.3. "Data Protection Law" means all applicable data protection law and regulations in any jurisdiction;
- 11.2. Crowd Reactive shall:
- 11.2.1. only carry out processing of any personal data on the Client's instructions;
- 11.2.2. implement appropriate technical and organisational measures to protect any personal data against unauthorised or unlawful processing and accidental loss or damage; and
- 11.2.3. not transfer personal data to any country outside the European Economic Area after written authorisation by the Client which may be granted subject to such conditions as the Client deems necessary.
- 11.3. Crowd Reactive shall:
- 11.3.1. not subcontract any processing of the personal data without the prior written authorisation of the Client;
- 11.3.2. ensure that access to the personal data is limited to those employees or authorised subcontractors who need access to the personal data to meet Crowd Reactive's obligations under this agreement and that all employees and authorised subcontractors are informed of the confidential nature of the personal data;

- 11.3.3. comply with its obligations under any applicable Data Protection Law, and shall not, by act or omission, put the Client in breach of, or jeopardise any registration under, any such Data Protection Law;
 - 11.3.4. promptly and fully notify the Client in writing of any notices in connection with the processing of any personal data, including subject access requests, and provide such information and assistance as the Client may reasonably require;
 - 11.3.5. promptly and fully notify the Client in writing if any personal data has been disclosed in non-compliance with this clause and take every step to enable the Client to comply promptly with its security breach notification procedures;
 - 11.3.6. indemnify the Client against any loss or damage suffered by the Client in relation to any breach by Crowd Reactive of its obligations under this clause ; and
 - 11.3.7. if requested, submit to a data security audit before any Supply commences, once during the 12-month period commencing on the Effective Date or any subsequent 12-month period and if any regulator of the Client requests or requires an audit of the Client and/or any of its service providers.
- 11.4. Crowd Reactive shall:
- 11.4.1. take reasonable precautions to preserve the integrity of any personal data or other data which it processes and to prevent any corruption or loss of such data;
 - 11.4.2. follow its archiving procedures for such data;
 - 11.4.3. make a backup copy of such data and record the copy on media from which the data can be reloaded if there is any corruption or loss of the data;
 - 11.4.4. in such event and if attributable to any default by Crowd Reactive or any of its Affiliates, promptly restore the data at its own expense or, at the Client's option, promptly reimburse the Client for any reasonable expenses it incurs in having the data restored by a third party; and
 - 11.4.5. at the written request of the Client at any time or times up until three months after termination of this agreement howsoever arising return to the Client without further charge and in the format stipulated by the Client a copy of all personal data residing on the hosting equipment.

I agree to the terms set out above in this Service Agreement.

The Client Representative

Crowd Reactive Representative

Signature:

Signature:

Date:

Date: