

## **Terms of Service**

These Terms of Service set forth the terms under which Cornerstone Enterprises USA, LLC dba OnPoint Mobile Solutions (“OnPoint” or “we”) will provide the services outlined in the Statement of Work signed by the OnPoint and Client (“User” or “You”).

OnPoint offers a service that builds mobile websites and/or Apps, progressive web apps or any derivative thereof (collectively the “User Mobile Sites”) and hosts the same (the “Service”). By using the Service, you agree to comply with and be bound by the following terms and conditions (this “Agreement”), which we may change at any time, in addition to the terms of the Mobile Application Development Agreement Statement of Work “Statement of Work”). PLEASE READ THIS AGREEMENT CAREFULLY. If you do not agree to these terms and conditions, please do not use the Service. Use of the Service is limited to those individuals and entities who can form legally binding contracts under applicable law, and without limiting the foregoing, the Service is not to be accessed or used by minors.

### **User Representations and Warranties**

By accepting the Statement of Work, you make the following representations and warranties:

- you are of legal age to form a binding contract, and, if you are acting on behalf of an organization, you have the right to enter this Agreement on behalf of such organization;
- you will provide OnPoint with accurate, current and complete registration and contact information, and will update such information as needed so that OnPoint is able to contact you at all times;
- Your registration and use of the Service is not prohibited by law;
- you have all legal rights to publish and distribute all photos, drawings, artwork, literary works, musical works, sound recordings, or any content you provide to OnPoint as part of the Service (the “User Content”).

### **Fees.**

Use of the Service is subject to payment of the applicable fees as agreed in the Statement of Work which shall be paid by User by credit card or arranged invoice. If any credit card payment is dishonored or charged back, the User remains liable to OnPoint for the full amount of fees

owed. OnPoint reserves the right to collect interest at the maximum rate permitted by applicable law on overdue balances. If OnPoint terminates your User status or use of the Service as a result of breach of this Agreement, you will not be entitled to any refund of fees paid. If any taxes, including sales, use or service taxes, are applicable to OnPoint's provision of the Service to you, you are responsible for payment of such taxes.

### **On Point Services.**

During the period that you are a User in good standing (the "Term"), you are entitled to use the Service, which will host and maintain the User Mobile Sites on its servers. User acknowledges that User Mobile Sites are updated at regular intervals, but any requested changes to User Mobile Sites are not immediate. OnPoint shall maintain the structural tools necessary to ensure the User Mobile Sites continue to work upon updates of third-party operating systems. User takes full responsibility for implementing all updates to content once User Mobile Sites are completed and published to third party download services, if applicable. Changes to User Mobile Sites, other than administrative changes User has access to via the Content Management System (CMS), are subject to execution of a separate statement of work covering the User Mobile Site changes.

OnPoint is not liable for any errors or delays in the Service caused by any error or fault of User.

The Service includes the following benefits: (a) OnPoint shall use commercially reasonable efforts so that the Service is available 24 hours per day, 365 days per year, subject to reasonable periodic maintenance and any necessary emergency maintenance; (b) OnPoint shall use commercially reasonable efforts to supply access to analytics for the User Mobile Sites 24 hours a day through the Content Management System (CMS); and (c) OnPoint shall use commercially reasonable efforts to allow you access to our proprietary administrative update tools 24 hours a day through the CMS. Upon completion and publication of the User Mobile Sites, OnPoint will provide you with a secured account and login in provided by OnPoint for access to the CMS. You agree that you will keep the password private and utilize the CMS only for the express purposes allowed in this Agreement and to access data provided by the Services specific to User. You may cancel your subscription after meeting your agreed hosting minimum requirement by contacting us at [info@onpointmobilesolutions.com](mailto:info@onpointmobilesolutions.com) and submitting an

intent to cancel service letter signed by an authorized owner, partner, manager of your business and mailing said letter to OnPoint Mobile Solutions 14391 Spring Hill Drive, Suite 420, Spring Hill, Florida 34609. Your cancellation will take effect at the end of the then-current billing cycle. You are not entitled to any refund for the period from when you give notice to the end of the billing cycle.

### **Licenses.**

The Service includes the right for User to use (a) OnPoint's online tools to optimize the User Authorized Sites for mobile delivery; and (b) OnPoint mobile tags on User Authorized Sites to alert end users to the User Mobile Sites (such tools and tags the "OnPoint Tools"). OnPoint grants User a limited, non-exclusive, non-transferable right and license to use the OnPoint Tools during the Term in connection with User's use of the Service. Except as expressly permitted herein, User shall not copy, modify, distribute, sublicense, make available, reverse engineer, reverse compile or otherwise use the OnPoint Tools. No license is granted to User to OnPoint Tools or any other proprietary technology or intellectual property of OnPoint or its third-party vendors except as expressly stated herein, and OnPoint reserves all rights therein.

User hereby grants to OnPoint the limited, non-exclusive, right and license: (a) to use, copy and publish the User Mobile Sites and to display such User Mobile Sites to end-user. In addition, User hereby grants OnPoint the limited, non-exclusive right and license to display an image of User Mobile Sites (or any part thereof, including but not limited to any of User's trademarks displayed thereon) in OnPoint's marketing materials and on OnPoint's websites. Users may opt out of such use of User Mobile Sites by sending written notice to OnPoint at OnPoint Mobile Solutions 14391 Spring Hill Drive, Suite 420, Spring Hill, Florida 34609 and in the event of such opt out OnPoint will cease use of your User Mobile Sites promptly, subject to a reasonable transition period to allow OnPoint to make changes to marketing materials and websites. Except for the limited licenses granted to OnPoint in this Agreement, OnPoint acquires no rights in or to the User Authorized Sites, and all such rights are retained and reserved exclusively by User.

### **Rules of Conduct for the Service**

You shall not:

- Use the Service for any purpose in violation of local, state, national or international laws;

- Impersonate any person or entity, or forge or manipulate headers to disguise the origin of your App
- Harvest or otherwise collect information about others, including email addresses, without their consent;
- Harvest or collect any data from OnPoint other than that expressly provided by the Service, or use any automated means, including spiders, robots, crawlers, data mining tools or the like to download data from OnPoint or relating to the Service (other than Internet search engines operating on terms reasonably acceptable to OnPoint);
- Attempt to gain unauthorized access to OnPoint's computer systems; or
- Engage in any other conduct that restricts or inhibits any other person from using or enjoying the Service, or which, in OnPoint's sole judgment, exposes OnPoint to any liability or detriment of any type.

The Service may not be used to publish, distribute or otherwise make available any material that:

- Is libelous, defamatory, threatening, abusive, scandalous, obscene or unlawful or that encourages a criminal offense;
- Contains material from other copyrighted works without the written consent of the owner of such copyrighted material;
- Infringes any copyright or violates any trademark rights, other property rights, rights of privacy or publicity, or any other rights of any third party;
- Contains any statement, formula, direction, recipe, prescription or other matter that involves a reasonably foreseeable risk of injury or damage to the material's readers or others; or
- Contains any software viruses or any other code, file or program that is designed to interrupt, destroy or limit the functionality of any computer software, hardware or telecommunications equipment.
- OnPoint reserves the right (but is not obligated) to do any or all of the following:
  - Investigate any allegation that any User Authorized Site does not conform to the terms and conditions of this Agreement; or
  - Disable access to the Service with respect to any User Authorized Site that is abusive, illegal or disruptive, or that otherwise fails to conform with the terms and conditions of this Agreement.

- On Point and Its Affiliates have no liability or responsibility to Users or any other person or entity for performance or nonperformance of the aforementioned activities.

### **Proprietary Rights.**

All the text, images, marks, logos, compilations (meaning the collection, arrangement and assembly of information) and other content on <http://www.onpointmobilesolutions.com/>, including any Submissions (as defined below) (collectively, the "Site Content") are proprietary to us or to third parties. OnPoint authorizes you to view, download, and use the Site Content solely in connection with your authorized use of the Service in accordance with this Agreement.

Except as expressly permitted above, copying, modifying, reproduction, redistribution, republication, uploading, posting, transmitting, distributing or otherwise exploiting in any way the Site Content, or any portion of the Site Content, is strictly prohibited without the prior written permission of OnPoint. In addition, you may not link to any part of the Site Content or frame or otherwise display in any manner the Site Content at any other web site or elsewhere without OnPoint's written consent.

All software used by OnPoint to operate the Service is proprietary to us or to third parties, and except as may be required to use the Service in accordance with this Agreement, any use, copying, redistribution, sale, decompilation, reverse engineering, disassembly, translation or reduction of such software to human-readable form is prohibited.

The marks OnPoint Mobile Apps™ and related logo ("collectively the Marks") are proprietary to us, and may not be used in connection with any service or products other than those provided by OnPoint, in any manner that is likely to cause confusion among customers, or in any manner that disparages or discredits OnPoint. Any use of the OnPoint Mobile Apps mark, or any others displayed on the Service, will inure solely to the benefit of their respective owners.

Certain types of data and analytics are generated in connection with use of the Service: (a) "User Data", meaning any data and analytics specific to User, including number of page views, the types of handsets of viewers of User Mobile Sites, the source of mobile traffic, and other information about your End Users who interact with the User Mobile Sites; and (b) "Aggregated Data", meaning data generated by OnPoint in connection with this Agreement that does not identify User or its End Users, including aggregated traffic analysis, aggregated usage reports, and aggregated information about end-user access to mobile websites. OnPoint may collect

personally identifiable information from the Service on your behalf, but does not utilize any personally identifiable information so collected except as needed to provide you with access to it.

OnPoint shall make the User Data available to User on <http://login.onpointmobilesolutions.com/login> via the Login. OnPoint reserves the right to terminate or suspend your status as a User in the event that you breach any term of this Agreement. As between User and OnPoint and to the extent permitted by law: (i) User owns and retains all rights to User Data, and OnPoint shall use User Data only for the purposes of this Agreement; and (ii) OnPoint owns and retains all rights to Aggregated Data. You agree, and represent and warrant, that your use or other exploitation of the Service and the Site Content, or any portion thereof, will be consistent with the licenses, covenants and restrictions in this Agreement and will neither infringe nor violate the rights of any other party or breach any contract or legal duty to any other parties. In addition, you agree that you will comply with all applicable laws, regulations and ordinances relating to the Service, the Site Content or your use of them, and you will be solely responsible for your own individual violations of any of them.

#### **Warranty Disclaimers and Limitations of Liability.**

If you have paid all fees due, OnPoint covenants that it will deliver the Service in accordance with applicable industry standards. In the event of any breach of such covenant, or other failure or defect with respect to the Service, the sole and exclusive remedy of the User, and the sole and exclusive liability of OnPoint, shall be, at OnPoint's option (a) to re-perform the Service to remedy the defect or failure or (b) to refund the amount paid solely for the period during which the Service was alleged to be defective. OnPoint disclaims any responsibility for failures of any third-party service upon which OnPoint relies, and is not responsible for failure of any third party App or third party service provider to accept the App as submitted or any failure of Your customers to use the App.

Except as stated in the previous paragraph, OnPoint and its Affiliates make no representations or warranties of any kind regarding the Service and the Site Content, and OnPoint and its Affiliates EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A

PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, AND ANY AND ALL WARRANTIES ARISING FROM COURSE OF DEALING AND USAGE OF TRADE; THAT THE SERVICE OR THE SITE CONTENT WILL MEET YOUR REQUIREMENTS, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE OR OPERATE WITHOUT ERROR, AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE OPERATION, USE OR OTHER EXPLOITATION OF THE SERVICE OR THE SITE CONTENT, AND AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED FROM THE SERVICE OR THE SITE CONTENT. No advice or information, whether oral or written, obtained by you from OnPoint, any of its Affiliates or through the Service or Site Content will create any warranty not expressly stated herein.

UNDER NO CIRCUMSTANCES WILL YOU BE ENTITLED TO RECOVER FROM ONPOINT OR ANY OF ITS AFFILIATES ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS OR LOSS OF USE), WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE ARISING FROM OR RELATING TO THE WEB SITE OR SITE CONTENT, EVEN IF ONPOINT OR ITS AFFILIATES HAS BEEN INFORMED OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. THE MAXIMUM AGGREGATE LIABILITY OF ONPOINT AND ANY OF ITS AFFILIATES FOR ANY AND ALL DAMAGES INCURRED BY YOU SHALL BE THE AMOUNT PAID BY YOU TO ONPOINT FOR THE SERVICE DURING THE PERIOD IN WHICH IT WAS ALLEGED TO BE DEFECTIVE. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF WARRANTIES OR OF LIABILITY, SO SOME OF THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

**Your Indemnity of OnPoint and Its Affiliates; Termination of Use.**

You agree to indemnify, hold harmless, and at their respective options, defend OnPoint and Its Affiliates from all causes of action, claims and allegations (whether threatened or pending), costs, fees, charges, and expenses (including reasonable attorneys' and professionals' fees), judgments, damages, losses, and liabilities arising from or relating to the breach or alleged breach of your duties or obligations under this Agreement or your use of the Service or Site Content. For any indemnified matter, OnPoint and Its Affiliates will have full control of the

response thereto and the defense thereof, including any agreement relating to the settlement thereof, and you will cooperate fully with On Point and Its Affiliates in such matter.

OnPoint may, at its option, suspend or terminate any User's access to any or all of the Service, including your password and account, at any time on notice to you. If such termination occurs due to breach of this Agreement by you, you will not be entitled to any refund on account of termination. If termination is not due to breach of this Agreement by you, termination will take effect at the end of the then-applicable billing cycle, and no further payments shall be due from you.

### **Digital Millennium Copyright Act Compliance.**

OnPoint respects other people's intellectual property and complies with the provisions of the Digital Millennium Copyright Act applicable to internet service providers (17 U.S.C. §512, as amended). If any person has any complaints or objections to material posted on the Service or on any User Mobile Site hosted by the Service, you may contact our Designated Agent at the following address:

Cornerstone Enterprises USA, Inc.

Copyright Department

14391 Spring Hill Drive

Suite 420

Spring Hill, FL 34609

[info@onpointmobilesolutions.com](mailto:info@onpointmobilesolutions.com)

Any notice alleging that materials on this Service App hosted by the Service infringe intellectual property rights must include the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other right being infringed;
- a description of the copyrighted work or other intellectual property that you claim has been infringed;
- a description of the material that you claim is infringing and where it is located on the Service;
- your address, telephone number, and email address;

- a statement by you that you have a good faith belief that the use of the materials on the Site of which you are complaining is not authorized by the copyright owner, its agent, or the law;
- a statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

**Minors.**

This Service is not directed at users under the age of 13. If you are under the age of 13, you are not permitted to register as a User or send any information about yourself to us. By using our Service, you agree that you will not direct any App developed on your behalf toward anyone under the age of 13 and will not knowingly collect data from users under the age of 13.

**Applicable Law and Jurisdiction; Compliance.**

The Service (excluding external links) are controlled by OnPoint and operated by OnPoint from its offices in and around Spring Hill, Florida. Because the Service is made available by means of the Internet it is accessible in all fifty states and other countries. As each of these places has laws that may differ from those of Florida and from each other, and as you and OnPoint both benefit from establishing a predictable legal environment in which to operate, use or otherwise exploit the Service, by using the Service you and OnPoint agree that all matters arising from or relating to the use and operation of the Service will be governed by the substantive laws of Florida, without regard to its conflicts of laws principles. You agree that all claims you may have arising from or relating to the operation, use or other exploitation of the Service shall be exclusively brought in the federal or state courts having jurisdiction over disputes arising in Hernando County, Florida. You consent to the personal jurisdiction of such courts over you, stipulate to the fairness and convenience of proceeding in such courts, and covenant not to assert any object to proceeding in such courts. If you choose to gain access to the Service from locations other than Florida, you will be responsible for compliance with all local laws of any such other location, and in no event will you use the Service or Site Content in violation of U.S. export laws or regulations.

**Miscellaneous Provisions.**

No delay or omission by OnPoint in exercising any of its rights occurring upon any noncompliance or default by you with respect to any of the terms and conditions of this Agreement will impair any such right or be construed to be a waiver thereof, and a waiver by OnPoint of any of the covenants, conditions or agreements to be performed by you will not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement hereof contained. As used in this Agreement, "including" means "including but not limited to." If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement will remain in full force and effect and will be reformed to be valid and enforceable while reflecting the intent of the parties to the greatest extent permitted by law. Except as otherwise expressly provided herein, this Agreement sets forth the entire agreement between you and OnPoint regarding its subject matter, and supersedes all prior promises, agreements or representations, whether written or oral, regarding such subject matter. This Agreement may be assigned by OnPoint to any successor to its business, whether by merger, change of control, or sale of all or substantially all of its assets. You agree that the electronic text of this Agreement constitutes a writing and your assent to the terms and conditions hereof constitutes a "signing" for all purposes.

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