

VILLAGE OF ROMEOVILLE –FACILITY SPONSORSHIP AGREEMENT

The Facility Sponsorship Agreement (the “Agreement”) is entered into effective as of the date set forth on the signature page hereto (the “Effective Date”) by and between the Village of Romeoville (“Village”), and Cold Stone Creamery, 72 South Weber Road, Romeoville, Illinois 60446 (“Sponsor”). This Agreement pertains solely to sponsorship for the Village’s Athletic and Event Center (the “Center”) located at 55 Phelps Avenue, Romeoville, IL 60446. Sponsor shall be considered as a nonexclusive facility sponsor, and nothing herein shall limit the rights of the Village to offer other sponsorship opportunities or to do business with any third party. In consideration of the mutual covenants contained herein and for other good and valuable consideration, the parties hereby agree as follows:

1. SPONSOR’S RESPONSIBILITIES

- A. Sponsor’s Deliveries.** Sponsor acknowledges that it is in the business of operating a “Cold Stone Creamery” branded and franchised ice cream shop within the Village, and shall on each Saturday and Sunday during the term of this Agreement, make two deliveries of ice cream and cake pops per day to the Center in care of Lightning Management, LLC, the operator of the Center concession stand under license from the Village (“Concessionaire”). Sponsor shall not impose a charge for the delivery of the ice cream and cake pops to Concessionaire, and shall deliver such a number and selection of ice cream products and cake pops as may be ordered by Concessionaire, provided, however, that the ice cream products and cake pops available for delivery by Sponsor under this Agreement shall be limited to prepackaged items readily capable of being delivered as reflected on Sponsor’s standard menu at its ice cream shop, and shall charge Concessionaire its standard ice cream menu price for such items. Ice cream and cake pops delivered shall be prepackaged and ready for immediate freezer or refrigerated storage. Sponsor acknowledges that Concessionaire shall be solely responsible for making payment to Concessionaire for all ice cream products and cake pops ordered and delivered under this Agreement, and that Village has no responsibility for the same.
- B. Sponsor’s Contributions.** In consideration of the opportunity to provide the ice cream products and cake pops deliveries to the Center Concessionaire as outlined above, Sponsor shall contribute to Village an amount equal to twenty percent (20%) of the pretax sales price of all ice cream products and cake pops delivered to the Center Concessionaire during the term of this Agreement. Sponsor shall pay the contribution of this amount on a monthly basis, with the contribution payment with respect to ice cream products and cake pops sold within a given calendar month during this Agreement being due and payable to the Village on or before the fifteenth (15th) day of the following calendar month, together with a statement indicating the amount and prices of ice cream products and cake pops delivered and sold to the Center Concessionaire during the previous calendar month and the calculation of the contribution amount.
- C. Village Use of Sponsor Name and Logos.** Sponsor grants Village the non-exclusive right to use the Sponsor name and logos as part of press releases, marketing, advertising and promotional materials solely in connection with the operation of the Center events. Any such use shall be

subject to Sponsor's prior review and written consent. Sponsor represents to Village that it is authorized to grant the use of the Sponsor name and logos as described in this Agreement without the consent of any third party. Sponsor reserves all rights not otherwise expressly granted herein. The license gives Village limited rights to use Sponsor's name and logos. Village does not become the owner of, and Sponsor retains title to, such Sponsor names and logos.

2. VILLAGE RESPONSIBILITIES

- A. Delivery and Sales Rights.** Village grants to Sponsor the nonexclusive right to deliver ice cream products and cake pops to the Center Concessionaire as set forth herein. Nothing herein shall limit or restrict the Village or the Concessionaire in entering into other sponsorship or promotional agreements with third parties, or into entering into other food delivery or supply agreements with other third parties.
- B. Sponsor Use of Village Name and Logos.** Village grants Sponsor the non-exclusive rights to use the Village name and logos as part of press releases, marketing, advertising, and promotional materials solely in connection with Sponsor's sponsorship of Village and the Center. Any such use shall be subject to Village's prior review and written consent. Village reserves all rights not otherwise expressly granted herein. The license gives Sponsor limited rights to use Village's name and logos. Sponsor does not become the owner of, and Village retains title to, such Village name and logos. The foregoing license specifically excludes any right to use of the Village's name or logos in connection with the sales of Sponsor's products other than pursuant to this Agreement, and the parties may enter into a separate agreement on mutually acceptable terms with respect to any such rights.

3. INDEMNIFICATION; LIMITATION OF LIABILITY

- A. Indemnification.** Sponsor shall indemnify, defend and hold harmless the Village and its employees, officials and volunteers or and from any and all claims of whatever nature or kind arising out of or in any way founded upon or relating to, in whole or in part, Sponsor's engagement in or undertaking of any of the activities set forth in this Agreement, including but not limited to claims arising out of, relating to or in any way founded upon the Village's use of Sponsor's name and logos under this Agreement. Sponsor's obligations hereunder shall include the obligation to reimburse the Village for its reasonable attorney's fees in connection with the defense of any claim within the scope of the foregoing indemnification obligation.
- B. Limitation of Liability.** Except as otherwise provided for in section 3.A, neither party shall have any liability to the other arising in any manner under or in connection with this Agreement in excess of the amounts paid by Sponsor to Village under this Agreement.

4. GENERAL

- A. Term and Survival.** This Agreement shall have a term of one year from the date set forth on the signature page hereto. The provisions of Section 3.A of this Agreement shall survive any termination or expiration of this Agreement.
- B. Independent Parties.** Sponsor is entering into this Agreement as an independent contractor. At no time shall either party be deemed to be the agent, partner or joint venture of the other party, and each party and its employees shall always remain independent of the other party.
- C. Non-Waiver.** The failure by either party to exercise any right, power or option given hereunder, or to insist upon the strict compliance with the terms and conditions hereof by the other party shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or subsequent breach thereof, nor a waiver by such party of its right any time thereafter to require strict compliance with all terms and conditions hereof.
- D. Notice.** Any notice, request, demand, consent or other communication provided or permitted hereunder shall be in writing and given by courier delivery, or sent by registered mail, postage prepaid, or transmitted by facsimile or electronic mail (e-mail) to the parties at the addresses set out on the signature page hereto and shall be deemed to have been received on the date on which it was delivered or transmitted by facsimile or electronic mail, or on the third day following mailing.
- E. Entire Agreement.** This Agreement, including any exhibits hereto, contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations and proposals, written or oral, relating to such subject matter. No supplement, modification or waiver of this Agreement shall be binding unless executed in writing by both parties.
- F. Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Illinois, as applied to the agreements made, entered into and performed entirely in Illinois. The sole and exclusive venue for any and all disputes arising under this Agreement shall be the Circuit Court for the 12th Judicial Circuit, Will County, Illinois

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date first written above.

VILLAGE OF ROMEOVILLE

SPONSOR: _____

By: _____

By: _____

Printed Name and Title

Printed Name and Title

Date: _____

Date: _____

Village of Romeoville Contact Person:

Name: Noel Maldonado

Address: 55 Phelps Avenue, Romeoville IL 60446

Phone: 815-552-3283

Email: nmaldonado@romeoville.org

Sponsor Contact Information:

Name: Cold Stone Creamery

Address: 72 South Weber Road, Romeoville, Illinois 60446

Phone:

Email: