

## Fundraising Agreement

Last Updated: 23 Feb 2018

This is an agreement (the "Agreement") between GoFundraise LLC, a Delaware corporation (referred to throughout as "GoFundraise", "us," "we," "our," etc.), and the party registering an account with the [www.gofundraise.com](http://www.gofundraise.com) Site (such party referred to throughout as "you," "your," etc.) entered into as of as of the date of registration.

### Recitals

A. We own and operate a software as a service fundraising platform for non-profit organizations, accessible to subscribing organizations at [www.gofundraise.com](http://www.gofundraise.com).

B. You wish to purchase a license entitling your non-profit organization to use our platform (a "Fundraising Plan").

C. This Agreement governs your purchase of a Fundraising Plan and your access/use of the [www.gofundraise.com](http://www.gofundraise.com) website, any subdomains thereof, any API integrations or widgets we offer, and any other Site, webpages, or related services which we own, operate, or make available to you (collectively, the "Site").

### 1. Free Trial; Term; Automatic Renewal

1.1. **Free Trial.** We offer a thirty (30) day free trial that you may opt to take advantage of. During the free trial you will not be charged a subscription fee. In order to accept transactions through the Site during the trial, however, you must submit a valid credit card and set-up a payment collection method, either through linking your own payment gateway, or through setting up a merchant account with our payments partner Stripe (see the Payment Terms section below). You will incur a five percent (5%) GoFundraise transaction fee on top of any underlying credit card fees for transactions you process through the Site during the trial. If you have inputted your credit card during the free trial, you will automatically be billed for our entry level plan (see Plans Pricing Page [www.gofundraise.com/pricing](http://www.gofundraise.com/pricing)) thirty (30) days after you initially signed up for the trial; thereafter you will remain subscribed to the entry level plan on a month-to-month basis, unless or until you upgrade or cancel your subscription.

1.2. **Term.** Unless otherwise terminated in accordance with its express terms, this Agreement shall remain in place either (i) on a month-to-month basis if you are paying monthly, or (ii) for an initial term of (1) year if you are paying upfront for a year. If you pay upfront for the year, this Agreement will automatically renew for successive one (1) year periods on the annual anniversary of the initial payment date unless it is terminated by either you or us; notice of termination must be provided in writing at least thirty (30) days prior to the annual anniversary of the initial payment date. All terminations of plans are prospective (they apply to the upcoming one month or one year renewal period, not the existing term). You authorize us to charge your credit card on the monthly or annual anniversaries of the initial payment date as applicable. The total period that this Agreement remains in place will be referred to throughout as the "Term."

### 2. Fundraising Plans; Payment Processing; Taxes

2.1. **Fundraising Plans.** The Fundraising Plans which we offer, and the associated monthly and transaction fees, are available on the Plans Pricing Page. We reserve the right to modify our pricing at any time. If you are an existing client, we will notify you if a change in pricing takes place. Such notification may take place by, but is not required to take place by, the sending of an email to one or more administrators of your account or by posting a message within your account on the Site. All notices will be deemed complete upon our sending/posting. If you have paid for your subscription annually then any change in pricing will take effect at the next annual billing date. If you

have paid for your subscription monthly, then any change in pricing will take effect at the next monthly billing date.

**2.2. Processing Transactions.** We currently offer two payment collection methods to manage donations received, which you may select; either use of your own payment gateway, or use of a third party payment processor (Stripe).

**2.2.1. Using your own payment gateway.** If this option is selected and available for your gateway, you must connect your payment gateway to the Site. You will be responsible for all fees associated with collecting payments using your payment provider, as well as any other fees which you may incur as a result of opening, operating, maintaining, or closing your account. Our transaction fees are on top of any credit card processing fee charged by your payment gateway. By connecting your payment method to the Site, you will remain exclusively liable for all refunds, chargebacks, or transaction reversals (including any applicable fees imposed by that method) associated with your account. Your use of that gateway is subject to their terms of use. You understand and agree that the gateway is a third-party service and that we bear no responsibility or liability for any acts or omissions on that gateway's part.

**2.2.2. Third party payment processor.** If this option is selected, you must connect a Stripe account to the Site in order to receive your payments. A Stripe account can be created without charge through the Site. When you create your Stripe account you must authorize us to access your account for the purpose of automatically deducting any transaction fees you incur as a result of processing transactions through the Site. You will be responsible for the regular credit card processing fees associated with processing transactions to your Stripe account as well as any other fees which you may incur as a result of opening, operating, maintaining, or closing your account. Our transaction fees are on top of any credit card processing fee charged by Stripe. For ticket or registration sales made through the Site, transaction fees (credit card and GoFundraise) are applied individually to each ticket sold, regardless of whether or not multiple tickets are purchased in one order. By connecting your Stripe account to the Site, you will remain exclusively liable for all refunds, chargebacks, or transaction reversals (including any applicable fees imposed by Stripe) associated with your account. Your use of Stripe is subject to their terms of use. You understand and agree that Stripe is a third-party service and that we bear no responsibility or liability for any acts or omissions on Stripe's part.

Regardless of the method chosen, you agree to pay us, through the Payment Processor or your payment gateway, all charges at the prices then in effect for any purchase in accordance with the applicable payment terms. You agree to make payment using the payment method you provide with your Account. We reserve the right to correct, or to instruct our Payment Processor to correct, any errors or mistakes, even if payment has already been requested or received.

We may add or modify the available payment methods in the future. If we do, we will notify you of the change and, if applicable, offer you the option to choose an alternative method to facilitate payments.

**2.3. Taxes.** You understand and agree that you are responsible for paying any and all applicable taxes imposed by governmental entities, of any kind and including penalties and interest, which may be imposed on transactions you make through the Site, excluding any taxes based upon our net income. You are responsible for setting the receipting language for the receipts issued to persons you transact with through the Site. You understand this and accept full responsibility for truthfully and accurately characterizing the nature of each transaction you process through the Site.

### **3. Intellectual Property**

**3.1. Our Intellectual Property.** You understand that the Site, its forward facing components (images, designs, text, arrangements of the foregoing, etc.), its various features, functionalities, and services, and all underlying software and code belong exclusively to us. You further understand that the Site and its component parts are protected by copyright law, trademark

law, trade secret law, and other laws germane to the protection of intellectual property rights and that we are the exclusive owner of all such rights.

3.2. **Limitations on Use Rights.** You understand that your purchase of a Fundraising Plan only provides you with a limited license to use the Site during the Term in accordance with the provisions of this Agreement. You understand that you cannot sublicense rights to use the Site or otherwise purport to grant an interest in, rent, sell, or lease rights to use the Site. You also understand and agree that your purchase of a Fundraising Plan does not create in you any right, title, or interest in the Site. Your use of the Site, importing of information or content to the Site, or integration of any of your property into the Site (whether through our provision of customization work for you or by your input of custom CSS or HTML, as may be allowed with the purchase of a Fundraising Plan) similarly does not create in you any right, title, or interest in the Site. You assign any modifications or improvements you may make to the Site, together with any suggestions, feedback, or ideas for improvements to us in full.

3.3. **Prohibited Activity.** You agree to use the Site and the features and services provided through the Site only as they are obviously intended to be used. All other uses are strictly prohibited. You agree not to (and not to encourage or permit a third party to) disassemble, reverse engineer, or otherwise attempt to discover, copy, or transmit, any source or object code underlying the Site or the software, features, or services provided therein. You agree not to disseminate information about your use of the Site to persons who may operate, or be affiliated with, competing businesses, and you agree not to grant access to your account to such persons. You agree to notify us immediately if you become aware that someone has engaged in any of the foregoing prohibited activities.

3.4. **Donor Data.** Any data you collect from persons you transact with through the Site will belong to you, subject to a nonexclusive, irrevocable, worldwide, royalty-free license that you hereby grant to us to use this data in order to administer your account and provide the features and services contemplated by the Site to you. We will not market to your contacts nor will we, share, rent or sell their information to any third parties. Unless one of your contacts independently subscribes to receive emails from us (by, for example, filling out a contact form) we will only send them routine emails associated with your use of the Site (e.g. auto receipts for donations made). Notwithstanding the foregoing, you agree that we may aggregate non-personally identifiable statistical information concerning usage of our Site, which may include data from persons you have interacted with through the Site, and that we may use this non-personally identifiable information in any manner we see fit.

3.5. **Client Content.** By posting, uploading, or transmitting content to, or through, the Site, or by creating content from within the Site you grant us a nonexclusive, irrevocable, worldwide, royalty-free license to copy, store, transmit, publish, publicly display, publicly perform, and otherwise use this content in order to provide the features and services contemplated by the Site. You agree not to upload or post content which infringes upon the rights of any third parties. You represent and warrant that all content you post or upload to the Site will be non-infringing and that you have the authority to grant the above-described license. You also agree that we may use your name and/or logo to promote the Site and our services.

3.6. **Confidential Information.** As part of your use of the Site we may share with you, from time to time, certain technical information, data, patent information, know-how, trade secrets, financial and strategic information, marketing and promotional information or data, and other private material relating to our products, projects or processes; any such information, will be considered "Confidential Information." Notwithstanding the foregoing Confidential Information shall not include information that (i) was in the public domain at the time we disclosed it to you, (ii) later became part of the public domain through no act or omission on your part, or on the part of your agents or employees, (iii) was lawfully disclosed to you by a third party having the right to disclose it, or (iv) was already known by the you, at the time of disclosure, as can be demonstrated by credible, written documentation in existence prior to your receipt of that information from us. You agree to hold Confidential Information in the strictest of confidence, and to only use such information in order to

further the purposes of this Agreement. Your obligation of confidence shall be fulfilled by using the same degree of care with our Confidential Information as you use to protect your own confidential information, provided that you always use at least reasonable care to protect your own confidential information. This obligation shall exist while this Agreement is in force and shall continue indefinitely thereafter. You further agree to only disclose Confidential Information to those of your officers, directors, employees, and advisors who have a legitimate need to know such information and only if such person(s) have a legal obligation to keep the information confidential (in a manner consistent with the terms hereof). Following the expiration of the Term, you will, upon receipt of written request from us, return or destroy, all Confidential Information we have delivered to you in connection with this Agreement. You agree that irreparable damage would occur in the event that any of the provisions of this Section 3.5 were breached, and that we shall be entitled to an injunction or injunctions to prevent breaches of this Section 3.5 to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which we are entitled at law or in equity.

4. **Client Warranties.** By entering into this Agreement you represent, warrant, and irrevocably covenant that:

- You have the authority to enter into this Agreement;
- Your decision to enter into this Agreement and your use of the Site will not violate any applicable law, regulation, or ordinance;
- Your decision to enter into this Agreement and your use of the Site will not infringe the rights of any third parties;
- You will at all times supply truthful and accurate information to us and you will not misrepresent yourself to the public through your use of the Site.;
- You will never use the Site, or any services we provide to you, in a manner that violates the law or the legal rights of a third party.
- You are a bona fide non-profit organization organized under the laws of one of the fifty United States, the District of Columbia, or under the laws of the United States federal government; and
- You understand and agree that we will not solicit on your behalf, nor will we act as a professional fundraising consultant to you.

5. **Privacy**

5.1. **Privacy Policy.** You have read and accept our privacy policy, which is located at [www.GoFundraise.com/terms/privacy.](http://www.GoFundraise.com/terms/privacy.)

5.2. **Your Privacy Practices.** You understand and agree that you are responsible for communicating your own privacy policy and data usage practices to people you transact with through the Site (donors, fundraisers, etc.).

6. **Security**

6.1. **User Names and Passwords.** You are solely responsible for safeguarding your organization's user names and passwords to the Site. You should logout after each session with the Site. Do not share your login information with third parties. If you have any reason to suspect that the security of your account has been compromised, you agree to contact us immediately.

6.2. **Email Lists.** You agree not to upload email lists or contacts to the Site if they have been harvested from the Internet or purchased or rented from a third party.

6.3. **Credit Card Data.** You agree to abide by all relevant credit card association rules and security standards and to otherwise exercise reasonable care in your handling of cardholder data in connection with your processing of transactions through the Site.

6.4. **Information Collection.** The Site allows users to build certain custom form elements to capture data from donors, fundraisers, registrants etc. You agree that you will not to use these custom form elements to collect sensitive information such as credit card or payment information, medical information, or other regulated personal information. We disclaim any liability which may arise from your use of the Site to collect such information.

## 7. **Disclaimer of Warranties.**

7.1. We disclaim all warranties, express, implied, statutory, or otherwise, concerning the Site to the fullest extent allowed by applicable law. This waiver includes, but is not limited to, all warranties of merchantability, fitness for a particular purpose, non-infringement, and accuracy of information. We make no warranties concerning continuity of service, the security of the Site, or that the Site will be error free. We offer the Site and the features and services contained therein "AS IS" and "WITH ALL FAULTS."

## 8. **Liability**

8.1. **Release.** To the maximum extent permitted by law, you hereby release us, our successors and assigns, our affiliates, and each of the foregoing's respective directors, officers, employees, and agents (collectively, the "Releasees") from any and all liability, costs, expenses, losses, damages (including damage to property or personal injury or death), and claims, whether known or unknown, which may arise from (i) you organizing, hosting, participating in, attending, or authorizing an event posted on the Site (including events you authorize your supporters to advertise on the Site) or (ii) from the acts or omissions of third parties you interact with through the Site (collectively the "Released Claims").

8.2. **Limitation of Liability.** Neither we nor our officers, directors, employees and agents, will be liable to you for special, consequential, indirect, punitive, exemplary or incidental damages (including lost revenues or profits, or loss of goodwill), regardless of the cause, legal theory, or cause of action, even if we have been advised of the likelihood thereof. Our liability, together with the liability of our officers, directors, employees and agents, arising out of this Agreement and your use of the Site (when aggregated with all other claims against us arising out of this Agreement and your use of the Site), regardless of the type of claim(s) or the nature of the cause(s) of action, will not exceed the amount you have actually paid us in net subscription fees during the twelve (12) months immediately preceding the event giving rise to your claim(s). You acknowledge that the foregoing limitations are an essential basis of the bargain we have reached and that they will apply notwithstanding any failure of essential purpose of any limited remedy.

8.3. **Indemnification.** You agree to indemnify, defend and hold the Releasees harmless from and against any and all third party claims, liability, losses, and expenses (including damage awards, settlement amounts, and reasonable legal fees) brought against any of the Releasees which or that arise out of or relate to (i) your use of the Site (including, but not limited to, derivative use by your supporters, fundraisers, donors etc.), or (ii) your breach of, or noncompliance with, the representations, warranties, and provisions contained within this Agreement. We reserve the right to join in defence with counsel of our own choosing at our own expense.

8.4. **Third Party Extensions and Links.** As part of your use of the Site you will have access to certain third party services and technical integrations (accessible through the "Extensions" tab in your GoFundraise back office.). The decision whether or not to use those third party extensions is entirely up to you, and you agree that we will bear no liability for any harm caused to you by the acts or omissions of such third parties should you choose to use those features. During your use of the Site you may also gain access to third party links leading to websites which we do not own or operate. Such third party links may be placed by us, or they may be placed by someone else (e.g. a

link placed on a fundraising page). You understand and agree that we have no control over the operation of sites accessible through third party links and that we will bear no liability for any harm caused to you by accessing such links.

## 9. Termination or Suspension

9.1. **Suspension or Termination.** Your use of the Site is expressly conditioned on your compliance with the terms of this Agreement and any other guidelines or rules we publish concerning permissible use of the Site (which such guidelines or rules shall not be inconsistent with the terms hereof). If you fail to comply with any of the foregoing, we may suspend or terminate your access to part, or all of, the Site. Any such suspension or termination will be in our sole discretion and may take place without prior notice. If we have reasonable grounds to believe that your use of the Site is causing harm to us, other users of the Site, or other third parties (for example, from a technical threat emanating from, or directed at, your website) we may terminate or suspend your access to part, or all, of the Site. We will not be liable to you for any action we take under this Section 10.0.

9.2. **APIs.** We reserve the right, in our sole discretion, to limit, suspend or terminate your access to, or use of, our APIs, or to change any of the API specifications, protocols, or methods of access for any or no reason. We will not be liable to you for any actions taken under this Section 10.1.

## 10. General

10.1. **Attorney's Fees.** If a dispute arises out of this Agreement or your use of the Site that we cannot resolve privately, then the prevailing party in any litigation will be entitled to recover all costs and expenses (including reasonable attorney's fees) incurred as a result of that litigation.

10.2. **No Joint Venture.** This Agreement does not create, and shall not be construed to create, a joint venture, partnership, or other formal business relationship between you and us. At all times we shall remain independent contractors with respect to one another.

10.3. **Assignment.** You have neither the right nor the power to assign your rights under this Agreement. Any purported assignment of your rights under this Agreement will be null and void.

10.4. **Modifications.** Any modification to this Agreement must be made in writing and signed by you and us.

10.5. **Severability.** If any provision of this Agreement is found to be unenforceable, invalid, or illegal by a court of competent jurisdiction, this finding shall not render any other provision of this Agreement unenforceable, invalid, or illegal. We both agree that the court will have the authority to modify or replace the unenforceable, invalid, or illegal provision with a valid and enforceable provision that most closely represents our intentions with respect to the invalid, illegal, or unenforceable provision.

10.6. **No Waiver.** Any delay on your part, or on our part, to exercise a right or power granted under this Agreement will not be construed as a waiver of such right or power. All waivers must be in writing and a waiver of any particular breach will not be construed as a waiver of any other breach, or any succeeding breach.

10.7. **Survival.** The provisions of Sections 3.0, 3.1, 3.2, 3.3, 3.4, 3.5, 4.0, 8.0, 9.0, 9.1, 9.2, 9.3, 10.0, 10.1 and Sections 11.0 through 11.10 (inclusive) will survive termination of this Agreement.

10.8. **Headers.** The headers contained within this Agreement are for convenience of reference only. They should not be interpreted to modify the plain meaning of the various provisions of this Agreement.

10.9. **Entire Agreement.** This Agreement contains the entire agreement between you and us, it is a complete integration of our agreement and supersedes and displaces any earlier or

contemporaneous written or oral negotiations, statements, or agreements purporting to deal with the subject matter hereof.