

## Fundraising Agreement

Last Updated: 15 February 2022

This is an agreement (the "Agreement") between GoFundraise UK Limited with registered company number 13419202 24 Old Queen Street, London, SW1H 9HP with VAT registration number [insert] (referred to throughout as "GoFundraise", "us," "we," "our," etc.), and the party registering an account with the www.gofundraise.co.uk 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 organisations, accessible to subscribing organisations at www.gofundraise.co.uk.

B. You wish to purchase a license entitling your non-profit organisation to use our platform (a "Plan"). You can find further details of the Plans [available here](#).

C. This Agreement governs your purchase of a Plan and your access/use of the www.gofundraise.co.uk 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. Engagement to Provide the Plan and Additional Services

- 1.1. You must disclose to GoFundraise on or before entering into a Plan any licence, authorisation, consent, permission or registration held by you under applicable law ("Authorisation").
- 1.2. GoFundraise will provide a Plan to you with all the care, skill and diligence of a reasonably prudent operator of hosted online applications in a manner that:
  - 1.2.1. complies with all applicable laws, rules and regulations; and
  - 1.2.2. is consistent with any Authorisation.
- 1.3. GoFundraise does not warrant that the Site will operate wholly without error or interruption. You agree to release GoFundraise and hold GoFundraise harmless from and against any claim, loss, damage, cost or expense caused by you or anyone connected to you in connection with your use of the Site.
- 1.4. GoFundraise may from time to time deliver additional services to or on behalf of you at your request ("Additional Services"), in which event we will agree in prior to commencement of the supply of such services by GoFundraise, the specification, delivery schedule and price of the products or services to be supplied to you. Any Additional Services which are added will be governed by the terms and conditions set out in this Agreement and you must pay GoFundraise the agreed Additional Service fee within 14 days of delivery of an invoice for the relevant Additional Services.

## 2. Your Status and Obligations

- 2.1. You represent and warrant that you:
  - 2.1.1. are a person or organisation holding an authority to conduct a fundraising appeal (Authorised Fundraising Organisation), where applicable and that you will comply entirely with all applicable laws and the conditions of any licence, authorisation, consent, permission or registration. Applicable laws include but are not limited:
    - the Charities Act 2011;

- the Charities (Protection and Social Investment) Act 2016;
- the Trustees Acts 1925, 2000;
- Charity Commission regulation;
- the Statement of Recommended Practice (SORP) for charity accounting;
- the UK Code of Fundraising Practice; and
- laws on trading, political activities and fundraising.

2.1.2. advise GoFundraise, as soon as is practicable, of any change to its status; and

2.1.3. obtain and maintain all insurance policies that a prudent organisation of the nature of, and conducting activities similar to those conducted you.

2.2. You agree to provide GoFundraise with the following:

- A copy of your certificate of company and/or charity registration ;
- Any information required in respect of Gift Aid;
- Where applicable, written confirmation of your status as Gift Aid Recipient;
- A copy of any authority held by you in accordance with applicable law; and
- Written confirmation as to the countries in which you are lawfully entitled to collect or solicit donations.

2.3. You will provide GoFundraise with such further information and documentation as GoFundraise reasonably request in connection with a Plan.

2.4. Any addition, variation or deletion to the applicable law under which you accept donations pursuant to this Agreement must be notified to GoFundraise by you at the earliest opportunity, following which GoFundraise will ensure that it complies with the authority as so added to, varied or deleted.

### **3. Plan; Term; Automatic Renewal**

3.1. **Plan.** We offer a number of different options in respect of a Plan, details of the options can be found [here](#). Each Plan is provided on a month by month basis with a 30 day rolling subscription or there is also the option of annual plans which will give you discounted pricing. You can upgrade your Plan at any time. [For any monthly or annual Plans which a fee is payable then provided you do not start using it you have the right to cancel on 14 days notice. If you start to use the Plan then the fees for that month or year (depending on the Plan chosen) are non-refundable for the monthly or annual period.][For any monthly or annual Plans where a fee is payable you will be given access to a free 14 day trial, if you do not cancel prior to the end of the 14 day trial period then you will be charged the monthly or annual plan amount the day after the 14 day trial ends.] In the event you wish to cancel any monthly Plan after the 14 day trial period you need give us 30 days written notice by email to support@gofundraise.com notice or cancelling via your account. Annual plans will renew on a yearly basis until you cancel. You need to give us at least 30 days written notice prior to your annual renewal date that you wish that cancel your Plan. For all Plans you will be set up on the “optional contribution model” by default where the user can choose to make a contribution or “tip” to the platform and no platform fee is charged if they choose or not to leave a “tip”. Credit card fees still apply on the optional contribution model. Where you choose not to use the optional contribution model or it is unavailable (such as for registration transactions, deposit collected funds and regular

giving) You will incur a percentage fee according to your Plan. From GoFundraise on top of any underlying credit card fees for transactions you process through the Site .

**4.Term.** Unless otherwise terminated in accordance with its express terms, this Agreement shall remain in place on a month-to-month basis. When you cancel a Plan the termination will take effect 30 days from the date that you have cancelled. You authorise us to charge your credit card on the monthly 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."**Authorised Representative.** You must, upon sign up or within seven days of the date of this Agreement, provide GoFundraise with written notice of your choice of an authorised representative to act on your behalf in all matters in connection with this Agreement ("Authorised Representative"), and must provide written notice of any change to the identity of your Authorised Representative. You authorise and instruct GoFundraise to act in accordance with the instructions of your Authorised Representative and agree to indemnify GoFundraise from any liability incurred by GoFundraise in lawfully performing its obligations under this Agreement in accordance with the instructions of the Authorised Representative.

## **5.Plans; Payment Processing; Taxes**

**5.1.Plans and Payments.** The Plans which we offer, and the associated monthly and transaction fees, are available on the [Plans Pricing Page](#) ("Fees"). In consideration for access to a Plan you must pay the Fees to GoFundraise. You authorise GoFundraise to deduct all applicable Fees from the gross amounts of money received from your donors the Gross Receipts and will be deposited as per the interval chosen on stripe or you payment provider by electronic funds transfer to a British bank account nominated by you via this provider.

**5.2.**We reserve the right to modify our pricing at any time provided we give you at least 30 days written notice. We will either do this by notifying you by email or via a message on the Site. All notices will be deemed complete upon our sending/posting. Any changes will take place on the first billing date following the 30 day notice period.

**5.3.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).

**5.3.1.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.

**5.3.2.Third party payment processor.** By default this option will be 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 authorise 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.

**5.4. 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 characterising the nature of each transaction you process through the Site.

**5.5. Authority.** By operation of law and this Agreement, you appoint GoFundraise as your agent in connection with charitable donations collected in connection with the Site from the general public and all matters ancillary to that agency. You remain at all times responsible for the actions of anyone who you permit to use the Site, whether during the term of this Agreement or following its termination.

**5.6.** You acknowledge and accept that, to the extent permitted by law, GoFundraise will be under no liability to you whatsoever, whether in contract or tort including without limitation, negligence, breach of statute, or any other legal or equitable obligation in respect of any loss or damage howsoever caused that may be:

- suffered or incurred or that may arise directly or indirectly in respect of any infringement by anyone you permit to use the Site (for example a fundraiser) of your intellectual property rights or any other person in or in relation to any of your materials; or
- caused directly or indirectly by any act or omission of anyone who you have allowed access, use or otherwise dealing with the Site

## **6. Intellectual Property**

**6.1. 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.

**6.2. Limitations on Use Rights.** You understand that your purchase of a 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 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 customisation work for you or by your input of custom CSS or HTML, as may be allowed with the purchase of a 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.

**6.3. 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.

**6.4. DClient 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 or any derogatory content. You agree that GoFundraise has the right to remove any content at its sole discretion for any reason whatsoever. 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.

**6.5. 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 6.5 were breached, and that we shall be entitled to an injunction or injunctions to prevent breaches of this Section 6.5 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.

**7. 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 organisation ; and are allowed to solicit donations through online fundraising.
- You understand and agree that we will not solicit on your behalf, nor will we act as a professional fundraising consultant to you.

## 8.Data Protection and Privacy

8.1.**Privacy Policy.** You have read and accept our privacy policy, which is located at <https://www.gofundraise.co.uk/privacy-policy>

8.2.**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.).

8.3.Both you and Gofundraise agrees to comply with all applicable data protection and privacy laws including, but not limited to, the Data Protection Act 2018 (“Data Protection Law”) and the Data Protection Agreement set out at Schedule 1. Provided it is permitted by Data Protection Law, any personal information as defined by Data Protection Law (“Personal Information”) acquired by GoFundraise in the performance of this Agreement, including all donor Personal Information (Donor Database) and participant Personal Information (Participant Database), will be delivered to you.

8.4.Subject to clause 8.3, GoFundraise will:

- 8.4.1. provide access to you to the Participant Database and Donor Database through a secure administration area of the Site, and as a transferable report in the form of a Microsoft-compatible data medium and in a commonly used data format;
- 8.4.2. not give, sell, or otherwise deal with Personal Information comprised in the Participant Database and Donor Database unless any such dealing is in compliance with Data Protection Law and any other relevant legislation;
- 8.4.3. store your confidential banking information and data in a secure hosting environment that may be accessed by select GoFundraise employees directly involved in the ongoing management and operations of your events.

8.5.Clause 8.2 will not apply if you have chosen to not receive the real-time reporting functionality offered through the Site.

8.6.You acknowledge that anyone in connection with your Plan (e.g. donors and participants) will be provided with the facility to opt to receive marketing and other communications from GoFundraise in the course of registration with the Site or otherwise during the conduct of business through the Site should they so choose, and in accordance with Data Protection Law.

## 9.Security

9.1.**The Site.** During the Term, GoFundraise will provide you with access to the Site. Access is effected by use of login information unique to you (“Login Information”). GoFundraise will provide additional login information to you only on the written instructions of your authorised representative.

**9.2. User Names and Passwords.** You are solely responsible for safeguarding your organisation'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. You must regularly update any passwords or other unique identifiers used in conjunction with the login process to minimise the chance of misuse of Login Information.

**9.3. 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.

**9.4. 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.

**9.5. 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.

**9.6. Indemnity.** You agree to indemnify GoFundraise from any costs, expenses or damages suffered, incurred or paid by GoFundraise in connection with your breach of this clause or the actions of any person obtaining access to the Site by using your Login Information.

## **10. Disclaimer of Warranties.**

**10.1.** 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."

## **11. Liability**

**11.1. 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), and claims, whether known or unknown, which may arise from (i) you organising, hosting, participating in, attending, or authorising an event posted on the Site (including events you authorise 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").

**11.2. 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 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.

**11.3. 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.

**11.4. 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.

## **12. Termination or Suspension**

**12.1. 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 12.1.

**12.2. 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 12.2.

## **13. General**

**13.1. 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.

**13.2. 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.

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

**13.4. 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.

**13.5. 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.

**13.6. Survival.** Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect..

13.7.**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.

13.8.**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.

13.9.**Governing Law and Jurisdiction.** This Agreement is governed by the laws of England and Wales and you and Gofundraise submit to the non-exclusive jurisdiction of the English courts.

## SCHEDULE 1 DATA PROTECTION AGREEMENT

In addition to the definitions set out in the agreement the following definitions apply:

Controller, Processor, Data Subject, Personal Information Breach, Processing and appropriate technical and organisational measures means the definitions as defined in the Data Protection Law.

Subprocessor means any person (including any third party) appointed by or on behalf of a Processor to process Personal Information in connection with the Site.

1. Both parties will comply with all applicable requirements of the Data Protection Law. This Data Processing Agreement is in addition to, and does not relieve, remove, or replace, a party's obligations or rights under Data Protection Law. The parties agree that you are the Controller and Gofundraise is the Processor in connection with Personal Information being processed under this Agreement.

2. The parties agree that they shall ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of Personal Information for the duration and purposes required so that the Personal Information may lawfully be used, processed, and transferred in accordance with this Data Processing Agreement. Annex A describes the subject matter, duration, nature and purpose of the processing and the Personal Information categories and Data Subject types in respect of which Gofundraise may process the Personal Information to fulfil their obligations under the Agreement.

3. Gofundraise shall:

- process the Personal Information in accordance with your written instructions and comply with your reasonable instructions in respect to the Processing of the Personal Information;
- keep the Personal Information confidential;
- not otherwise modify, amend or alter the contents of your Personal Information or disclose or permit the disclosure of any of the Personal Information to any third-party unless specifically authorised in writing by you;
- ensure that only those Gofundraise's personnel who need to have access to the Personal Information are granted access to such data and only for the purposes of the performance of this Agreement and ensure that all personnel required to access the Personal Information are informed of the confidential nature of the Personal Information and comply with the obligations set out in this Data Processing Agreement;
- obtain your prior written consent before transferring Personal Information to any Subprocessor and, if such consent is given, include in all contracts with such Subprocessor provisions in your favour which are equivalent to those in this Data Processing Agreement and enforce these obligations at your request;
- not publish, disclose or divulge any of the Personal Information to any third party (including the Data Subject) unless directed to do so in writing by you;
- notify you without undue delay (in any event within 72 hours) on becoming aware of a Personal Information Breach, or suspected Personal Information Breach) or communication which relates to your compliance with the Data Protection Law. Such notice shall include, at the time of notification or as soon as possible after notification, details of the nature of the breach and number of records affected, the category and approximate number of affected Data Subjects, anticipated consequences of the breach and any actual or proposed remedies for mitigating the possible adverse effects of the breach;
- notify you immediately (in any event within 72 hours) if Gofundraise receives any notice or communication from any regulatory body which relates directly or indirectly to the processing of the Personal Information under this Data Processing Agreement and, unless prohibited by Data Protection Law, not make any statement (or provide any documents) about matters concerning

this Data Processing Agreement, or the processing of Personal Information, without your written approval;

- at your cost, provide such information to you as you may reasonably require to allow Gofundraise to comply with the rights of Data Subjects, including Data Subject-access rights, or with notices served by the Information Commissioner or any other law enforcement authority; and

4. You acknowledge and consent to Gofundraise transferring Personal Information between the United Kingdom and Australia. The parties agree that the Standard Contractual Clauses for transfer of Personal Information) apply and are entered into as part of this Agreement and the parties will take all other actions required to legitimise the transfer.

5. At your written request, Gofundraise shall delete or return Personal Information and any copies thereof to you on termination of the Agreement unless Gofundraise is required by Data Protection Law to store the Personal Information;

6. in the event any Personal Information is transferred outside of the UK or the EEA to a country other than Australia Gofundraise shall ensure that it puts in place appropriate safeguards as required by Data Protection Law.

7. Gofundraise shall ensure that it has in place appropriate technical or organisational measures, reviewed and, if necessary, approved by you, to protect against unauthorised or unlawful processing of Personal Information and against accidental loss or destruction of, or damage to, Personal Information, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures. Such measures may include, where appropriate:

- pseudonymising and encrypting Personal Information;
- ensuring confidentiality, integrity, availability and resilience of any systems and services;
- ensuring that availability of and access to Personal Information can be restored in a timely manner after an incident;
- regularly assessing and evaluating the effectiveness of the technical and organisational measures that have been adopted;

8. Gofundraise shall take reasonable steps to ensure the reliability of any employee, agent, contractor of any Subprocessor who may have access to the Personal Information, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Personal Information, as strictly necessary for the purposes providing a Plan, and to comply with Data Protection Law in the context of that individual's duties to the Subprocessor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

6. You agree that Gofundraise is free to engage any Subprocessors without your consent provided that Gofundraise ensures:

- before the Subprocessor first Processes Personal Information, carry out adequate due diligence to ensure that the Subprocessor is capable of providing the requisite level of protection for Personal Information;
- ensure that the arrangement between on the one hand (a) Gofundraise, or (b) the relevant intermediate Subprocessor; and on the other hand, the Subprocessor, is governed by a written contract including terms which offer at least the same level of protection for Personal Information as those set out in this Data Processing Agreement and which meet the requirements of Data Protection Law; and
- if that arrangement involves a transfer of Information outside of the UK or EEA, ensure that appropriate safeguards as required by Data Protection Law are put in place between on the one hand (a) Gofundraise, or (b) the relevant intermediate Subprocessor.

7. Taking into account the nature of the processing, Gofundraise shall assist you by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligations, as reasonably understood by Gofundraise, to respond to requests to exercise Data Subject rights under the Data Protection Law.

8. Gofundraise shall:

- notify you within 72 hours if any Subprocessor receives a request from a Data Subject under any Data Protection Law in respect of any Personal Information; and
- ensure that the Subprocessor does not respond to that request except on your documented instructions or as required by Data Protection Law to which the Subprocessor is subject, in which case Gofundraise shall to the extent permitted by Data Protection Law inform you of that legal requirement before the Subprocessor responds to the request.

## ANNEX A - PERSONAL DATA PROCESSING PURPOSES AND DETAILS

Subject matter of processing:

Incidental data processing arising from the provision of a Plan as described under the Agreement.

Duration of Processing:

As is required under the Agreement.

Nature of Processing:

The processing will be an incidental part of the provision of a Plan under the Agreement.

Personal Information Categories:

Your employees, contractors and donors.

Types of Personal Information:

Personal Information collected includes : name, email address, address, IP address name and DOB.

Standard Contractual Clauses for International Transfers

Annex B

Standard Contractual Model Clauses

26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

Name of the data exporting organisation: as per the registration form.

Address:

Tel.: \_\_\_\_\_; fax: \_\_\_\_\_; e-mail: \_\_\_\_\_

(the data exporter)

And

Name of the data importing organisation: Gofundraise Pty Limited (on behalf of GoFundraise Limited)

Address: Suite 8, 17 Thurlow St, Redfern, NSW 2016

Tel.: 1300 889 272\_; fax: \_N/A\_; e-mail: [privacy@gofundraise.com](mailto:privacy@gofundraise.com)

(the data importer)

each a "party"; together "the parties",

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Background

The data exporter has entered into the Agreement with the data importer. Pursuant to the terms of the Agreement, it is contemplated that services provided by the data importer will involve the transfer of personal data to data importer. Data importer is located in a country not ensuring an adequate level of data protection. To ensure compliance with Directive 95/46/EC and applicable data protection law, the controller agrees to the provision of such services, including the processing of personal data incidental thereto, subject to the data importer's execution of, and compliance with, the terms of these Clauses.

Clause 1

Definitions

For the purposes of the Clauses:

(a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

(b) 'the data exporter' means the controller who transfers the personal data;

(c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) 'the subprocessor' means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller (in this case English law);

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

## Clause 2

### Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

## Clause 3

### Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

## Clause 4

### Obligations of the data exporter

The data exporter agrees and warrants:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant supervisory authorities where the data exporter is established);
- (b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- (g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- (h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- (i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- (j) that it will ensure compliance with Clause 4(a) to (i).

## Clause 5

### Obligations of the data importer

The data importer agrees and warrants:

- (a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,

(ii) any accidental or unauthorised access, and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

## Clause 6

### Liability

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any

successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

#### Clause 7

##### Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the English courts (where the data exporter is established).

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

#### Clause 8

##### Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

#### Clause 9

##### Governing Law

The Clauses shall be governed by English law.

#### Clause 10

##### Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

#### Clause 11

##### Subprocessing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.

2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by English law.

4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

#### Clause 12

##### Obligation after the termination of personal data processing services

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

On behalf of the data exporter:

Name (written out in full):

Position:

Address:

Other information necessary in order for the contract to be binding (if any):

Signature.....

On behalf of the data importer:

Name (written out in full):

Position:

Address:

Other information necessary in order for the contract to be binding (if any):

Signature.....

## Appendix 1 to the Standard Contractual Clauses

### Data subjects

The Personal Information transferred concern the following categories of data subjects:

staff including volunteers, agents, temporary and casual workers

customers and clients (including their staff)

suppliers (including their staff)

members or supporters

shareholders

relatives, guardians and associates of the data subject

complainants, correspondents and enquirers;

experts and witnesses

advisers, consultants and other professional experts

patients

students and pupils

offenders and suspected offenders

other (please provide details of other categories of data subjects):

### Categories of data

The Personal Information transferred concern the following categories of data:

Personal details, including any information that identifies the data subject and their personal characteristics, including: name, address, contact details, age, date of birth, sex, and physical description.

Personal details issued as an identifier by a public authority, including passport details, national insurance numbers, identity card numbers, driving licence details.

Family, lifestyle and social circumstances, including any information relating to the family of the data subject and the data subject's lifestyle and social circumstances, including current marriage and partnerships, marital history, details of family and other household members, habits, housing, travel details, leisure activities, and membership of charitable or voluntary organisations.

Education and training details, including information which relates to the education and any professional training of the data subject, including academic records, qualifications, skills, training records, professional expertise, student and pupil records.

Employment details, including information relating to the employment of the data subject, including employment and career history, recruitment and termination details, attendance records, health and safety records, performance appraisals, training records, and security records.

Financial details, including information relating to the financial affairs of the data subject, including income, salary, assets and investments, payments, creditworthiness, loans, benefits, grants, insurance details, and pension information.

Goods or services provided and related information, including details of the goods or services supplied, licences issued, and contracts.

Personal data relating to criminal convictions and offences

Other (please provide details of other data subjects):

Special categories of data (if appropriate)

The Personal Information transferred concern the following special categories of data:

racial or ethnic origin

political opinions

religious or philosophical beliefs

trade union membership

genetic data

biometric data (if used to identify a natural person)

health

sex life or sexual orientation

criminal convictions and offences

other

none of the above

Processing operations

The Personal Information transferred will be subject to the following basic processing activities:

X Receiving data, including collection, accessing, retrieval, recording, and data entry

X Holding data, including storage, organisation and structuring

X Using data, including analysing, consultation, testing, automated decision making and profiling

X Updating data, including correcting, adaptation, alteration, alignment and combination

X Protecting data, including restricting, encrypting, and security testing

X Sharing data, including disclosure, dissemination, allowing access or otherwise making available

X Returning data to the data exporter or data subject

X Erasing data, including destruction and deletion

Other (please provide details of other types of processing):

Appendix 2 to the Standard Contractual Clauses

This Appendix forms part of the Clauses and must be completed and signed by the parties.

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c):

Technical and organisational security measures have been implemented in line with standard business practice.