



[www.fundracer-games.com](http://www.fundracer-games.com)

# Fundracer Games Terms of Use

Effective Date: April 1, 2018

## Important:

**THIS IS A LEGAL AGREEMENT BETWEEN YOU AND Fundracer Games INC. YOU SHOULD READ CAREFULLY THE FOLLOWING TERMS AND CONDITIONS AS THEY GOVERN YOUR ACTIVITIES AS A PARTICIPANT IN ANY MONEY-RAISING CAMPAIGNS OR ACTIVITIES – AND ANY USE OF THE PLATFORM. THEY REQUIRE YOU TO MAKE CERTAIN PROMISES, REPRESENTATIONS AND WARRANTIES, AND IMPOSE A VARIETY OF OBLIGATIONS.**

**These Terms of Use are binding on Fundracer Games with an address at 41593 Winchester Rd Temecula, CA, 92562 (“Fundracer Games,” or “we” or “us”), and You (hereinafter the “Participant(s),” “you,” or “your”). Collectively, Fundracer Games and Participant shall be known as the “Parties” and individually each shall be known as a “Party.” These Terms of Use include the Terms and Conditions below (the “Terms and Conditions”), and any schedules and other attachments provided by us. The Terms of Use and all such documents are collectively referred to as “the Agreement.” or “this Agreement.” The Agreement constitutes the complete and entire agreement between the Parties regarding the subject matter of the Agreement, and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter.**

**YOUR ACCESS TO AND USE OF THE Fundracer Games PLATFORM IS SUBJECT TO THIS AGREEMENT, AS WELL AS ALL APPLICABLE LAWS AND REGULATIONS, ALONG WITH ANY OTHER TERMS AND CONDITIONS SET FORTH BY Fundracer Games IN WRITING. IN REGARD TO YOUR USE OF THE PLATFORM, TO THE EXTENT THIS AGREEMENT CONFLICTS WITH ANY OTHER Fundracer Games TERMS AND CONDITIONS, THIS AGREEMENT SHALL**



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GOVERN. Fundracer Games IS WILLING TO ALLOW THE USE OF THE Fundracer Games PLATFORM BY YOU ONLY ON THE CONDITION THAT YOU ACCEPT AND AGREE TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT. IF YOU DO NOT ACCEPT AND AGREE TO THE AGREEMENT, YOU ARE NOT GRANTED PERMISSION TO ACCESS OR OTHERWISE USE THE PLATFORM. YOUR ACCESS TO AND USE OF THE PLATFORM CONSTITUTES YOUR ACCEPTANCE OF - AND AGREEMENT TO ABIDE - BY - THIS AGREEMENT AND OUR PRIVACY POLICY. THIS AGREEMENT MAY BE CHANGED OR MODIFIED BY Fundracer Games FROM TIME TO TIME, AND YOUR CONTINUED USE OF OR ACCESS TO THE PLATFORM AFTER ANY SUCH CHANGE OR MODIFICATION SHALL BE DEEMED AS ACCEPTANCE OF SUCH CHANGE OR MODIFICATION. YOU ARE ENCOURAGED TO REVIEW THIS AGREEMENT PERIODICALLY FOR UPDATES AND CHANGES.

# Terms and Conditions

## Description of the Fundracer Games Platform.

Fundracer Games provides a fundraising software platform (the “Platform”) that allows participants to effectively manage their fundraising campaign (the “Campaign”), harness social media for outreach, collect donations, and process fundraiser sales for their school, team, event, activity or organization (the “Beneficiary”). The Platform is accessed via the Fundracer Games website located at [www.Fundracer Games.com](http://www.Fundracer Games.com) (the “Website”).

## Requirements and Standards; Acceptance by Fundracer Games.

Access to the Platform is predicated upon your ability to meet – and your continuing to meet - all of the requirements and standards delineated in this Agreement, and your acceptance of all of the Terms and Conditions



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and all other portions of this Agreement. – Please note that Fundracer Games reserves the option to review any request to access the Platform and participate in a Campaign, and to deny any request for access, for any reason. If you are a participant in a Campaign subsequent to your acceptance of this Agreement – unless we have denied your request for access, you will receive an account code that will provide backend access to the Platform. You will use the provided account code to create a username and password, which will be your credentials ("Credentials"), and you will use these Credentials in order for the Platform to authenticate you as a registered user of the Platform. You can also register by using your Facebook credentials. Please note that if you register via Facebook, Fundracer Games will have access to all information related to your Facebook account - including your list of 'Facebook friends', as permitted by Facebook's policies and Facebook privacy settings, and you hereby assent to any such access. If you have any questions or concerns about such access, then we suggest you review Facebook's policies and your privacy 'settings and designations' prior to registering with us. Additionally, you are prohibited from selling, trading, or otherwise transferring your Credentials to another party. You also agree to provide true, accurate, current and complete information about yourself (and any team members for whom you might submit information) during the registration process. If you provide any information that is untrue, inaccurate, not current or incomplete (or becomes untrue, inaccurate, not current or incomplete) - or if we have reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete - we reserve the right to suspend or terminate your account and refuse any and all current or future use of the Platform (or any portion thereof). You are responsible for maintaining the confidentiality of your Credentials. You agree to accept responsibility for all activities that occur under your account. You agree to notify us immediately by emailing us at [support@FundracerGames.com](mailto:support@FundracerGames.com) of any unauthorized use of your account or any other breach of security.



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## Participant Acknowledgment.

Participant hereby acknowledges and agrees that access to the Platform – and use of the Platform in conjunction with any Campaign or any webpages created on behalf of a Beneficiary - does not constitute a solicitation of donations by Fundracer Games; Fundracer Games does not engage in any solicitation activities on behalf of you, or any Beneficiary with which you may be involved. Additionally, you acknowledge and agree that while Fundracer Games may designate a Fundracer Games representative to be available to answer your questions, such Fundracer Games representative is solely available to answer questions related to the functionality and features of the Platform. During the Term of this Agreement you hereby agree that you shall promptly respond to any inquiries, questions or requests for updates from Fundracer Games related to your use of the Platform or other matter related to this Agreement.

## Age Acknowledgement; Additional Acknowledgments.

This Platform is intended solely for users who are 13 years of age or older, and any registration by, use of or access to the Website or involvement in any Campaign by anyone under 13 is unauthorized. If you are 13 or older but under the age of 18, we suggest that you review this Agreement – and discuss your planned use of the Platform - with your parent or guardian to make sure that your parent or guardian understands the terms and your planned participation. If you reside in a jurisdiction that would restrict the use of this Website – or any of the functionalities or features offered via this Website or a Campaign – because of age, or restricts the ability to enter into contracts as such as this one due to age, you must abide by such age limits and you must not use the Website if you are not permitted to do so by such local jurisdiction.

In addition, you agree to abide by all applicable local, state, national, and international laws and regulations with respect to your use of the Platform. You also acknowledge and agree that use of the Internet and access to or



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transmissions or communications with the Platform is solely at your own risk. While Fundracer Games has endeavored to create a secure and reliable Platform, you should understand that the confidentiality of any communication or material transmitted to/from the Platform over the Internet or other form of global communication network cannot be guaranteed.

## Licenses; Grant Of Participant Rights

The Fundracer Games Platform provides you with the ability to upload pictures, images, photographs, videos, logos and other content (collectively, hereinafter, the “Content”) for use in conjunction with your Campaign(s). You represent and warrant that: (i) you own the Content posted by you on the Platform or otherwise used in conjunction with any Campaign, or otherwise have the right to grant the rights and licenses set forth in this Agreement; (ii) you have all approvals and permissions required for posting or using any such Content; and (iii) the posting and use of your Content on or through the Platform does not violate, misappropriate or infringe on the rights of any third party, including, without limitation, privacy rights, publicity rights, copyrights, trademark and/or other intellectual property rights. You agree to pay for all royalties, fees, and any other monies owed for any Content you post on or through the Platform or use in conjunction with any Campaign. Additionally, if you are under the age of 13, you represent and warrant that you shall not post any pictures of yourself or anyone else under the age of 13 – or publicly post any other information with respect to yourself or anyone else under the age of 13 – until and/or unless we have received Higher-Level, Verifiable Consent.

With respect to any such Content, you hereby grant to Fundracer Games an irrevocable, royalty-free and fully-paid, non-exclusive, perpetual right and license throughout the world to transmit, reproduce, store, display and distribute the Content, in whole or in part, for any and all purposes. You understand and agree that the appearance of any such Content may be altered by Fundracer Games as Fundracer Games determines in its sole discretion is needed to enable such Content to be displayed on the Platform and you agree to hold harmless Fundracer Games against, to



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release Fundracer Games from, and not to pursue against Fundracer Games, any claim that you may have (or that you may in the future have) arising out of or related to any such alteration of any such Content or the display on the Platform of any such altered Content.

## Prohibited Use/Activities

You hereby acknowledge, and represent and warrant, that your use of the Platform or any related services will not be, or alleged to be:

- unlawful, unauthorized, fraudulent or malicious in purpose;
- a violation, misappropriation or infringement on the rights of any third party, including, without limitation, privacy rights, publicity rights, copyrights, trademark and/or other intellectual property rights;
- false, offensive, abusive, libelous, hateful, defamatory, obscene, racist, sexually explicit, ethnically or culturally offensive, indecent, pornographic;
- an invasion or violation of another's right of privacy or publicity;

In addition, you agree you will not:

- create a false identity for the purpose of misleading others or impersonate any person or entity;
- violate any applicable local, state, national or international law;
- modify or make derivative works based upon the Platform;
- create Internet "links" to the Platform or "frame" or "mirror" the Platform on any other server or wireless or Internet-based device;
- reverse engineer or access the Platform in order to (a) design or build a competitive product or service, (b) design or build a product using similar ideas, features, functions or graphics of the Platform, or (c) copy any ideas, features, functions or graphics of the Platform;



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- launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Platform;
- interfere with or disrupt the integrity or performance of the Platform or the data contained therein, or attempt to gain unauthorized access to the Platform or its related systems or networks; or
- use any award, gift or other benefit received, directly or indirectly, from Fundracer Games- Raise, for any illegal or unauthorized purpose.

## Periodic Emails; Monitoring; Termination Of Access

Please note that Fundracer Games may send you periodic email updates, reminders or other related messaging to the email address provided to us at registration. In addition, those email addresses that are provided for campaign outreach may receive several reminder emails during the course of an active fundraising campaign. Fundracer Games has the right, but not the obligation, to monitor your use of the Platform and any Campaigns, and any and all related activities associated with such use. Fundracer Games reserves the right, at any time and without prior notice, to suspend or terminate your account, or restrict, disable or permanently bar your use and access to the Platform (or any portion thereof) if we believe, in our sole discretion, that you have engaged, or may engage, in any of the above prohibited activities, are otherwise in violation of this Agreement, or for any other reason.

## Payments and Payments Processing; Rules for all Payments

Fundracer Games has engaged the services of WePay, Inc., a payment service provider, to process all credit card donation/payment transactions and to manage the routing of applicable customer information through the credit card and electronic check processing networks. We are not affiliated



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with WePay. Accordingly, Fundracer Games expressly disclaims responsibility and liability for all services provided by WePay, including those related to donation/payment transactions, and you hereby agree that Fundracer Games shall not be responsible for any loss or damage of any sort incurred as a result of your use of such service.

WePay offers two methods of fund disbursement. 1) A bank check sent by mail or, 2) direct deposit into your Organizations designated bank account. By creating a fundraising campaign on Fundracer Games and by your acceptance of this Agreement, you additionally agree to WePay's Terms of Use (See: <https://go.wepay.com/terms-of-service-us>), in order for your Beneficiary to receive payments. Furthermore you agree to provide WePay certain information related to your Campaign and Organization.

By default disbursement will be made via check. Within 10 business days from the end date of the Campaign, a check will be issued and sent to the Beneficiary at the mailing address provided or delivered by a Fundracer Games representative. Less Fundracer Games's applicable Service Fees will be deducted from the amount delivered to the Beneficiary. Please note that any such bank account designated to receive the funds must be in your Beneficiary's name.

## Donations

As a donor you hereby acknowledge and agree that, for all donations/payment transactions, (1) you will not use an invalid or unauthorized credit or debit card or other payment method; (2) all donations/payment transactions are final and non-refundable once a campaign has ended; and (3) all donations are made as unrestricted gifts to the indicated Beneficiary. If you have any questions regarding any payment transaction, please contact us by email at [support@Fundracer Games.com](mailto:support@Fundracer Games.com). Additionally, Fundracer Games makes no representations or warranties as to whether any portion of your donation is tax deductible as a charitable contribution. It is the responsibility of the donor to confirm if the Beneficiary is a qualified organization.





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**You acknowledge and agree that all funds raised by Participants will be disbursed according to the option selected by the Beneficiary.**

## **Limited License And Site Access; All Rights Reserved**

**Access to the Platform is provided by Fundracer Games, and this Agreement provides to you a personal, revocable, limited, non-exclusive, royalty-free, non-transferable license to access and use the Platform in strict accordance with all the terms of this Agreement. Your use of the Platform and any services, tools, materials or information made available through the Platform is conditioned on your continued compliance with this Agreement. Accordingly, you expressly acknowledge and agree that Fundracer Games transfers no ownership or intellectual property interest or title in and to the Platform.**

**This license does not include any resale or commercial use of the Website or any of its content; any derivative use of the Website or any of its content; or any use of data mining, robots, or similar data gathering and extraction tools. The Website or any portion of the Website – including any Campaign - may not be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any purpose without the express written consent of Fundracer Games. You may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of Fundracer Games without Fundracer Games's express written consent. You may not use any meta-tags or any other "hidden text" utilizing any of Fundracer Games's name(s) or service marks without the express written consent of their owners. Any unauthorized use terminates the permission or license granted by Fundracer Games.**

## **Intellectual Property Rights; Rights To Feedback**

### **Copyright**

**Except as otherwise expressly stated, all content appearing on the Platform is the copyrighted work of Fundracer Games or its third party content suppliers and is protected by U.S. and international copyright laws. The**



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compilation (meaning the collection, arrangement and assembly) of all content is also the exclusive property of Fundracer Games and is protected by U.S. and international copyright laws.

You may download information from the Platform and print out a hard copy for your personal use provided that you keep intact and do not remove or alter any copyright or other notice (e.g., trademark, patent, etc.) contained in the information. Except as otherwise expressly stated herein or otherwise permitted, you may not alter, modify, copy, distribute (for compensation or otherwise), transmit, display, perform, reproduce, reuse, post, publish, license, frame, download, store for subsequent use, create derivative works from, transfer, or sell any information or content obtained from the Platform, in whole or in part, including any text, images, audio, and video in any manner, without the prior written authorization of Fundracer Games or any applicable third party suppliers. The use of content, including images, by you, or anyone else authorized by you, is prohibited unless specifically permitted by Fundracer Games. Any unauthorized use of text or images may violate copyright laws, trademark laws, the laws of privacy and publicity, and applicable regulations and statutes. Fundracer Games does not warrant or represent that your use of content, or any other materials displayed on the Platform will not infringe rights of third parties.

## Trademarks and Service Marks

Certain service marks and trademarks of Fundracer Games or one of its affiliates. The Fundracer Games name, logo, the domain name for the Website, all page headers, custom graphics, and button icons are service marks, trademarks, logos, and/or trade dress of Fundracer Games. All other trademarks, service marks, trade dress, product names, company names or logos, whether registered or not, on the Website are the property of their respective owners. In addition to complying with all applicable laws, you agree that you will not use any such trademarks, service marks, trade dress, or other logos from the Website without the prior written



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authorization of Fundracer Games.

## Feedback

You agree that submission of any ideas, suggestions, documents, and/or proposals that you might provide to Fundracer Games ("feedback") is at your own risk and that we have no obligations (including without limitation obligations of confidentiality) with respect to such feedback. You represent and warrant that you have all rights necessary to submit the feedback. You hereby grant to Fundracer Games a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sub-licensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all feedback, and to sublicense the foregoing rights.

## Intellectual Property Infringement

Fundracer Games respects the intellectual property rights of others, and we ask you to do the same. Fundracer Games may, in appropriate circumstances and at our discretion, terminate service and/or access to the Platform for users who infringe the intellectual property rights of others. If you believe that your work is the subject of copyright infringement and/or trademark infringement and appears on our Platform, please provide Fundracer Games's designated agent the following information:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
2. Identification of the copyrighted and/or trademarked work claimed to have been infringed, or, if multiple works at a single online site are covered by a single notification, a representative list of such works at that site.
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled on the Platform, and information reasonably sufficient to permit Fundracer Games to locate the material.



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4. Information reasonably sufficient to permit Fundracer Games to contact you as the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which you may be contacted.
5. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright and/or trademark owner, its agent, or the law.
6. A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Fundracer Games's agent for notice of claims of copyright or trademark infringement on this Site can be reached as follows:

- Fundracer Games's Legal Name: .
- Fundracer Games's Physical Address: 41593 Winchester Rd Ste 200 Temecula CA 92562
- Fundracer Games's Alternate Names: .; Fundracer Games Raise; Amplo; Fundracer Games Advance; Fundracer Games.com
- Information about Fundracer Games's Agent:
  - Agent's Name: HR Manager, .
    - Agent's Mailing Address: 41593 Winchester Rd Ste 200 Temecula CA 92562
    - Agent's telephone number: [619-354-8455](tel:619-354-8455) (UEC)
    - Agent's email address: [hr@FundracerGames.com](mailto:hr@FundracerGames.com)
- Please also note that for copyright infringements under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability. Submitting a DMCA Counter-Notification  
We will notify you that we have removed or disabled access to copyright-protected material that you provided, if such removal is pursuant to a valid DMCA take-down notice that we have received. If you receive such notice from us, you may provide us with a counter-notification in writing to the Fundracer Games designated agent that includes all of the following information:

1. Your physical or electronic signature;



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2. Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;

3. A statement from you under the penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and

4. Your name, physical address and telephone number, and a statement that you consent to the jurisdiction of a court for the judicial district in which your physical address is located, or if your physical address is outside of the United States, for any judicial district in which Fundracer Games may be located, and that you will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.

#### Termination of Repeat Infringers

Fundracer Games reserves the right, in its sole discretion, to terminate the account or access of any user of our Platform who is the subject or repeated DMCA or other infringement notifications.

## Participant's Representations, Warranties and Covenants.

You hereby represent, warrant, and covenant that: (i) neither the making of this Agreement nor the performance of any acts by you contemplated by this Agreement, including your use of the Platform, shall constitute a breach of any other agreement, written, oral, or implied, and (ii) during the Term of this agreement, you shall comply with all federal, state, local and provincial laws, orders and permits, including any applicable rules or regulations required from any authority, including government, regulatory or other, as well as all other applicable requirements, and (iii) that all information that you have provided or posted related to, or regarding your designated Beneficiary, is accurate, truthful and up to date. Additionally, you



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hereby further represent, warrant and covenant that in regard to any Campaign in which you are a campaign creator or leader, you (i) have approval from the Beneficiary to conduct activities on their behalf, and (ii) that any information that you provide regarding or related to how the funds raised will be used – including the types of products that may be purchased - shall be accurate and truthful.

## Indemnification

You agree to defend, indemnify, and hold harmless Fundracer Games, its affiliates, its contractors, and all of their respective directors, officers, employees, representatives, proprietors, partners, shareholders, servants, principals, agents, predecessors, successors, assigns, accountants, and attorneys from and against any and all suits, actions, claims, proceedings, damages, settlements, judgments, injuries, liabilities, obligations, losses, risks, costs, and expenses (including, without limitation, attorneys' fees and litigation expenses) relating to or arising from: a) your use of the Platform or the launching and running of any Campaign; b) any act or omission by you; c) any breach by you of this Agreement, including any breach by you of any covenant, representation or warranty made by you; or d) your use of any gift, award, benefit or item received from Fundracer Games for an illegal or unauthorized purpose. This indemnification obligation shall survive any termination of this Agreement.

## Term and Termination

This Agreement shall be effective as of the moment you access the Website or Campaign, and shall continue until either Party terminates the Agreement (the "Term"). This Agreement may be terminated by Fundracer Games immediately for any reason by (i) giving Participant written notice (email shall suffice) of such termination, or by Fundracer Games terminating Participant's access to Participant's account. This Agreement may be terminated by Participant for any reason by i) emailing Fundracer Games at



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support@Fundracer Games.com, or by cancelling your account and ceasing all activities related to your use of the Platform and any Campaign(s).

In addition, Fundracer Games reserves all of its legal rights to pursue any and all legal remedies if we believe your use of the Website or involvement with a Campaign is fraudulent or otherwise unlawful, or you are taking any actions or omissions that violate any term or condition of this Agreement or in order to protect our name and goodwill, our business, our intellectual property and/or other users. In addition to the miscellaneous section below, the provisions concerning Fundracer Games's proprietary rights, indemnity, disclaimers of warranty, limitation of liability, and governing law will survive the termination of this Agreement for any reason.

## Disclaimers

### Participant Disclaimers

WHILE Fundracer Games ENDEAVORS TO PROVIDE A RELIABLE AND FUNCTIONAL PLATFORM AND RELATED SERVICES, THE PLATFORM, SERVICES AND ANY INFORMATION OR ASSISTANCE THAT MAY BE PROVIDED BY A Fundracer Games REPRESENTATIVE ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS AND MAY INCLUDE ERRORS, OMISSIONS, OR OTHER INACCURACIES. YOU ASSUME THE SOLE RISK OF MAKING USE AND/OR RELYING ON THE PLATFORM, SERVICES, INFORMATION AND ASSISTANCE. Fundracer Games EXPRESSLY disclaims all warranties and conditions with respect to the PLATFORM AND ALL ELEMENTS THEREOF, whether implied, express, or statutory, including the implied warranties of merchantability, fitness for a particular purpose, title, non-infringement of third-party rights, SATISFACTORY QUALITY, quiet enjoyment and accuracy, OR ANY OTHER IMPLIED WARRANTY, INCLUDING ANY WARRANTY PURSUANT TO THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT AS ENACTED BY ANY STATE. Fundracer Games DOES NOT GUARANTEE OR PROMISE ANY SPECIFIC FUNCTIONALITY OR



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**FEATURES IN REGARD TO THE PLATFORM. Fundracer Games ALSO MAKES NO REPRESENTATION, WARRANTY OR GUARANTEE OF ANY KIND THAT YOUR USE OF THE PLATFORM OR LAUNCH OF A CAMPAIGN WILL HELP YOU OR ANY OTHER PARTICIPANT RAISE MONEY, THAT THE PLATFORM OR ANY CAMPAIGN WILL OPERATE ERROR FREE OR IN AN UNINTERRUPTED FASHION OR THAT ANY FILES OR INFORMATION THAT YOU DOWNLOAD FROM THE PLATFORM WILL BE FREE OF VIRUSES OR CONTAMINATION OR DESTRUCTIVE FEATURES. YOU ASSUME ALL RISKS OF USING THE PLATFORM.**

### **Fundracer Games Disclaimers**

**All content related to any Campaign including any descriptions or information regarding an organization is being provided by the end users of our Platform, and we neither edit nor verify any of such content. The inclusion of any such organization in a Campaign or on the Website should not be viewed as an endorsement or recommendation of any kind, and we do not make any warranty or guarantee as to the truthfulness of any statements concerning the organization, or the worthiness, good standing, or financial health of any such organization. We also make no promises as to how any donations may be used by the organization. We do not monitor or control any of the organizations activities, and we shall not be responsible, in any manner for form, for the use or non-use of any funds or donations given to any such organizations. All content and other information is provided on an 'as is' or 'as available' basis, and Fundracer Games expressly disclaims all warranties and conditions with respect to the Website, any campaign, any content and all elements thereof, whether implied, express, or statutory, including the implied warranties of merchantability, fitness for a particular purpose, title, non-infringement of third-party rights, satisfactory quality, quiet enjoyment and accuracy, or any other implied warranty under the Uniform Computer Information Transactions Act as enacted by any state, or any similar law. Fundracer Games also**





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makes no representation or warranty that the Website or any campaigns will operate error free or in an uninterrupted fashion or that any files or information that you download from the Website will be free of viruses or contamination or destructive features.

## Limitation Of Liability

UNDER NO CIRCUMSTANCES SHALL Fundracer Games (AND ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, AGENTS, DEVELOPERS, NETWORKS, AND DISTRIBUTORS) BE LIABLE FOR (i) ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, DATA, BUSINESS OR PROFITS (INCLUDING LOSS OF DONATIONS) THAT RESULT FROM THE USE OF, OR THE INABILITY TO USE, THE PLATFORM OR ANY OF THE SERVICES, (ii) ANY ACTION TAKEN IN CONNECTION WITH AN INVESTIGATION BY Fundracer Games OR LAW ENFORCEMENT AUTHORITIES REGARDING YOUR OR ANY OTHER PARTY'S USE OF THE PLATFORM, (iii) ANY ACTION TAKEN IN CONNECTION WITH, OR RELATED TO, COPYRIGHT OR OTHER INTELLECTUAL PROPERTY OR ITS OWNERS, (iv) ANY ERRORS OR OMISSIONS IN THE PLATFORM'S OPERATION, (v) ANY DAMAGE TO YOUR MOBILE DEVICE OR OTHER EQUIPMENT OR TECHNOLOGY (INCLUDING, WITHOUT LIMITATION, DAMAGE FROM ANY SECURITY BREACH OR FROM ANY VIRUS, BUGS, TAMPERING, FRAUD, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER LINE OR NETWORK FAILURE) OR (vi) ANY OTHER TECHNICAL OR OTHER MALFUNCTION, INCLUDING, WITHOUT LIMITATION, LOSS OF GOODWILL, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT OR ANY OTHER ACTION. IN NO EVENT WILL Fundracer Games BE LIABLE TO YOU OR ANYONE ELSE FOR DEATH OR PERSONAL INJURY, EVEN IF THE POSSIBILITY OF SUCH DAMAGES HAS BEEN ADVISED, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED ITS



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ESSENTIAL PURPOSE. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. BY ACCESSING AND USING THE PLATFORM, YOU EXPRESSLY AGREE TO THE ALLOCATION OF RISK SET FORTH HEREIN; IF YOU DO NOT AGREE TO THIS ALLOCATION OF RISK, YOU MUST NOT ACCESS OR USE THE PLATFORM. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE YOUR RIGHTS WITH RESPECT TO CALIFORNIA CIVIL CODE SECTION 1542, WHICH SAYS "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

## No Campaigns Outside of the United States; Hosting in the United States

Please note that the Fundracer Games Platform does not support – and does not allow – any Campaigns for Beneficiaries domiciled outside of the United States. If you are raising funds for a U.S. Campaign from outside of the U.S., please be aware that your use of the Platform requires that you comply with all applicable federal and state U.S. laws. You further agree to comply with all applicable laws regarding the transmission of data exported from the United States or the country in which you reside.

The Fundracer Games Website and all Campaign pages are hosted in the United States. If you are a non-U.S. user of the our Website or Campaign pages, by visiting or using an element thereof you agree to comply with all applicable federal and state U.S. laws. You further agree to comply with all applicable laws regarding the transmission of data exported from the United States or the country in which you reside. Without limiting the generality of the foregoing, if you are a user, you agree to obtain and comply with all conditions of any registrations, permits, licenses, consents or permissions that you are required to hold in order to utilize the Website and any related



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Campaigns, and you shall immediately notify us if any such registration, permit, license, consent or permission is terminated or revoked.

We make no representations that the Website, any Campaigns, and any and all information contained therein, including the Content, are appropriate, available or legal in any particular location. The Website and any Campaign is not intended for access or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject Fundracer Games to any registration requirement within such jurisdiction or country. You hereby acknowledge and agree that you are choosing to access the Website and any Campaign on your own initiative and that you are responsible for compliance with all applicable international, federal, state, local and any other applicable laws, statutes, ordinances and regulations regarding your use of the thereof.

## Modification

You hereby acknowledge and agree that this Agreement is subject to periodic revisions at the sole discretion of Fundracer Games. If any modification is unacceptable to you, your only recourse is to immediately cease using or accessing the Platform, and you can also provide notice of your termination of this Agreement by emailing us at [support@Fundracer Games.com](mailto:support@Fundracer Games.com). Your continued access or use of the Platform following our change will constitute binding acceptance of the change.

## Equitable Relief

Participant recognizes and acknowledges that a breach of his or her obligations pursuant to this Agreement may cause irreparable and material loss and damage to Fundracer Games and/or its affiliates, the amount of which cannot be determined readily and as to which Fundracer Games and/or its affiliates will not have an adequate remedy at law or in damages. Accordingly, in addition to any remedy



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Fundracer Games and/or its affiliates may have in damages by an action at law, Fundracer Games and/or its affiliates shall be entitled to the issuance of an injunction restraining any such breach or threatened breach or any other remedy at law or in equity for any such breach.

## Confidentiality

During the Term of this Agreement and for three (3) years after termination, Participant agrees not to disclose any Confidential Information (as hereinafter defined) obtained from Fundracer Games to any other person or entity. As used herein, “Confidential Information” means information that is identified (orally or in writing) as confidential or is of such a nature that a reasonable person would understand such information to be confidential. Confidential Information shall not include information (i) generally known to the public, (ii) already known, through legal means, to the party receiving the information, or (iii) legally obtained from a third party who obtained it without violation of a duty of confidentiality to Fundracer Games- Raise.

## General/Miscellaneous Provisions

### Successors and Assigns

The rights and obligations of a Party under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of that Party. Participant may not assign its rights, subcontract or otherwise delegate its obligations under this Agreement without Fundracer Games’s prior written consent.

### Force Majeure.

Fundracer Games shall not be liable for any failure or delay in performance due in whole or in part to any cause beyond the reasonable control of Fundracer Games including a delay in services from its contractors, agents or suppliers, including but not limited to



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utility or transmission failures, power failure, strikes or other labor disturbances, acts of God, acts of war or terror, floods, sabotage, fire, natural or other disasters.

**Survival.** All provisions that by their nature are intended to survive, including but not limited to disclaimers of warranties, confidentiality obligations and limitations of liability provisions, shall survive the termination of this Agreement. All other provisions shall be of no further force or effect upon termination, provided that all such provisions shall survive to the limited extent necessary for your Campaign to be completed (including any and all transactions with any lead(s) provided pursuant to this Agreement), whether during the Term of this Agreement or any time subsequent to such Term.

#### **Notices.**

Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by telecopy or facsimile transmission, upon acknowledgment of receipt of electronic transmission; (d) by certified or registered mail, return receipt requested, upon verification of receipt, or (e) only in the case of a Campaign, via email to the email address provided for Fundracer Games. Any email notice sent to Fundracer Games shall be sent to: [support@Fundracer Games.com](mailto:support@Fundracer Games.com)

#### **Relationship of the Parties.**

Nothing in this Agreement will create any franchise, joint venture, sales representative, or employment relationship between the Parties. Participant shall not have any authority to act for or to bind Fundracer Games or any of its affiliates in any way.

#### **Governing Law.**

This Agreement shall be governed in all respects by the laws of the



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United States of America and by the laws of the State of California. Each of the Parties irrevocably consents to the exclusive personal jurisdiction of the federal and state courts located in San Diego, California, as applicable, for any matter arising out of or relating to this Agreement, except that in actions seeking to enforce any order or any judgment of such federal or state courts located in Seattle, Washington, such personal jurisdiction shall be nonexclusive.

#### Mediation; Arbitration.

In the event of a dispute, the Parties shall first attempt to resolve the dispute between themselves in good faith and then, if unsuccessful, by commercial mediation. At the request of either Party, the other Party shall make itself available for mediation within thirty (30) days of the request, using the mediation rules of the Judicial Arbitration and Mediation Service (“JAMS”). If the dispute cannot be resolved in this manner, the dispute shall be resolved by arbitration using the relevant arbitration rules of JAMS, and judgment upon the award rendered by the arbitration tribunal may be entered into any court having proper jurisdiction. Nothing contained herein shall prevent either Party from exercising its right to injunctive relief in any court of law having proper jurisdiction.

#### Severability.

If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable, (i) that provision shall be deemed amended to achieve as nearly as possible the same economic effect as the original provision and, for avoidance of doubt, if such holding of invalidity or unenforceability is based on a measure of liability, such provision shall be replaced by a legally valid measure of liability, and (ii) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or



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impaired thereby.

#### Waiver; Modification.

No term or provision hereof will be considered waived by a Party, and no breach excused by a Party, unless such waiver or consent is in writing signed by the Party to be charged therewith. This Agreement may be amended or modified by Fundracer Games at any time.

#### No Class Actions.

YOU AND Fundracer Games AGREE THAT ANY PROCEEDINGS TO RESOLVE OR LITIGATE ANY DISPUTE WILL BE CONDUCTED SOLELY ON AN INDIVIDUAL BASIS, AND THAT NEITHER YOU NOR Fundracer Games WILL SEEK TO HAVE ANY DISPUTE HEARD AS A CLASS ACTION, A REPRESENTATIVE ACTION, A COLLECTIVE ACTION, A PRIVATE ATTORNEY-GENERAL ACTION, OR IN ANY PROCEEDING IN WHICH YOU OR Fundracer Games ACTS OR PROPOSES TO ACT IN A REPRESENTATIVE CAPACITY. YOU AND Fundracer Games FURTHER AGREE THAT NO PROCEEDING WILL BE JOINED, CONSOLIDATED, OR COMBINED WITH ANOTHER PROCEEDING WITHOUT THE PRIOR WRITTEN CONSENT OF YOU, Fundracer Games, AND ALL PARTIES TO ANY SUCH PROCEEDING.



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## Contact Us

**Fundracer Games welcomes your questions or comments regarding the Terms and Conditions:** If there are any questions regarding this privacy policy you may contact us using the information below.

[www.fundracer-games.com](http://www.fundracer-games.com)

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