

STEP 3

Online Donations Agreement

Efundraising

Through the **Australian Giving Centre**
www.ourcommunity.com.au



Proudly Supported by



Our Community Pty Ltd
ABN 24 094 608 705

and

**The Donee whose name, ABN,
address and contact details are listed in Schedule 1**

This online donations agreement

is made on

between the following parties:

- 1. Our Community Pty Ltd**
ABN 24 094 608 705
of 51 Stanley Street
West Melbourne, Victoria, 3003
(Our Community)
- 2. The Donee whose name, ABN, address and contact details are listed in Schedule 1**
(Donee)

It is agreed:

1 Pre-conditions to agency

- (a) The Donee must provide copies of the following to Our Community:
- (1) a certificate of registration or incorporation as a company or an incorporated association or alternate documentation showing non-profit status, as applicable;
 - (2) if organisation has Deductible Gift Recipient (DGR) status a copy of the letter from the Australian Taxation Office advising of the endorsement of the Donee as a DGR, if applicable;
 - (3) any Authority held by the Donee, under any of the various State and/or Territory Fundraising Statutes, and, if none is held, the reason why the Donee is not required to hold an Authority to Fundraise; and
 - (4) Step 2 of the Our Community Documentation completed detailing the reason or purpose of the fundraising and the intended use of the funds raised.
- (b) Our Community may request further information or an interview or site visit prior to accepting the appointment as an agent under this agreement.
- (c) Our Community may request amendments, additions, deletions or redrafting of the Donee Information to ensure greater transparency or clarification.

2 Appointment as an agent

Our Community may accept or reject the appointment as the Donee's agent by notice to the Donee.

3 Our Community's obligations as agent

3.1 Management accounts

Our Community must keep a separate management account for each donee showing:

- (a) all donations received on behalf of that donee;
- (b) the amount of Merchant Fees (credit card fees) deducted in accordance with clause 3.3(b) and (c);
- (c) all payments made from the relevant donee's management account; and

3.2 Bank Account

Our Community must maintain the Bank Account and pay all donations received through the Our Community Website (the "Website") for the Donee into the Bank Account.

3.3 Monthly Amount and Payment Amount

Our Community must, at the end of each month:

- (a) calculate the total donations received into the Monthly Amount;
- (b) deduct from the Monthly Amount, the Credit Card Fees incurred by Our Community on behalf of the Donee which relate to the number of transactions to or from the Donee's management account;
- (c) pay the outstanding Payment Amount for the month to the Donee.

3.4 Payment to Donee

Our Community must electronically transfer the Payment Amount to the Donee's specified donation account within five Business Days from the end of the month.

3.5 Information

Within five Business Days of the end of each month, Our Community must send to the Donee:

- (a) a copy of the management account records for the Donee;
- (b) the name and addresses of the Donors who have made donations to the Donee in the previous month.

3.6 Receipts

- (a) Our Community must provide receipts on behalf of the Donee (where authorised to do so by the Donee)) to the Donors whose addresses are complete.
- (b) Receipts must include:
 - (1) a statement that the receipt is issued by Our Community, as agent of the Donee;
 - (2) the name of the Donee and its ABN; and
 - (3) a statement that the receipt is for a gift.

3.7 Records

- (a) Our Community must keep full and proper books of accounts and records showing clearly all transactions relating to the agency established under this agreement.
- (b) The Donee or its representative may, at all reasonable times and on at least 10 Business Days notice examine and take copies of the books, records and documents of Our Community which relate to the Donee.

3.8 Charitable Fundraising Act, 1991 (NSW)

If the Donee holds an Authority under the Charitable Fundraising Act 1991 (NSW) the NSW Department of Gaming & Racing requires that they receive within 28 days of this agreement being signed, a letter from the Donee which includes the following:

- (a) as directed by section 12(1)(h) of the Act, advise the Department that Our Community has been engaged non-exclusively as a trader for the Donee;
- (b) seek to waive the requirements of condition 6(1) of the Act that the title of the account must include the name of the authority holder and so request that the Our Community Australian Giving Centre Account is used to receive donations on behalf of the authority holders; and
- (c) seek to waive the requirements of condition 9(2) of the Act that the register of receipt books is required and so request that based on section 3.6 of this Agreement that Our Community issues computerised receipts where requested by the Donee.

3.9 Donor Details

Our Community acknowledges the information it obtains from the Donors in connection with any donation to the Donee is the property of the Donee. Our Community will not use this information other than as set out in this agreement or as required by law or as consented to by the Donee.

4 Obligations of the Donee

The Donee must:

- (a) comply with all conditions of its Authority and all applicable Fundraising Statutes;
- (b) advise Our Community, as soon as practicable, of any changes to its Authority or to its tax status;
- (c) not amend or propose any amendment to its aims, mission, objectives, constituent documents, reason or purpose for the fundraising or the intended use of the funds without the prior written consent of Our Community; and

5 Indemnity

The Donee indemnifies Our Community from any Loss arising directly or indirectly from or in relation to:

- (a) the Donee information;
- (b) any breach an Authority or of a condition in any Authority;
- (c) any breach of any Fundraising Statute or other Act or Regulation by the Donee;
- (d) any breach of any Representation;
- (e) any breach by the Donee of this agreement;
- (f) any information given or representation made to Our Community prior to entering this agreement or during or after its term;
- (g) any information given or representation made to any Donor by the Donee or by Our Community where it is based on information given or a representation made by the Donee; or
- (h) any dispute, claim or action alleging infringement of any Intellectual Property Rights of any person on grounds in any way related to the Donee Information, except to the extent

that the Loss is directly attributable to the negligence or wrongful act or omission of Our Community.

6 Licence from the Donee

The Donee grants Our Community a licence to use, reproduce, adapt and communicate to the public the Donee Information including using it by posting it on the Website or in publicity, marketing or internal documents for Our Community. The use of this Information is subject to the sign off procedure determined between Our Community and the Donee.

7 Donee's Representations

The Donee represents and warrants to Our Community that:

- (a) the Donee Information is true and correct and not misleading;
 - (b) the publication of the Donee Information is lawful;
 - (c) the execution and performance of this agreement complies with:
 - (1) all applicable Fundraising Statutes;
 - (2) any Authority; and
 - (3) the constituent documents of the Donee;
 - (d) the Donee has taken all necessary actions to authorise the execution and performance of this agreement in accordance with its terms;
 - (e) all information which is material to an agent for collecting donations on behalf of the Donee has been fully disclosed to Our Community;
 - (f) the Donee has the rights necessary to grant the licence in clause 6;
 - (g) the use by Our Community of the Donee's Information will not infringe any Intellectual Property Rights of any other person; and
 - (h) the Donee has all necessary licenses, consents, permissions, authorities and permits required to conduct its activities (including the collection of online donations) and has complied with all conditions.
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8 Termination

8.1 Termination Date

The Termination Date is the earlier of:

- (a) the date in Schedule 1;
- (b) the date either Our Community or the Donee terminates the agreement.

8.2 Termination by Our Community or the Donee

- (a) Either Our Community or the Donee can terminate the agreement at any time.
- (b) Our Community must remove the Donee Information from the Website and refuse to accept donations on behalf of the Donee, as soon as practicable, after termination.
- (c) Within 5 Business Days of the end of the month after Termination, Our Community must send
 - (1) the balance in the Donee's management account to the Donee less the Merchant Fees referred to in clause 3.3(b);

9 Definitions

In this agreement:

Authority means all necessary licences, consents, permissions, authorities, registrations and permits the Donee is required to have in order to request donations from the public and appoint Our Community as its agent for collection of donations under the terms in this agreement;

Bank Account means the bank account maintained by Our Community, as agent for the Donee and for other Donees, for the receipt and holding of all money received by online donations to any of the donees listed on the Website, including the Donee;

Donor means an individual who makes a donation through the Website;

Donee Information means the information posted on the Website relating to the Donee and its request for fundraising and includes the States and Territories in which the Donee can collect or solicit donations in compliance with any applicable Fundraising Statutes;

Fundraising Statutes means the statutes referred to in Schedule 1;

DGR means an entity endorsed as a deductible gift recipient under Subdivision 30-BA of the *Income Tax Assessment Act 1997*;

Intellectual Property Rights means copyright and neighbouring rights, all rights conferred by statute, common law or equity in or in relation to inventions (including patents), registered or unregistered trade marks, registered and unregistered designs, circuit layouts and confidential information and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;

Loss means any damage, loss, liability, cost, charge, expense, outgoing or payment (whether direct, indirect, consequential or incidental);

Merchant Fees means all fees, charges and Taxes relating to credit card fees charged by merchants;

Monthly Amount means the balance at the end of the month in the management account kept under clause 3.1 prior to any amount being deducted or added for Merchant Fees;

Payment Amount means the amount calculated in accordance with clause 3.3;

Personal Information means information (whether fact, opinion or evaluative material) about an individual that is recorded in any form;

Tax means any tax, levy, charge, impost, duty, fee, deduction which is assessed, levied, imposed or collected by any government agency and includes, but is not limited to, any interest, fine, penalty, charge, or fee;

10 General

10.1 Severability

If a provision of this agreement is invalid, illegal or unenforceable it must, to the extent that it is invalid, illegal or unenforceable, be treated as severed from this agreement, without affecting the validity and enforceability of the remaining provisions.

10.2 Governing law

- (a) This agreement is governed by the laws of Victoria.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria.

10.3 Whole agreement

This agreement is the whole agreement between the parties concerning the subject matter. It replaces any prior agreement, arrangement or understanding concerning the subject matter.

Schedule 1

Name of Donee: _____

ABN: _____

Address: _____

Name of the appeal covered by this agreement: _____

Fundraising Statutes:

Charitable Fundraising Act (NSW) 1991

Fundraising Appeals Act (Vic) 1998

Collections Act (Qld) 1966

Collections for Charitable Purposes Act (SA) 1939

Charitable Collections Act (WA) 1946

Termination Date:

Ongoing until further notice unless a date is specified here:

Executed as an agreement:

Signed for Our Community Pty Ltd by its authorised representative:

Signature

Name

Position

Signed for Donee by its authorised representative:

Signature

Name

Position