

TapKat Solutions LLC Terms of Service

Last Updated: 4/15/2016

TapKat Solutions LLC (referred to throughout as "TapKat," or "us," "we," "our," etc.) is the owner and operator of the tapkat.org website, an online fundraising platform for nonprofit organizations. These Terms of Service apply to the www.tapkat.org website, any sub-domains thereof, any API integrations or widgets we offer, any email, messaging, applications, or any of the services or features accessible therein, and any other website or web pages we own or operate that include a link to this statement (together collectively referred to as the "**Website**"). Any party that accesses, uses, or registers with the Website (such party referred to throughout as "**you**," "**your**," etc.) agrees to be contractually bound by these Terms of Service (the "**Terms**" or "**Terms of Service**").

THESE TERMS OF SERVICE SET FORTH THE LEGALLY BINDING TERMS FOR YOUR USE OF THE WEBSITE. BY ACCESSING OR USING THE WEBSITE, YOU ARE ACCEPTING THIS AGREEMENT (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT) AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THIS AGREEMENT (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT). IF YOU DO NOT AGREE WITH ALL OF THE PROVISIONS OF THIS AGREEMENT, DO NOT ACCESS AND/OR USE THE WEBSITE.

UPDATES TO THE TERMS

1.0 Updates. We may update or change the Terms from time to time. Amendments will only apply prospectively. A given amendment will not apply to claims arising before, or arising from facts occurring before, the point in time when that amendment was published to the website. We will let you know that the Terms have been updated or changed by publishing the date of the last amendment at the top of this page. You agree that this method of notice is sufficient and that you will regularly check this Terms of Service to see if updates or changes have been made. Your continued use of the site after such amendments will constitute your acknowledgment of the modified Policy and agreement to abide and be bound by the modified Terms of Service.

BASIC TERMS

2.0 Usage and Content. You are responsible for your use of the Website, for any information, text, graphics, photos, or other materials uploaded, downloaded or appearing on the Website (the "**Content**") you post to the Website, and for any consequences thereof. Most of the Content you submit, post, or display through the Website are publicly available by default and will be viewed by other users and through third party services and websites. You should only provide Content that you are comfortable sharing with others under these Terms. You are responsible for the safety and security of your user name and password. You should logout after each session you have with the website and you shouldn't share this information.

2.1 Ability to Contract. You must be at least 18 years old to have our permission to use this site. You may use the Website only if you can form a binding contract with us and are not a person barred from receiving services under the laws of the United States or other applicable jurisdiction. If you accept these Terms and use the Website on behalf of a company, organization, government, or other legal entity, you represent and warrant that you are authorized to do so. You may use the Website only in compliance with these Terms and all applicable local, state, national, and international laws, rules and regulations.

2.2 Modifications to the Website. The Website that we provide is always evolving and the form and nature of the Website that we provide may change from time to time without prior notice to you. In addition, TapKat may stop (permanently or temporarily) providing the Website (or any features within the Website) to you or to users generally and may not be able to provide you with prior notice. We also retain the right to create limits on use and storage at our sole discretion at any time without prior notice to you.

2.3 Advertisements. The Website may include advertisements, which may be targeted to the Content or information on the Website, queries made through the Website, or any other information. The types and extent of advertising by TapKat on the Website is subject to change. TapKat may also place a TapKat logo, mark or bug on the fundraising event website you create using our Website.

INTELLECTUAL PROPERTY

3.0 IP Protection. The Website, their forward facing components (images, designs, text, arrangements of the foregoing, etc.), their various features and services, and all underlying software and code belong exclusively to us. You understand and agree that your use of the Website in no way gives you a right, title, or interest in the Website or our intellectual property. The Website and the various component parts are protected by copyright law, trademark law, trade secret law and other laws germane to the protection of intellectual property rights.

3.1 Prohibited Activities. You agree to use the Website and the features and services provided by TapKat only as they are obviously intended to be used. All other uses are strictly prohibited. You agree not to (and not to encourage a third party to) disassemble, reverse engineer, or otherwise attempt to discover, copy, or transmit, any source code underlying the Website or the software, features, or services provided therein.

3.2 Your Content. By posting, uploading, or transmitting content or information to, or through, the Website you grant us a non-exclusive, transferable irrevocable, worldwide, sub-licensable (through multiple-tiers), royalty-free license to copy, store, transmit, publish, publicly display, publicly perform, reproduce, process, adapt, modify, create derivative works of and distribute such Content in any and all media and otherwise use or distribute any intellectual property content or information that you post, upload or transmit on or in connection with your use of TapKat Website. You warrant that you have the authority to grant such license, when you publish content or information on our Website.

3.3 Modifications to the Content. Such additional uses by TapKat, or other companies, organizations or individuals who partner with TapKat, may be made with no compensation paid to you with respect to the Content that you submit, post, transmit or otherwise make available through the Website. We may modify or adapt your Content in order to transmit, display or distribute it over computer networks and in various media and/or make changes to your Content as are necessary to conform and adapt that Content to any requirements or limitations of any networks, devices, services or media.

GENERAL USER WARRANTIES

4.0 User Warranties. By accessing, using, or registering with the Website 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 Website will not violate any applicable law, regulation or ordinance.
- Your decision to enter into this agreement and your use of the Website 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 Website.
- You will never use the Website in a manner that violates the law or the legal rights of a third party.
- You are at least 18 years of age if you are using the Website. Children under 18 years of age are prohibited from using this website.

INTERNATIONAL USE

5.0 International Use. The Website is not intended for use by nonprofit organizations organized under the laws of countries other than those of the United States of America. You represent, warrant and irrevocably covenant that you will refrain from making financial transactions through the Website if you (i) are located in a country embargoed by the United States or (ii) are on the U.S. Treasury Department's list of Specially Designated Nationals. If you choose to use the Website, you are solely responsible for compliance with all applicable local laws and you consent to having your data transferred, processed and stored in the United States.

FEES

6.0 Fees. Nonprofits pay us a subscription fee and a transaction fee to use the Website. Fees are laid out on the pricing page.

ADDITIONAL POLICIES

7.0 Privacy Policy. You accept our Privacy Policy.

7.1 Copyright Policy. You agree to abide by our Copyright Policy.

7.2 Standards of Conduct. You agree to abide by our Standards of Conduct, which are material terms of your use of the Website.

7.3 Sweepstakes Rules. You agree to abide by our Drawing Rules, and you will ensure that every entrant, regardless of entry method, is informed of, and in compliance with the Drawing Rules.

7.4 TapKat Entrant Privacy Policy. You accept our TapKat Entrant Privacy Policy, and you will ensure that every entrant, regardless of entry method, is informed of our TapKat Entrant Privacy Policy.

AVAILABILITY

8.0 Availability of Website. As the provider of the Website, we reserve the right to discontinue (i) the Website, in whole or in part, (ii) any features or services provided by or through the Website, or (iii) your account with the Website, for any or no reason, without notice to you.

LIABILITY

9.0 WAIVER OF WARRANTIES. THE SITE AND SERVICES ARE PROVIDED "AS-IS" AND "AS AVAILABLE" AND WE (AND OUR SUPPLIERS) EXPRESSLY DISCLAIM ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE (AND OUR SUPPLIERS) MAKE NO WARRANTY THAT THE SITE OR SERVICES: (A) WILL MEET YOUR REQUIREMENTS; (B) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; OR (C) WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE."

9.1 Taxes. You understand that you are responsible to set the tax language for any transaction we process through the Website. We make no representations about the nature of any transaction you make through the Website. Always consult with and a qualified financial advisor regarding your taxes, and always advise your client to consult with a qualified financial advisor prior to claiming a deduction on any taxes.

9.2 Release. You hereby release and forever discharge us, our successors and assignees, our affiliates and each of the foregoing's respective directors, officers, employees and agents (collectively, the "**Releasees**") from and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly out of, or relates directly or indirectly to, any interactions with, or act or omission of, other Website users or third party sites, including any third party site content, and any and all liability, costs, expenses, losses, damages (including damage to property or personal injury or death) and claims, whether known or unknown, which may arise from (i) you conducting, participating in, attending, or authorizing an event created on the Website or (ii) from the acts or omissions of third parties you interact with through the Website (collectively the "**Released Claims**").

In furtherance of the foregoing, and only with respect to the Released Claims, you waive your rights under California Civil Code Section 1542 which states: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

9.3 LIMITATION OF LIABILITY. LIMITATION ON LIABILITY IN NO EVENT SHALL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFIT OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT OR YOUR USE OF, OR INABILITY TO USE, THE SITE OR SERVICES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE SITE AND SERVICES ARE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA RESULTING THEREFROM. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO FIFTY US DOLLARS (\$50). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. SOME JURISDICTIONS DO NOT ALLOW

THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OF CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

9.4 Indemnification. You agree to hold the Releasees harmless and to defend and indemnify each of them for all costs, expenses (including reasonable attorney's fees), damages and liability from third party claims, which arise from, or relate to, your use of the Website or your breach of these Terms.

GENERAL

10.0 Governing Law. These Terms will be governed by and construed in accordance with the laws of the State of Colorado, as such laws are applied to agreements made between Colorado residents and performed entirely within the State of Colorado and without regard to conflicts of laws principles.

10.1 Forum. The exclusive jurisdiction and venue for any disputes which may arise out of, or relate to, these Terms or your use of the Website will be the state and federal courts located in Boulder County, Colorado. You hereby expressly and irrevocably consent to the personal jurisdiction and venue of such courts.

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

10.3 No Assignment. You have neither the right nor the power to assign your rights under these Terms. Any purported assignment of your rights under these Terms will be NULL AND VOID.

10.4 Entire Agreement. These Terms contain the entire agreement between you and us, and they are a complete integration of our agreement and supersede and displace any earlier or contemporaneous written or oral negotiations, statements or agreements purporting to deal with the subject matter hereof.

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

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

10.7 Survival. The provisions of the sections of these Terms titled "Intellectual Property," "Liability" and "General" will survive termination.

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

10.9 Attorney's Fees. If a dispute arises out of these Terms or your use of the Website then the prevailing party in any litigation will be entitled to recover all costs and expenses (including reasonable attorney's fees) incurred as a result of that litigation.