

# Terms of Use

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*Effective Date: September 20, 2014*

This website is owned and operated by operated by Bivio Software, Inc. d/b/a Public Prize, Inc. ("Public Prize," "we" or "us"). These Terms of Use govern your use of this site and any services available through the site (collectively, the "**Site**") of Public Prize. By using the Site, you agree to be bound by these Terms of Use, our [Privacy Policy](#), all applicable laws and all conditions or policies referenced here (collectively, the "**Terms**"). If you do not agree to these Terms of Use, you should immediately cease all usage of our Site.

Public Prize may amend these Terms at any time by posting a revised version of our Terms on our website with their effective date. Your access to or continued use of the Site after the effective date of the revised Terms constitutes your acceptance of the revised Terms.

## Definitions

"**Contestant**" means any User who formally enters a contest to raise funds or receive prizes for their company or idea using the Site.

"**Entry**" means a Contestant's entry into the fundraising contest using the Site.

"**Contributor**" means any User or individual who contribute funds to an Entry or Contestant using the Site.

"**Contribution**" means any funds contributed by Contributors using the Site.

"**Users**" — collectively refers to Contributors, Contestants and anyone using the Site.

## Description of Site

The Public Prize Site features an online crowdfunding and contest platform designed to assist Contestants who are seeking to raise funds or win prizes for their Entries, and for Contributors to contribute to the Entries of others. However, Public Prize is only a platform and may not verify or moderate all Entries, Contestants or content available through the Site. Accordingly, Public Prize makes no representations about the quality, results, safety, morality or legality of any Entry, Contribution, or the truth or accuracy of any User Content (as defined below) posted on the Site. Public Prize does not represent that Contributions will be used as described in the Entry. You use the Site at your own risk. All contest Entries, Contestants, and Contributions (and the impact of any Contributions) are subject to the official rules of the applicable contest for which the Entries are submitted, in which the Contestant has been granted permission to

participate, or for which the Contribution is deemed to count as a vote for an Entrant. By participating in any contest on our Site in any manner, you agree to the official rules of that contest.

## **Registration and Eligibility**

To access and use some of the services offered by Public Prize on our Site, you may be required to register and create a user name and password. You represent, warrant and covenant that if you register on our Site, you will provide Public Prize with accurate, truthful, and complete registration information and you will keep your registration information accurate and up-to-date. Failure to do so shall constitute a breach of these Terms of Use. You are responsible for maintaining the confidentiality of your login details and you are fully responsible for all activities that occur under your account. You agree to notify us immediately of any known or suspected unauthorized use of your account or any other suspected breach of security. We cannot and will not be liable for any loss or damage arising from your failure to protect the confidentiality of your login data. You also agree to provide additional information we may reasonably request and to answer truthfully and completely any questions we might ask you in order to verify your identity.

You must be of legal age to enter a binding legal contract to use our Site. You may not use the Site if you are under the age of 18, have previously been suspended from using the Site for any reason (and we have not explicitly authorized you to resume using the Site,) or are otherwise prohibited by law from using our Site. We reserve the right to refuse use of the Site to anyone and to reject, cancel, interrupt, remove or suspend an Entry or the Site at any time for any reason without liability. Furthermore, we reserve the right to remove Entries and terminate User accounts for any violation of these Terms.

## **Contestants and Entries**

Contestants' Entries must be made on their own behalf or as an authorized agent of the company entered into the contest. Contestants are not permitted to create an Entry to raise funds for illegal activities (or for any activities other than those expressly described in the Entry), to cause harm to people or property, or to defraud or harass others. You must comply with all applicable laws and regulations, including all any and all applicable securities and tax laws and regulations, in connection with your Entry, including your use of the Contributions and Prizes.

Contestants must respond promptly and truthfully to all questions posed to the Contestant by Public Prize or any Contributor. Contestants must comply with all applicable laws and regulations in your use of Contributions and Prizes, and are responsible for collecting and remitting any taxes on Contributions and Prizes. Public Prize may attempt to verify each Contestant's identity and other information provided

by Contestants, and we may delay, withhold, reverse or refund any Contributions, Prizes, or other amounts without notice or liability in the event we are unable to verify any information to our satisfaction.

## **Contributors**

As a Contributor, you are solely responsible for asking questions and investigating Contestants and Entries to the extent you feel is necessary before you make a Contribution. All Contributions are made voluntarily and at your sole discretion and risk. Public Prize cannot and does not guarantee that Contributions will be used as promised. Public Prize does not endorse, guarantee, make representations, or provide warranties for or about the quality, safety, morality or legality of any Entry or Contribution, or the truth or accuracy of content posted on the Site. You are solely responsible for determining how to treat your Contribution for tax purposes. *You understand that you will not receive anything of value as a result of making a Contribution in connection with any contest or otherwise, and that your Contribution may constitute a vote in a contest as may be described on our Site.*

## **Disputes between Contestants and Contributors**

Public Prize is a platform for connecting Contestants and Contributors. However, Public Prize is under no obligation to become involved in disputes between Contestants and Contributors, or Users and any third party. In the event of any dispute, including a Contestant's alleged failure to comply with these Terms, we may provide the Contestant's contact information to the Contributor so that the two parties may resolve their dispute.

## **Fees, Payments and Taxes**

Registration for all Users is free. We do not charge fees to Contributors, but we do charge fees to Contestants based on a percentage of the funds they have raised, as indicated at the time a Contestant enters the contest. By submitting an Entry you agree to accept our fee of ten percent (10%) of funds received. Changes to fees are effective upon notice of the changes on the Site. Updated fees are applied to Entries launched after the notice is posted. You are responsible for paying all taxes associated with your use of the Site. Contributions are usually made via PayPal. We are not responsible for the performance of PayPal or any third party credit card processing services. Contributions, along with our fees and charges, are not refundable.

Your taxing authorities may classify funds you raise on Public Prize as taxable income to you and any beneficiary who will receive funds directly from your Entry. We will ask you for your tax identification number (TIN) and the TIN of any beneficiary of your Entry so that we may report taxable income to the relevant taxing authorities. We will provide

you with a tax document if required by the relevant taxing authorities. We encourage you to consult with a licensed tax advisor from your local jurisdiction when planning your Entry so that you understand and prepare for the tax obligations you may incur from the funds you raise.

If you are a Contestant that accepts PayPal or a Contributor that uses PayPal, you agree to comply with the PayPal Acceptable Use Policy located here <https://www.paypal.com/webapps/mpp/ua/acceptableuse-full>.

## **User Content and User Conduct**

Any content uploaded, posted, submitted, or otherwise made available by individual users of our Site, including without limitation submissions by contributors, comments to articles, or other content which does not originate with Public Prize (“User Content”), is the sole responsibility of the person who made such User Content available on the Site. Under no circumstances will Public Prize be liable in any way for any User Content made available through our Site. Because we do not necessarily pre-screen or review the User Content posted on our Site, we cannot and do not warrant and/or guarantee the truthfulness, integrity, suitability, or quality of that User Content. You also agree and understand that by accessing our Site, you may encounter content that you may consider to be obscene, improper, or otherwise objectionable. We have no responsibility for any User Content, including without limitation any errors or omissions therein. Public Prize is not liable for any loss or damage of any kind you claim was incurred as a result of the use of any content posted, e-mailed, transmitted or otherwise made available on our Sites, whether by Public Prize, individual users of our Site, or our third party contractors or licensors.

You agree that you will not use our Site to transmit or make available any User Content that:

- violates any laws, contains any threats, is abusive, harassing, vulgar, obscene, indecent, violates any person's rights of privacy or publicity, is defamatory, libelous, hateful, contains any disparaging statements or opinions regarding racial, gender or ethnic background, or is otherwise tortious or objectionable;
- infringes any intellectual property rights or other rights of any party, including, but not limited to any patent, trademark, trade secret, copyright or other proprietary rights;
- contains any private information about an identifiable person without that person's permission, or any content soliciting any personal or private information from any individual;
- you know or have reason to know is false, misleading, or fraudulent;
- you do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information or proprietary and confidential

information learned or disclosed as part of employment relationships or under nondisclosure agreements);

- employs any techniques to disguise the origin of the content submitted;
- contains any unsolicited or unauthorized advertising, promotional materials, or material which can be characterized as "junk mail," "spam," "chain letters," "pyramid schemes," "Ponzi schemes" or similar material, or any information posted primarily for advertising, promotional, or other commercial purposes, including without limitation any request for or solicitation of money, goods, or services for private gain;
- incorporates within it any software viruses or any other computer code, files or programs whose purpose or function is to interrupt, destroy or otherwise impair the operability of any software or hardware or telecommunications equipment;
- contains links to any websites containing content violating any of the foregoing requirements, or links to any websites for purposes of disrupting the operations of such website, harassing the owners of such website, or other objectionable or illegal purposes.

You further agree not to use our Site to:

- engage in any conduct which might be harmful to any individual;
- impersonate or misrepresent your affiliation with any person or entity;
- engage in or facilitate any conduct that is deemed, or found by any court or similar agency, to constitute "stalking" or otherwise harassing conduct aimed at another person or entity;
- engage in or transmit any material that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national, or international law or regulation.

In addition, you are prohibited from interfering with or disrupting the Site, or servers or networks connected thereto. We reserve the right (but have no obligation) in our sole discretion to pre-screen, edit, refuse, move or remove any Content that is posted on our Site. You agree that our exercise of such discretion will not convert or transform User Content to content owned or provided by Public Prize, and the user who made such User Content available on our Site will retain ownership thereof as described below

## **Ownership of Feedback**

We welcome comments or suggestions regarding our Site. The following policy applies to all third party submissions to Public Prize of ideas, comments, suggestions, proposals or materials: (a) all submissions shall be considered non-confidential and non-proprietary; (b) we will have no obligation concerning the submission, contractual or otherwise (including, without limitation, confidentiality); (c) we will not be liable for any use or disclosure of any submission; and (d) Public Prize shall be entitled to unrestricted

use of the submission for any purpose whatsoever, commercial or otherwise, without compensation to the submitting person.

### **Third-Party Websites, Advertisers or Services**

Our Site may include links to other sites on the Internet that are owned and operated by third parties. You acknowledge that we are not responsible for the availability of, or the content located on or through, any third-party site. Your use of those third-party sites is subject to the terms of use and privacy policies of each site, and we encourage our users to review the terms of use and privacy policies of third-parties' sites.

### **Our License to You**

We grant you a limited, non-exclusive, non-transferable, revocable license to use the Site subject to your eligibility and your continued compliance with these Terms. You are prohibited from copying, distributing, republishing, displaying, posting, transmitting, decompiling, or reverse engineering any content or code from the Site without the express written permission of Public Prize.

### **Indemnity**

You agree to defend, indemnify and hold harmless Public Prize, its subsidiaries and affiliated companies, and their officers, directors, employees, contractors and agents from and against any and all claims, causes of action, damages, obligations, losses, liabilities, costs or debt, and expenses (including attorneys' fees and costs) and all amounts paid in settlement arising from or relating to your use of the Site, breach of these Terms or violation of any law. Public Prize may assume the exclusive defense and control of any matter for which you have agreed to indemnify Public Prize and you agree to assist and cooperate with Public Prize in the defense or settlement of any such matters.

### **No Warranty**

Public Prize has no fiduciary duty to you. THE SITE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR COURSE OF PERFORMANCE. USE OF THE SITE IS AT YOUR OWN RISK.

### **Waiver and Release**

If you are a resident in a jurisdiction that requires a specific statement regarding waiver and release then the following applies. For example, California residents must, as a

condition of this Agreement, waive the applicability of California Civil Code Section 1542 for unknown claims 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." You hereby waive this section of the California Civil Code and any similar provision in law, regulation or code that has the same effect or intent as the foregoing release.

### **Limitation of Liability**

IN NO EVENT SHALL PUBLIC PRIZE, ITS RELATED ENTITIES, OR THE DIRECTORS OR OFFICERS OF ANY OF THEM (COLLECTIVELY THE "PUBLIC PRIZE PARTIES") BE LIABLE FOR ANY DAMAGES WHATSOEVER, WHETHER DIRECT, INDIRECT, GENERAL, SPECIAL, COMPENSATORY, CONSEQUENTIAL, AND/OR INCIDENTAL, ARISING OUT OF OR RELATING TO THE SITE, THE INFORMATION COLLECTED OR TRANSMITTED THROUGH THE SITE, THE CONDUCT OF YOU, ANY CUSTOMER, OR ANY CONNECTION WITH THE SITE, INCLUDING, WITHOUT LIMITATION, BODILY INJURY, EMOTIONAL DISTRESS, AND ANY DAMAGES RESULTING IN ANY WAY FROM ANY CUSTOMER'S USE OF THE SITE, OR ANY LOSS, INJURY, LIABILITY OR DAMAGES ARISING OUT OF OR RELATING TO YOUR USE OF, INABILITY TO USE, OR RELIANCE ON THE SITE. ALL LIABILITY OF PUBLIC PRIZE PARTIES, HOWSOEVER ARISING FOR ANY LOSS SUFFERED AS A RESULT OF OR RELATED TO YOUR USE THE SITE IS EXPRESSLY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW, SAVE THAT, IF A COURT OF COMPETENT JURISDICTION DETERMINES THAT LIABILITY OF PUBLIC PRIZE (AS APPLICABLE) HAS ARISEN, THE TOTAL OF SUCH LIABILITY SHALL BE LIMITED IN AGGREGATE TO ONE HUNDRED US DOLLARS (\$100).

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PUBLIC PRIZE BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY OR OTHERWISE (AND WHETHER OR NOT ANY MPI PARTY HAD PRIOR KNOWLEDGE OF THE CIRCUMSTANCES GIVING RISE TO SUCH LOSS OR DAMAGE) WITH RESPECT TO THE SITE OR SITE FOR:

INDIRECT OR CONSEQUENTIAL LOSSES OR DAMAGES;

LOSS OF ACTUAL OR ANTICIPATED PROFITS;

LOSS OF REVENUE;

LOSS OF GOODWILL;

LOSS OF ANTICIPATED SAVINGS;

LOSS OF CONTEST WINNINGS OR PRIZES;

WASTED EXPENDITURE; OR

COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICE.

NOTHING IN THESE TERMS OF USE SHALL BE DEEMED TO EXCLUDE OR LIMIT YOUR LIABILITY IN RESPECT OF ANY INDEMNITY GIVEN BY YOU UNDER THESE TERMS OF USE. APPLICABLE LAW MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN SUCH CASES, LIABILITY OF PUBLIC PRIZE WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

### **Assignment**

This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Public Prize without restriction or consent.

### **Termination**

Termination may result in the forfeiture and destruction of all information associated with your account. You may terminate your account by following the instructions on the Site, but we may retain your account information after you terminate in accordance with our regulatory, accounting, and legal compliance procedures. All provisions of the Terms of Use that by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

### **Governing Law**

You agree that: (i) the Site shall be deemed solely based in Colorado (where we have our headquarters); and (ii) the Site shall be deemed a passive one that does not give rise to personal jurisdiction over Public Prize, either specific or general, in jurisdictions other than Colorado. This Agreement shall be governed by the laws of the State of Colorado, without respect to its conflict of laws or principles. We make no representation that our Site is appropriate, legal or available for use outside of the United States. The state and federal courts located in Denver, Colorado will serve as the exclusive jurisdiction and venue for any actions brought, or claims made, arising out of your use of our Site, and you hereby consent to such jurisdiction.



## **Charitable Solicitations Disclaimer**

Contestants should be aware that many states, including Colorado, impose charitable fund solicitation laws to guide direct or indirect fund solicitation activities in those states. While provisions vary state to state, these state laws typically include registration and reporting requirements. We merely provide a technology platform to allow Contestants to connect with Contributors. Those who access or use the Site do so at their own volition and are entirely responsible for compliance with applicable law. Unless otherwise explicitly stated, all materials found on the Site are solely directed to individuals, companies, or other entities located in the U.S.

## **Cooperation with Authorities and Police Enforcement**

We will cooperate with law enforcement authorities as required by law. We will cooperate with law enforcement agencies in any investigation of alleged illegal activity regarding the use of the Site when requested.

## **Notice**

You agree Public Prize may provide notifications to you via email, written or hard copy notice, or through conspicuous posting of such notice on our website. You may opt out of certain means of notification or to receive certain notifications.

## **Entire Agreement/Severability**

These Terms are the entire agreement between you and Public Prize regarding its subject matter. If any provision of these Terms are deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Agreement, which shall remain in full force and effect. Public Prize's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision.

## **Changes to Terms**

Public Prize may alter these Terms at any time, so please review them frequently. If a material change is made, Public Prize may notify you within our Site's functionality, by email, by means of a notice on our home page, or other places we think appropriate. A "material change" will be determined at Public Prize's sole discretion, in good faith, and using common sense and reasonable judgment.

## **No Legal Advice**

Nothing contained in the Terms or the Site constitutes legal advice. If you have any questions regarding your legal rights and legal obligations, you should consult with your own attorney.

## **Contact Us**

If you have any questions about these Terms, the practices of this site, or your dealings with this Website or complaints, please contact us at [support@publicprize.com](mailto:support@publicprize.com) or at Public Prize, Inc., 4800 Baseline Rd, Unit E104-336, Boulder, CO 80303.