

# Terms and Conditions

Please read these Terms of Use (this "Agreement") before using *Promise for Education* to participate in the fundraising campaign ("Campaign") of The Regents of the University of California ("UC"). By using, in any manner, *Promise for Education* and the services described in this Agreement, including, but not limited to, visiting or browsing the website ("Site") or contributing content, information, or other materials or services to the Site, you agree to be bound by this Agreement.

## Service

You may use the *Promise for Education* service ("Service") provided on the Site subject to the terms contained herein. *Promise for Education* allows you to raise money or run fundraising campaigns that benefit UC, primarily UC's scholarship programs. As a *Promise for Education* participant, you may either make a promise ("Promise Participant") or make a donation to UC ("Donor Participant") (collectively, "Campaign Participants"). Through the Site, email, websites, and other media, the Service makes accessible various content, including, but not limited to, videos, photographs, images, artwork, graphics, audio clips, comments, data, text, software, scripts, projects, other material and information, and associated trademarks and copyrightable works (collectively, "Content"). Campaign Participants and other visitors to and users of the Service (collectively, "Users") may have the ability to contribute, add, create, upload, submit, distribute, facilitate the distribution of, collect, post, or otherwise make accessible (collectively, "Submit") Content. "User Submissions" means any Content Submitted by Users.

## Acceptance of Terms

This Service, including the Campaign, is offered subject to acceptance of all terms and conditions of this Agreement, the Privacy Statement for the *Promise for Education*, and all other operating rules, policies, and procedures that may be published on the Site by UC, which are incorporated by reference. This Agreement applies to every User of the Service.

UC reserves the right, at its sole discretion, to modify or replace this Agreement by posting the updated Terms of Use on the Site. It is your responsibility to check this Agreement periodically for changes. Your continued use of the Service following the posting of any changes to the Terms of Use constitutes acceptance of those changes.

UC reserves the right to change, suspend, or discontinue the Service (including, but not limited to, the availability of any feature, database, or Content) at any time for any reason. UC may also impose limits on certain features and services or restrict your access to parts or all of the Service without notice or liability.

The Service is available only to individuals who are at least 18 years old (and at least the legal age in your jurisdiction). You represent and warrant that if you are an individual, you are at least 18 years old and of legal age in your jurisdiction to form a binding contract, and that all registration information you submit is accurate and truthful. UC reserves the right to ask for proof of age from you, and your use of the Site and participation in the Service and Campaign may be suspended until satisfactory proof of age is provided. UC may, in its sole discretion, refuse to offer the Service or allow any person or entity to participate in the Campaign, and UC may change its eligibility criteria at any time. This provision is void where prohibited by law, and the right to access the Service is revoked in those jurisdictions.

## Rules and Conduct

As a condition of use, you promise not to use the Service for any purpose that is prohibited by this Agreement or law. The Service is provided only for your own personal, non-commercial use (except as allowed by the terms set forth in the section of this Agreement titled, "Project Fundraising"). You are responsible for all of your activity in connection with the Service. You shall not, and shall not permit any third party using your account to, take any action, or Submit Content, that:

- infringes any patent, trademark, trade secret, copyright, right of publicity, or other right of any other person or entity, or violates any law or contract;
- you should know is false, misleading, or inaccurate;
- is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, tortious, obscene, offensive, profane, or invasive of another's privacy;
- constitutes unsolicited or unauthorized advertising or promotional material or any junk mail, spam, or chain letters;
- contains software viruses or any other computer codes, files, or programs that are designed or intended to disrupt, damage, limit, or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any system, data, password, or other information of UC or any third party;
- is made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
- impersonates any person or entity, including any employee or representative of UC; or
- violates any applicable UC policies.

Additionally, you shall not: (i) take any action that imposes or may impose (as determined by UC in its sole discretion) an unreasonable or disproportionately large burden on UC's or its third-party providers' infrastructure; (ii) interfere or attempt to interfere with the proper working of the Service or any activities conducted as part of the Service; (iii) bypass any measures UC or its third-party licensors or providers may use to prevent or restrict access to the Service (or other accounts, computer systems, or networks connected to the Service); (iv) run Mail list, Listserv, or any form of auto-responder or "spam" on the Service; or (v) use manual or automated software, devices, or other processes to "crawl" or "spider" any page of the Site.

You shall not directly or indirectly: (i) decipher, decompile, disassemble, reverse engineer, or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Service, except to the extent applicable laws specifically permit such activities; (ii) modify, translate, or otherwise create derivative works of any part of the Service; or (iii) copy, rent, lease, distribute, or otherwise transfer any of the rights that you receive hereunder. You shall abide by all applicable local, state, national, and international laws and regulations.

Campaign Participants agree to not abuse other users' personal information. As used in the previous sentence, abuse is defined as using personal information for any purpose other than those explicitly specified in a Promise Participant's project, or is not related to fulfilling delivery of a product or service explicitly specified in a Promise Participant's project.

## Registration

You may view Content on the Site without registering, but as a condition of using certain aspects of the Service, you may be required to register with the Site, in which case you shall provide accurate, complete, and updated Site registration information. Failure to do so shall constitute a breach of this Agreement, which may result in immediate termination of your account. You shall not use as a registration name, domain name, or any other name or term that (i) is the name of another person, with the intent to impersonate that person; (ii) is subject to any rights of another person, without appropriate authorization; or (iii) is offensive, vulgar, or obscene. UC reserves the right in its sole discretion to refuse registration of or cancel a User's registration, domain name, or other name. You are solely responsible for activity that occurs on your account and shall be responsible for maintaining the confidentiality of your password for

the Site. You shall never use another User account without the other User's express permission. You will immediately notify UC in writing of any unauthorized use of your account or other known account-related security breach.

## Project Fundraising

*Promise for Education* is a website where Campaign Participants participate in campaigns to raise funds to benefit UC. UC takes no responsibility for the actions or inactions of any Campaign Participants with respect to the Campaign, and Campaign Participants agree to the following terms:

- Donor Participants agree to provide their payment information at the time they choose to make a donation to any campaign. The full payment is due at the time the Donor Participant chooses to make a donation, and no Donor Participant shall be entitled to a refund of his or her donation.
- Donor Participants consent to UC and its payments partner(s) authorizing or reserving a charge on their payment card or other payment method for the full donation amount at the time the donation is made.
- In no event will UC provide any Donor Participant with any goods or services in exchange for a donation to any campaign.
- Campaign Participants agree to make a good faith attempt to fulfill each promise.
- For all campaigns, *Promise for Education* gives to the Promise Participants each Donor Participant's first and last name, or other Site registration information, and donation amount. In connection with a particular Promise Participant's campaign, *Promise for Education* may also provide a Promise Participant with Donor Participants' names and other contact information (including email or physical address), as necessary for the Promise Participant to fulfill the terms of his or her campaign.
- UC reserves the right to reject, cancel, interrupt, remove, or suspend a campaign at any time and for any reason, which shall have no effect on and shall not entitle any Donor Participant to a refund for a donation to a campaign. UC is not liable for any damages as a result of any of those actions. UC's policy is not to comment on the reasons for any of those actions.

UC is not liable for any damages or loss incurred relating to the use of the Service or participation by any party in the fundraising Campaign. UC is under no obligation to become involved in disputes between any Users, or between Users and any third party arising in connection with the use of the Service. This includes, but is not limited to, delivery of goods and services, and any other terms, conditions, warranties, or representations associated with campaigns on the Site. UC does not oversee the performance or punctuality of any promise made by any Promise Participant. UC does not endorse any User Submissions. You release UC, its licensees, vendors and contractors, and their respective officers, employees, agents, and successors in rights from claims, damages, and demands of every kind, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to such disputes and the Service.

## Fees and Payments

Joining *Promise for Education* is free. However, UC and its payments partner(s) may charge an administrative fee of up to ten percent (10%), which will be deducted from a Donor Participant's donation, and used to help support the costs associated with raising and administering Campaign funds. In addition, you are solely responsible for any applicable fees, taxes or other assessments associated with your use of the Service.

UC is not responsible for the performance of its payment partner(s).

## Third-Party Sites

*Promise for Education* may permit you to link to other websites or resources on the internet, and other websites or resources may contain links to the Site. When you access third-party websites, you do so at your own risk. Those other websites are not under UC's control, and you acknowledge that UC is not liable for the content, functions, accuracy, legality, appropriateness, or any other aspect of those other websites or resources. The inclusion on another website of any link to the Site does not imply endorsement by or affiliation with UC. You further acknowledge and agree that UC shall not be liable for any damage related to the use of any content, goods, or services available through any third-party website or resource.

## Content and License

You agree that the Service contains Content provided by UC, UC's partners and Users, and such Content may be protected by copyrights, trademarks, service marks, patents, trade secrets, or other rights and laws. You shall abide by and maintain all copyright and other legal notices, information, and restrictions contained in any Content accessed through the Service.

UC grants to each User of the Service a worldwide, non-exclusive, non-sublicensable and non-transferable license to use and reproduce the Content, solely for personal, non-commercial use. Use, reproduction, modification, distribution, or storage of any Content for other than personal, non-commercial use is prohibited without prior written permission from UC, or from the copyright holder. You shall not sell, license, rent, or otherwise use or exploit any Content for commercial use or in any way that violates any third-party right.

## Intellectual Property

By Using the Site and participating in the Campaign, you agree to the following terms:

- UC will not have any ownership rights over User Submissions. However, UC needs the license set forth in this paragraph to perform and market the Service on your behalf and on behalf of its other Users and itself. You grant to UC the worldwide, non-exclusive, perpetual, irrevocable, royalty-free, sublicensable, transferable right to (and to allow others acting on its behalf to: (i) use, edit, modify, prepare derivative works of, reproduce, host, display, stream, transmit, playback, transcode, copy, feature, market, sell, distribute, and otherwise fully exploit your User Submissions and your trademarks, service marks, slogans, logos, and similar proprietary rights (collectively, the "Trademarks") in connection with (a) the Service, (b) UC's activities, (c) promoting, marketing, and redistributing part or all of the Site (and derivative works thereof) or the Service in any media formats both known and unknown and through any media channels (including, without limitation, third-party websites); (ii) take whatever other action is required to perform and market the Service; (iii) allow its Users to stream, transmit, playback, download, display, feature, distribute, collect, and otherwise use the User Submissions and Trademarks in connection with the Service; and (iv) use and publish, and permit others to use and publish, the User Submissions, Trademarks, names, likenesses, and personal and biographical materials of you and the members of your group, in connection with the provision or marketing of the Service. The foregoing license grant to UC does not affect your other ownership or license rights in your User Submissions, including the right to grant additional licenses to your User Submissions.
- You are publishing your User Submission, and you may be identified publicly by your name or Site registration information in association with your User Submission.
- You grant to each User a non-exclusive license to access your User Submissions through the Service, and to use, edit, modify, reproduce, distribute, prepare derivative works of, display and perform such User Submissions solely for personal, non-commercial use.
- You further agree that your User Submissions will not contain third-party copyrighted material, or material that is subject to other third-party proprietary rights (the "third-party material"). To the extent you use any material, you represent and warrant that you have obtained permission from the

- rightful owner of the third-party material or you are otherwise legally entitled to post the third-party material on *Promise for Education* and to grant UC all of the license rights granted herein.
- You warrant that you have the authority to permit UC to exercise all the rights granted above, and you will pay any royalties and other amounts owed to any person or entity based on your Submitting User Submissions to the Service or UC's publishing or hosting of the User Submissions as contemplated by this Agreement.
  - The use or other exploitation of User Submissions by UC and Users as contemplated by this Agreement will not infringe or violate the rights of any third party, including without limitation any privacy rights, publicity rights, copyrights, contract rights, or any other intellectual property or proprietary rights.
  - UC shall have the right to delete, edit, modify, reformat, excerpt, or translate any of your User Submissions.
  - All information publicly posted or privately transmitted through the Site is the sole responsibility of the person from which that content originated.
  - UC will not be liable for any errors or omissions in any Content.
  - UC cannot guarantee the identity of any other Users with whom you may interact while using the Service.
  - All Content you access through the Service is at your own risk and you will be solely responsible for any resulting damage or loss to any party.

In accordance with the Digital Millennium Copyright Act ("DMCA"), UC has adopted a policy of, in appropriate circumstances, terminating User accounts that are repeat infringers of the intellectual property rights of others. UC reserves the right to terminate User accounts based on a single infringement as well.

## Copyright Notifications

UC will remove infringing materials in accordance with the DMCA if properly notified that such materials infringe copyright. If you believe that your work has been copied in a way that constitutes copyright infringement, please notify UC's DMCA Agent in writing at [dmca.agent@ucop.edu](mailto:dmca.agent@ucop.edu). Your notice must contain the following information (please confirm these requirements with your legal counsel, or see the U.S. Copyright Act, 17 U.S.C. § 512(c)(3), for more information):

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- a description of the copyrighted work that you claim has been infringed;
- a description of where the material that you claim is infringing is located on the Site, sufficient for UC to locate the material;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- a statement by you that the information in your notice is accurate and, under penalty of perjury, that you are the copyright owner or authorized to act on the copyright owner's behalf.

If you believe that your work has been removed or disabled by mistake or misidentification, please notify UC's DMCA Agent in writing. Your counter-notice must contain the following information (please confirm these requirements with your legal counsel or see the U.S. Copyright Act, 17 U.S.C. § 512(g)(3), for more information):

- a physical or electronic signature of the user of the Services;
- 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;
- a statement made under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material; and

- the subscriber's name, address, telephone number, and a statement that the subscriber consents to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if the subscriber's address is outside of the United States, for any judicial district in which the service provider may be found, and that the user will accept service of process from the person who provided notification under Section 512(c)(3) or an agent of such person.

Under the Copyright Act, any person who knowingly materially misrepresents that material is infringing or was removed or disabled by mistake or misidentification may be subject to liability.

If you fail to comply with these notice requirements, your notification or counter-notification may not be valid.

Our designated copyright agent for notice of alleged copyright infringement is:

*UCOP DMCA Agent*

*Attn: Stephen Lau, Policy Director*

*Information Technology Services*

*1111 Franklin Street, 7h Floor*

*Oakland, CA 94607*

*dmca.agent@ucop.edu*

## **Termination**

UC may terminate your access to the Service, without cause or notice. If you wish to terminate your account, you may do so by following the instructions on the Site. Any fees paid or donations made to UC are non-refundable. All provisions of this Agreement that by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity, and limitations of liability.

## **Warranty Disclaimer**

UC has no special relationship with or fiduciary duty to you. You acknowledge that UC has no duty to take any action regarding any of the following: which Users gain access to the Site; what Content Users access through the Site; what effects the Content may have on Users; how Users may interpret or use the Content; or what actions Users may take as a result of having been exposed to the Content. UC cannot guarantee the authenticity of any data or information that Users provide about themselves, their campaigns, projects or promises. You release UC from all liability for your having acquired or not acquired Content through the Site. The Site may contain, or direct you to websites containing, information that some people may find offensive or inappropriate. UC makes no representations concerning any Content on the Site, and UC is not liable for the accuracy, copyright compliance, legality, or decency of material contained on the Site.

UC does not guarantee that any Content will be made available through the Service. UC has no obligation to monitor the Service or Content. UC reserves the right to, at any time, for any reason, and without notice: (i) cancel, reject, interrupt, remove, or suspend a campaign or project; (ii) remove, edit, or modify any Content, including, but not limited to, any User Submission; and (iii) remove or block any User or User Submission. UC reserves the right not to comment on the reasons for any of these actions.

The Service is provided “as is” and “as available” and is without warranty of any kind, express or implied, including, but not limited to, the implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose, and any warranties implied by any course of performance or usage of trade, all of which are expressly disclaimed. UC, and its Regents, employees, agents, suppliers, partners, licensors, vendors, contractors and content providers do not warrant that: (a) the Service will be secure or available at any particular time or location; (b) any defects or errors will be corrected; (c) any content or software available at or through the Service is free of viruses or other harmful components; or (d) the results of using the Service will meet your requirements. Your use of the Service is solely at your own risk. Some states or countries do not allow limitations on how long an implied warranty lasts, so the above limitations may not apply to you.

ELECTRONIC COMMUNICATIONS PRIVACY ACT NOTICE (18 U.S.C. § 2701-2711): UC MAKES NO GUARANTY OF CONFIDENTIALITY OR PRIVACY OF ANY COMMUNICATION OR INFORMATION TRANSMITTED ON THE SITE OR ANY WEBSITE LINKED TO THE SITE. UC will not be liable for the privacy of email addresses, registration and identification information, disk space, communications, confidential or trade-secret information, or any other Content stored on UC’s equipment, transmitted over networks accessed by the Site, or otherwise connected with your use of the Service. The foregoing sentences only apply to the extent they comport to UC’s privacy policies.

## **Indemnification**

You will defend, indemnify and hold UC, its Regents, licensors, vendors, contractors, and their respective officers, employees and agents, harmless from and against any and all liability, loss, expense (including reasonable attorneys’ fees), fines, or claims for injury or damages in any way related to your use or misuse, or access to *Promise for Education*, Service or Content or User Submissions, participation in *Promise for Education* or Service, violation of this Agreement, or infringement by you, or any third party using your account, of any intellectual property or other right of any person or entity. You shall not settle such liability, loss, expense (including reasonable attorneys’ fees), or claims for injury or damages without prior written consent of UC, which consent shall not be unreasonably withheld.

## **Release**

In return for your participation in the Service, you, for yourself, heirs, personal representatives and assigns, release from, waive, discharge and promise not to sue UC for any and all claims in any way related to your participation, including the negligence of UC.

## **Limitation of Liability**

In no event shall UC, nor its Regents, licensors, vendors, contractors, and their respective employees, agents, partners, suppliers, or content providers, be liable under contract, tort, strict liability, negligence, or any other legal or equitable theory with respect to the Service (i) for any lost profits, data loss, cost of procurement of substitute goods or services, or special, indirect, incidental, punitive, or consequential damages of any kind whatsoever, substitute goods or services (however arising), (ii) for any bugs, viruses, trojan horses, or the like (regardless of the source of origination), or (iii) for any direct damages in excess of (in the aggregate) one hundred U.S. dollars (\$100.00). Some states or countries do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations and exclusions may not apply to you.

## **International**

Accessing the Service is prohibited from territories where the Content is illegal. If you access the Service from other locations, you do so at your own initiative and are responsible for compliance with local laws.

## **Electronic Delivery, Notice Policy, and Your Consent**

By using the Services, you consent to receive all communications including notices, agreements, legally required disclosures, or other information in connection with the Services (collectively, "Contract Notices") electronically. *Promise for Education* may provide the electronic Contract Notices by posting them on the Site. If you desire to withdraw your consent to receive Contract Notices electronically, you must discontinue your use of the Services.

## **Governing Law**

The rights and obligations of the parties to this Agreement shall be governed in all respects by the laws of the State of California, without regard to any conflict of law provisions. The exclusive venue for any and all actions arising out of or brought under this Agreement shall be in court of competent jurisdiction situated in Alameda County, California.

## **Integration and Severability**

This Agreement and other referenced material are the entire agreement between you and UC with respect to the Service, and supersede all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and UC with respect to the Service and govern the future relationship. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

## **Miscellaneous**

UC shall not be liable for any failure to perform its obligations hereunder where the failure results from any cause beyond UC's reasonable control, including, without limitation, mechanical, electronic, or communications failure or degradation. This Agreement is personal to you, and is not assignable, transferable, or sublicensable by you except with UC's prior written consent. UC may assign, transfer, or delegate any of its rights and obligations hereunder without consent. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service.