

KC agrees to allow the charity (“**you**”) to participate in Karma Currency and to provide certain services to you on the terms and conditions below. By clicking the “Accept” button below, you acknowledge that you have read and understood this Agreement and agree to be bound by it. The “Accept” button may only be clicked by a person authorised to enter into this Agreement on behalf of the charity. We recommend that you print and retain a copy of the terms and conditions for future reference.

## KARMA CURRENCY

### Charity Participation Agreement

Karma Currency Foundation Ltd ACN 124 219 129 as trustee for the Karma Currency Foundation (**KC**) operates the Karma Currency website located at [www.karmacurrency.com.au](http://www.karmacurrency.com.au) (the **Website**) as well as the karma gifts application available to users of Facebook (the **kg Application**). The Website and the kg Application allow the general public to make a donation to KC and :

- (i) be provided with a charity gift in relation to one or more participating charities;
  - (ii) be issued with a charity gift voucher, which can be redeemed as charitable donations to one or more participating charities; or
  - (iii) contribute towards a charitable gift registry created by another person,
- (the **Program**).

You are a charity that warrants that it:

- (a) is endorsed as a deductible gift recipient because it is described in item 1 of the table in section 30-15 of the *Income Tax Assessment Act 1997* (Cth) i.e. you have (**DGR Status**); and
- (b) wishes to participate in the Program.

KC agrees to allow you to participate in the Program and to provide certain services to you in consideration of you agreeing to the terms and conditions here set out (the **Agreement**). By clicking the “Accept” button below, you acknowledge that you have read and understood this Agreement and agree to be bound by it.

If you do not agree with this Agreement, you may not participate in the Program.

If at any time you wish to end your participation in the Program, you may terminate this Agreement in accordance with **clause 17**.

## 2 TERM

This Agreement commences on the date you accept it (by clicking the “Accept” button) and continues until either party terminates it in accordance with **clause 17**.

## 3 PROVISION OF SERVICES

During the term of this Agreement, KC will:

- (a) provide you with access to a content management tool which allows you to customise a page on the Website (**Charity Page**) to provide information about you and any specific goods or services you provide towards which a donation can be made (**Directed Gifts**) – the contents of your Charity Page will form the basis of any information about you and any specific goods or services you provide in the kg Application;
- (b) host the Charity Page and provide links to the Charity Page in order to provide information to people (**Donors**) wishing to direct a donation to you (by purchasing a charity gift, making a contribution towards a charitable gift registry, redeeming all or part of a charity gift voucher or by paying an amount directly) through the Website or the kg Application (**Donation**);

- (c) provide you with access to the Website to view the balance of the Donations directed to you;
- (d) if requested by you, provide Donors with an immediate acknowledgement by email of the receipt of their Donation;
- (e) deposit amounts received from Donors in KC's donations bank account and record the amount of the Donations directed to you pursuant to the Program in accordance with this Agreement;
- (f) subject to **clause 6**, pay to a bank account nominated by you, an amount equal to all Donations accumulated in each calendar quarter (after deduction of any amount required by law to be withheld by KC from that payment) within 20 business days of the end of that quarter;
- (g) at the end of each calendar quarter, provide you with a report setting out:
  - (i) the amount of each Donation received;
  - (ii) the amount of any credit card and bank fees attributable to the Donations;
  - (iii) all payments made by KC to you;
  - (iv) fees paid and payable by you under this Agreement; and
  - (v) subject to **clause 16** and where the Donors have consented to the disclosure, the names and addresses of each Donor and the amounts of their respective Donations, for the preceding calendar quarter.

#### 4 WEBSITE / kg APPLICATION

KC may host and operate the Website, the Charity Page and the kg Application itself or through a third party. KC will use reasonable endeavours to ensure that the Website, the Charity Page and the kg Application are fully operational and available to you and the general public at all times (other than during scheduled maintenance periods). However, KC does not guarantee that the Website, the Charity Page or the kg Application will be operational and available at all times and will not be liable to you for any defect in or unavailability of the Website, the Charity Page or the kg Application.

KC does not guarantee that the content of the kg Application (including the content about you) will always be the same as the content of the Charity Page or the Website, and KC will not be liable for any loss or damage that you may suffer as a result of any differences between the kg Application, the Charity Page and the Website.

#### 5 THIRD PARTY WEBSITES

KC allows people to purchase goods or services contained on the Website through other, third party websites (**Indirect Gifts**) – such as [www.redballoon.com.au](http://www.redballoon.com.au). You agree that KC may make the Directed Gifts available for donation on third party websites in order to allow people to make Indirect Gifts, and this will be considered to be within the meaning of the term **Program**, for the purpose of this Agreement.

KC may have separate agreements in place with operators of third party websites on which Indirect Gifts are made available. You agree to provide such reasonable assistance as may be required by KC in order to allow KC to comply with its obligations under these agreements.

Donations received as Indirect Gifts will be paid to you in accordance with clause 3 unless the terms of the agreement with a third party website operator make it impossible to do so, in which case KC will make payment to you in the next quarter after having complied with the terms of the relevant agreement.

#### 6 PAYMENTS AND DGR STATUS

If you cease to have DGR Status at any time during the term of this Agreement:

- (a) you must immediately notify KC;
- (b) KC may at its absolute discretion suspend or remove you from the Program;
- (c) KC may reallocate any Donation directed to you but not yet paid to you, as directed by the original Donor or if the original Donor cannot be contacted or fails to provide direction within 30 days, as KC may determine (subject to any applicable laws); and
- (d) you must promptly repay any amount you receive from KC after you have ceased to have DGR Status.

## 7 FEES

- (a) During the term of this Agreement, you will pay KC an annual fee of \$300 (the **Fee**) which will commence at a date nominated and notified to you by KC.
- (b) KC may increase the Fee at any time by providing 6 months' written notice to you of any such increase.

## 8 RECORDS AND AUDIT

- (a) During the term of this Agreement and for 2 years thereafter, KC must keep at its principal office true and correct accounts and records of all Donations.
- (b) Upon 5 business days' written notice to KC and not more than once per year, you or your nominated suitably qualified independent representative may enter the premises of KC during KC's normal business hours in order to inspect and make copies of KC's accounts and records of Donations solely in order to verify the accuracy of the information provided by KC to you under **clause 3(g)**. Information obtained from such inspection or copies must not be used for any other purpose.

## 9 INTELLECTUAL PROPERTY RIGHTS

- (a) You grant KC a royalty-free, non-exclusive, non-transferable licence during the term to:
  - (i) use your name and nominated trade mark(s) on the Website, the kg Application, third party websites, and in promoting and advertising the Website, the kg Application, the availability of Indirect Gifts and the Program; and
  - (ii) with your prior consent, reproduce, publish, adapt, reasonably edit, and communicate to the public any material provided by you to KC (including without limitation material provided for inclusion on the Charity Page), as part of the Website, the kg Application, third party websites, and in promotional and advertising material for the Website, the kg Application, the availability of Indirect Gifts and the Program (the **Promotional Acts**). If you do not respond to a request from KC for your consent to Promotional Acts within 10 days of receiving that request, you will be deemed to have consented to the relevant Promotional Acts.
- (b) KC grants you a non-exclusive, non-transferable licence during the term to use KC's name and nominated trade mark(s) in promoting and advertising your participation in the Program.
- (c) Each party must ensure that it uses the other party's name and trade marks only:
  - (i) as drawn, spelt or represented in any trade mark registration or application (or in the form otherwise specified by the party that owns the relevant name or mark);
  - (ii) in accordance with any reasonable directions given in writing by the party that owns the relevant name or mark; and
  - (iii) in connection with high quality goods and services.

- (d) Except as expressly stated in this Agreement, neither party may do or authorise any act in respect of the name or any trade mark of the other party.

## 10 REMOVAL OF CONTENT

KC may remove any material from the Charity Page that KC reasonably considers is inappropriate for inclusion on the Website or the kg Application, or may expose KC to legal liability.

## 11 WARRANTIES

(a) KC warrants that it:

- (i) has obtained any registrations, permits, licences, consents or permissions that KC is required to hold in order to solicit and accept Donations and issue charity gift vouchers in accordance with this Agreement; and
- (ii) has the power, right and authority to enter into this Agreement.

(b) You warrant that:

- (i) you have DGR Status and will maintain DGR Status through the term of this Agreement;
- (ii) you will immediately advise KC if at any time during the term of this Agreement you do not have DGR Status in accordance with **clause 6(a)**;
- (iii) you will provide evidence of the currency of your DGR Status within 14 days of any request by KC to do so;
- (iv) you have obtained any registrations, permits, licences, consents or permissions that you are required to hold in order to solicit and accept Donations in accordance with this Agreement;
- (v) you will apply all Donations consistently with your DGR Status and in accordance with any representations made on your Charity Page or any other advertising or promotional material;
- (vi) the material you provide for inclusion on the Charity Page, the Website and the kg Application:
  - (A) is accurate in all respects and not misleading or deceptive nor likely to mislead or deceive;
  - (B) is not defamatory, obscene, offensive or otherwise unlawful; and
  - (C) does not infringe any third party's intellectual property rights;
- (vii) you will only advertise Directed Gifts which (at the time of advertising) you currently provide and intend to continue to provide;
- (viii) your description of any Directed Gift will accurately reflect the nature of the goods and services comprising the Directed Gift and prominently state any qualifications, conditions or exclusions associated with that Directed Gift;
- (ix) you have the power, right and authority to enter into this Agreement; and
- (x) you will promptly provide a receipt to KC in respect of the Donations paid by KC to you in accordance with **clause 3(f)** or otherwise in accordance with this Agreement. The receipt must state your name, your Australian Business Number and the fact that the receipt is for a gift.

## 12 INDEMNITIES

- (a) KC indemnifies you and will keep you indemnified against any loss, damage, cost or expense (including reasonable legal costs) incurred by you in connection with any third party action, claim or demand made against you to the extent such action, claim or demand arises from or in connection with a breach by KC of any of the warranties in **clause 11(a)**.
- (b) You indemnify KC and will keep KC indemnified against any loss, damage, cost or expense (including reasonable legal costs) incurred by KC in connection with any third party action, claim or demand made against KC to the extent such action, claim or demand arises from or in connection with a breach of any of the warranties in **clause 11(b)**.

## 13 LIMITATION OF LIABILITY

- (a) All terms and warranties implied by legislation into this Agreement are excluded to the extent permitted by such legislation. If any such implied term or warranty applicable to KC cannot be legally excluded, then to the extent permitted by the legislation, KC's liability for any breach of such term or warranty is limited at KC's option to replacement or resupply of the relevant goods or service.
- (b) All other implied terms and warranties are excluded from this Agreement.
- (c) KC's aggregate liability to you for all causes of action arising in connection with this Agreement (including, without limitation, negligence and the indemnity in **clause 12(a)**) is capped at the total amount of the fees paid or payable by you to KC under this Agreement.
- (d) Neither party will be liable to the other under or in connection with this Agreement (including, without limitation, in negligence) for loss of profit or goodwill or any indirect or consequential loss or damage relating to this Agreement even if it has been advised of the possibility of such loss or damage.

## 14 GST

Unless otherwise stated, all fees and other amounts payable under this agreement are exclusive of GST. If GST is payable on or in respect of any supply made by KC under this agreement, you will pay to KC an amount equal to the GST payable on or in respect of the supply at the same time as the consideration for the supply is paid, provided that KC has provided you with a valid tax invoice as required by law. Expressions used in this clause which are not otherwise defined in this Agreement but which have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning as in that Act.

## 15 CONFIDENTIALITY

- (a) Neither party may disclose, reproduce or use (or permit or allow any person to disclose, reproduce, use or access) any Confidential Information of the other party except to the extent necessary to perform its obligations under this Agreement or as required by law. Each party must take all reasonable steps to keep confidential and secure the Confidential Information of the other party, in the possession or control of the first party or its personnel.
- (b) Each party must ensure that it only discloses any Confidential Information of the other party to its personnel on a "need to know" basis.
- (c) Each party must ensure that those personnel are aware of, understand and agree to abide by the obligations imposed by this clause in relation to Confidential Information of the other party.
- (d) In this clause, **Confidential Information** means any information obtained by one party (the **first party**) regarding other party (the **second party**) that is by its nature confidential, is designated as confidential by the second party or the first party knows or ought reasonably to have known is confidential, but excludes information which is in or comes into the public domain other than as a result of a breach of this Agreement, is already known by or in the

possession of the first party before the first party obtains the information from the second party or has been or is independently developed by the first party. If a party is uncertain whether information is Confidential Information of the other party, it must treat the information as Confidential Information of the other party until the other party advises it in writing that it is not.

- (e) You must treat any login ID, password and other account information allocated to or selected by you in connection with the Website, the Charity Page, the kg Application or the content management tool referred to in **clause 3(a)** as Confidential Information of KC.

## 16 PRIVACY

If KC provides you with the name or address or any other personal information of any Donor under **clause 3(g)(v)** (or otherwise in connection with this Agreement), you may use that information solely for the purpose of providing the Donor with promotional material about your charitable activities. You must not provide the Donor with promotional material about other activities or third parties or use that information for any other purpose. You must also comply with any legislation which is applicable to you, which may include the *Privacy Act 1988* (Cth) and the *Spam Act 2003* (Cth).

## 17 TERMINATION

- (a) Either party may terminate this Agreement by providing 60 days written notice to the other party.
- (b) Either party may terminate this Agreement immediately if the other party:
  - (i) engages in conduct that the other party reasonably considers is harmful to the first party's reputation;
  - (ii) breaches any term of this Agreement and does not remedy that breach within 30 days of receipt of written notice from the first party specifying the breach; or
  - (iii) enters or threatens to enter into bankruptcy, liquidation, receivership or other type of insolvency or external administration or ceases to conduct its usual operations.
- (c) KC may terminate this Agreement immediately if you lose your DGR Status.

## 18 ACTIONS UPON TERMINATION

- (a) Upon termination of this Agreement, KC will:
  - (i) promptly cease to accept Donations;
  - (ii) promptly remove the Charity Page and all material provided by or relating to you from the Website or the kg Application;
  - (iii) pay any outstanding Donations to you in accordance with **clause 3(f)** (except if you cease to have DGR Status); and
  - (iv) provide you with a final report in accordance with **clause 3(g)**.
- (b) Upon termination of this Agreement, each party must immediately return to the other party (or at the other party's request, destroy and certify the destruction of) all material, including Confidential Information of the other party, which the other party has provided to it.

## 19 GENERAL

- (a) Neither party will be liable for any failure to perform or delay in performing its obligations under this Agreement if such failure or delay is due to circumstances beyond that party's reasonable control including without limitation acts of God, natural disaster, war, terrorism, riots or industrial action.

- (b) This Agreement will not be deemed to create a partnership, joint venture or agency relationship of any kind between the parties.
- (c) KC may modify, alter, change or vary ("Change") any term or condition of this Agreement at any time at its discretion. Such Changes will be notified to you in writing (generally via email) and your continued participation in the Program or failure to notify KC of an objection within 14 days of receiving written notification of a Change will indicate your acceptance of the Change to the Agreement.
- (d) The provisions of this Agreement will be deemed to be severable and any invalidity of any provision of this Agreement will not affect the validity of the remaining provisions of this Agreement.
- (e) You must not assign or sub-license, or purport to assign or sub-license, any right or obligation under this Agreement.
- (f) In addition to any other lawful means, a notice, demand, certification, process or other communication relating to this Agreement may be given by being personally served on the other party or being left at, or sent by pre-paid ordinary mail to, the other party's registered office.
- (g) This Agreement is governed by and is to be construed in accordance with the laws applicable in Victoria, and the parties submit exclusively to the jurisdiction of the courts having jurisdiction in that State (including the Federal Magistrates Court of Australia and the Federal Court of Australia).
- (h) Provisions of this Agreement which are not expressly limited to the term will, where appropriate, survive the termination of this Agreement and continue in effect.
- (i) The terms of this Agreement include its background and recitals but not its headings.
- (j) This Agreement constitutes the entire Agreement between the parties and there are no other oral undertakings, warranties or agreements between the parties relating to the subject matter of this document.