

GiveClear Foundation Fund Program Agreement

1235 East Blvd, Suite E, PMB 1836
Charlotte, NC, 28203

Fund Program Agreement (this "**Agreement**") is made by and between the client party hereto ("**Client**") through execution of an Agreement, Order Form or other documentation referencing this Agreement and binding Client to its terms and GiveClear Foundation ("**GiveClear**"). Each of Client and GiveClear may be referred to herein individually as a "**Party**" and collectively they may be referred to as the "**Parties**".

RECITALS

WHEREAS, CLIENT and TIFIN Give Inc. ("**TIFIN Give**") have entered into an agreement, as updated and amended and/or restated from time to time (the "**Client Software Agreement**"), pursuant to which TIFIN Give shall provide certain software, licensed materials and/or services relating to charitable giving ("**Deliverables**") to CLIENT as further described in the Client Software Agreement and the schedules thereto;

WHEREAS, certain of the Deliverables shall involve the operation of donor advised funds ("**DAFs**"), single-charity funds ("**SCFs**"), and Guest Giving (as defined below) (Guest Giving, together with DAFs and SCFs, ("**Funds**"), each sponsored by GiveClear (as "**DAF Sponsor**" or "**SCF Sponsor**," as applicable), a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "**Code**"), a publicly supported organization described in section 509(a)(1) of the Code, and a donor advised fund sponsoring organization within the meaning of section 4966 of the Code through a program for customers of Client or its Affiliates (as defined herein) (the "**Client DAF Program**", the "**Client SCF Program**" or the "**Client Guest Giving Program**") respectively, and the "**Client Fund Program**", collectively) and each DAF in the Client DAF Program, a "**Client DAF**" and each SCF in the Client SCF Program a "**Client SCF**") for customers of CLIENT or its Affiliates (as defined herein);

WHEREAS, GiveClear has entered into a software and services agreement with TIFIN Give (the "**Software Agreement**") which enables GiveClear to operate as the DAF Sponsor of the Client Fund Program; and

WHEREAS, as used herein, "**Guest Giving**" means guest giving initiatives wherein donors make contributions through GiveClear using TIFIN Give's platform and GiveClear processes the donation before transferring to the designated charity (net of fees).

NOW, THEREFORE, in consideration of the foregoing, and the representations, warranties and covenants set forth below, the Parties hereto, intending to be legally bound, hereby agree as follows:

1. Representations, Warranties and Covenants of GiveClear. GiveClear represents, warrants and covenants to Client as follows:
 - a. GiveClear is exempt from federal income tax under section 501(a) of the Code as an organization described in section 501(c)(3) of the Code and as a publicly supported organization described in section 509(a)(1) of the Code. GiveClear is a DAF sponsor within the meaning of section 4966(d)(1) of the Code. GiveClear shall promptly notify Client in writing upon becoming aware of any change in, or any proposed or actual revocation (whether or not appealed) by the Internal Revenue Service ("**IRS**"), of its tax status described herein.
 - b. GiveClear shall comply with all federal, state and local laws, rules and regulations applicable to GiveClear in the operation of the Client Fund Program, including without limitation disclosures and other requirements imposed on DAF or SCF Sponsors under the Code and applicable US Treasury Regulations thereunder and applicable state law. GiveClear shall distribute and invest assets in the Client Funds in accordance with the terms of this Agreement and all applicable laws, rules and regulations and policies approved by GiveClear's board of directors.
 - c. GiveClear shall have sole legal ownership and control of all assets contributed by clients of Client and/or its affiliated Advisors (each a "**Donor**") to a DAF or SCF in accounts with Client or a Client Affiliate, which account shall be opened and maintained in accordance with Client's then current account opening forms and documentation (copies of which are available to GiveClear upon written request).
 - d. The term "**Client Affiliate**" means an entity as of or after the date of this Agreement owned by, controlling, controlled by, or under common control with, directly or indirectly, a Party, whether through ownership of voting securities or other equity interest, representation on its board of directors or other governing body, or by contract.
 - e. GiveClear shall invest any assets contributed to a DAF in accordance with the Investment Policy Statement for the Client Fund Program. Donors and Donor Advisors (as defined herein) shall have the right to recommend the investments of assets contributed to a DAF. All investments shall be subject to the Investment Policy of the Client DAF Program attached to, linked to or incorporated by reference within the DAF Program Guidelines (the "**DAF Investment Policy**"). If GiveClear reasonably determines that any investment option does not meet the criteria set forth in the DAF Investment Policy, GiveClear shall notify CLIENT in writing and allow CLIENT to suggest an alternate investment option, which GiveClear may approve or reject in its sole discretion.
 - f. GiveClear shall invest any assets contributed to a SCF in accordance with the Investment Policy Statement for the Client Fund Program. Donors and Donor Advisors (as defined herein) shall have the right to recommend the investments of assets contributed to a SCF. All investments shall be subject to the Investment Policy of the Client SCF Program attached to, linked to or incorporated by reference within included as Appendix A to the SCF Program Guidelines (the "**SCF Investment Policy**"). If GiveClear reasonably determines that any investment option does not meet the criteria set forth in the SCF Investment Policy, GiveClear shall notify CLIENT in writing and allow CLIENT to

suggest an alternate investment option, which GiveClear may approve or reject in its sole discretion.

- g. GiveClear shall invest any assets contributed to a SCF in accordance with the Client SCF Program.
- h. GiveClear has the authority to invest any assets contributed to a Client Fund in one or more Investment Options as listed in the Program Guidelines. Donors and Donor Advisors (as defined herein) shall have the right to recommend the investment allocation of assets contributed to a Client Fund among the Investment Options listed in the Program Guidelines. If GiveClear reasonably determines that any Investment Option does not meet the criteria set forth in the Investment Policy, GiveClear shall notify Client in writing and allow Client to suggest an alternate Investment Option, which GiveClear may approve or reject in its sole discretion.
- i. GiveClear shall fulfill its obligations relating to the required levels of service, quality, availability, analysis, response time, and other characteristics of the services ("**Service Levels**") attached as Exhibit 1
- j. GiveClear shall charge each Fund the administrative fees (the "**Fund Fees**") set forth in the Client Fund Program Guidelines agreed-upon by the parties in writing, (including by written agreement or online acknowledgement, (of which there may be more than one depending on the fund products, including but not limited to DAFs and SCFs), selected for the Client Fund Program) (the "**Fund Program Guidelines**") (and incorporated herein by reference).
- k. Upon notification from Client that a Donor's relationship with Client has been terminated for any reason, GiveClear shall transfer the assets held in the Donor's Fund to a non-branded Fund (i.e., one that bears no association with any financial services organization) held by GiveClear or, if recommended by the Donor or Donor Advisor (as defined herein), to a fund at another fund sponsor.
- l. GiveClear shall provide to Client on an annual basis a copy of the independently audited annual financial statements of GiveClear for its most recently completed fiscal year and a copy of its annual Form 990.
- m. GiveClear shall provide to Client such other documentation and information as may be reasonably requested by Client from time to time regarding GiveClear's operations related to the Client Fund Program.
- n. To the fullest extent practicable and permitted by law, GiveClear shall provide Client with reasonable notice in writing, but in any event not less than sixty (60) days' notice, of any event of which GiveClear is aware that is reasonably likely to affect GiveClear's participation in the Client Fund Program (for DAFs and/or SCFs) in any material respect.
- o. GiveClear shall not alter or change the terms and conditions of the Program Guidelines at any time without Client's express written consent and advance written notice to Donors, except to the extent any change is required by applicable law, rule or regulation, in which case GiveClear shall promptly notify Client of any such change and provide notice thereof to Donors. For the avoidance of doubt, nothing contained in this Agreement shall limit GiveClear's

obligations pursuant to the DAF Program Guidelines or the SCF Program Guidelines.

- p. GiveClear has not and shall not enter into any agreement with any third Party, including Client, that is inconsistent with the rights and obligations of Client pursuant to this Agreement, or that otherwise conflicts with any provision of this Agreement.
- q. In addition to Client's own website terms of use applicable to its customers, Donors shall be bound by the Program Guidelines which Donors shall be required to read and acknowledge upon creating a Client Fund. For the avoidance of doubt, except to the extent that a Client user contributes to a non-Client branded Fund directly via GiveClear's website or otherwise utilizes GiveClear's websites or applications directly, Donors shall not be bound by any other terms or conditions applicable to the use of GiveClear's platforms, including without limitation, GiveClear's website terms of use.
- r. GiveClear shall have policies, procedures and controls in place to (i) perform reasonable due diligence on all recommended grantees for grants from Client Funds, and (ii) ensure that grants from Client Funds shall not be made (a) with respect to DAFs, to any recipient that would constitute a taxable distribution by a DAF Sponsor under section 4966 of the Code, (b) to terrorist organizations, organizations that finance or support terrorism, or organizations listed or affiliated with persons listed on the Specially Designated Nationals and Blocked Persons List, as published by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**"), or (c) to any other organization that GiveClear determines, in its sole discretion, is not an eligible grantee. For the avoidance of doubt, subject to its obligations under this Agreement, GiveClear shall retain sole and final discretion over whether any such grant from a Client DAF shall ultimately be made or rejected.
- s. GiveClear shall at all times have all necessary rights and licenses required to use any third party content or intellectual property of any kind (collectively "**Third Party IP**") including any software, systems or related technology provided by Client, which are used by or made available to GiveClear in connection with the Client Fund Program.
- t. To the extent GiveClear is providing, serving, or hosting Internet, email or portable device ready user interface elements or functionality, those elements and functionality shall conform to (i) the W3C Web Content Accessibility Guidelines Version 2.0 Level A & AA Success Criteria; and (ii) any state or federal laws applicable to Internet, email or portable device accessibility, including the U.S. Americans with Disabilities Act.
- u. GiveClear will be in compliance with its obligations under this Agreement and provide relevant information reasonably requested by Client and assist Client in meeting its obligations under this Agreement or applicable laws, including regarding (i) registration and notifications; (ii) accountability; (iii) ensuring the security of the Personal Data (as defined below); (iv) responding to requests for access, correction, opt-out, erasure, restriction, data portability, and all similar requests; (v) responding to any complaint relating to the processing of Personal Data, including allegations that the processing infringes on an

individual's rights; and (vi) carrying out privacy and data protection impact assessments and related consultations of data protection authorities. In addition, GiveClear agrees to conduct reasonable due diligence on any third-party vendors or sub-contractors GiveClear may retain in order to provide the services covered in this Agreement.

- v. GiveClear shall maintain the following insurance (with carriers rated at least A-VIII by A.M. Best) in amounts that meet generally accepted industry standards or applicable laws: Workers Compensation and Employer's Liability Insurance; and Commercial General Liability Insurance. GiveClear shall, on request, provide Client with certificates of insurance.
2. Representations, Warranties and Covenants of Client. Client represents, warrants and covenants to GiveClear as follows:
- a. Client shall (i) comply with all federal, state and local laws, rules and regulations applicable to Client in the operation of the Client DAF Program, the Client SCF Program and the Client Guest Giving Program and its obligations under this Agreement and (ii) have in place policies and procedures reasonably designed to prevent violation of federal securities laws.
 - b. Client reasonable diligence reviews of potential account holders and (y) ensure such accounts comply with such applicable laws.
 - c. Only Donors having accounts with Client or a Client Affiliate are eligible to open a DAF account or SCF account.
 - d. Client shall provide relevant information and assistance reasonably required by GiveClear to describe the measures taken by Client to comply with its obligations under this Agreement and to assist GiveClear in meeting its obligations under this Agreement or applicable laws.
 - e. Client acknowledges that (i) any and all contributions to any Client DAF or SCF shall be owned and controlled by GiveClear, and (ii) the Donor to a Client DAF or SCF and/or any person appointed or designated by the Donor as having advisory privileges to a Client DAF ("**Donor Advisor**") shall only have advisory privileges with respect to the distribution or investment of the assets of the Client DAF or SCF, as applicable, as required by the Code and Treasury Regulations.
 - f. To the extent practicable and permitted by law, Client shall provide GiveClear with reasonable notice in writing, but in any event not less than sixty (60) days' notice, of any event that is reasonably likely to affect Client's participation in the Client Fund Program in any material respect.
 - g. Client has not and shall not enter into any agreement with any third party that that is inconsistent with the rights and obligations of GiveClear pursuant to this Agreement, or that otherwise conflicts with any provision of this Agreement.
3. Non-Exclusivity. Client may offer (and may continue to offer) investment services to other persons outside the Client Fund Program and may recommend other DAF sponsors and SCF sponsors to its clients. GiveClear offers (and shall continue to offer) DAFs and SCFs and other services similar or identical to those set forth in this

Agreement to other persons or financial institutions outside the Client Fund Program.

4. Use of Marks.

- a. GiveClear hereby grants to Client and its Affiliates a non-exclusive, revocable right and license to use and display the GiveClear Marks (identified in Exhibit 2) in connection with the Client Fund Program and all informational, marketing, advertising and promotional materials related thereto during the term of this Agreement, provided that Client obtains GiveClear's prior written approval for each type of use. Once a use has been approved, no approval from GiveClear shall be required for substantially similar uses. Client shall not use the GiveClear Marks in any way which would cause any person reasonably to conclude that GiveClear and Client are in any way affiliated with or otherwise acting on behalf of the other, except as provided in this Agreement. Client acknowledges that the foregoing license does not convey any title to or ownership interest in the Client Fund Program platform or the GiveClear Marks or any goodwill associated therewith. Any goodwill associated with use by Client or its Affiliates of the GiveClear Marks shall inure to the benefit of GiveClear. GiveClear may revoke the foregoing license to any GiveClear Marks for any reason, and Client and its Affiliates shall promptly cease use of the applicable GiveClear Marks and shall remove, on a prospective basis, all references to such GiveClear Marks from all marketing and publicity.
- b. Client hereby grants to GiveClear and its Affiliates a non-exclusive, revocable right and license to use and display the Client Marks in connection with the Client Fund Program and all informational, marketing, advertising and promotional materials related thereto during the term of this Agreement, provided that GiveClear obtains Client's prior written approval for each type of use. Once a use has been approved, no approval from Client shall be required for substantially similar uses. GiveClear shall not use the Client Marks in any way which would cause any person reasonably to conclude that GiveClear and Client are in any way affiliated with or otherwise acting on behalf of the other, except as provided in this Agreement. GiveClear acknowledges that the foregoing license does not convey any title to or ownership interest in the Client Marks or any goodwill associated therewith. Any goodwill associated with use by GiveClear or its Affiliates of the Client Marks shall inure to the benefit of Client. Client may revoke the foregoing license to any Client Marks for any reason, and GiveClear and its Affiliates shall promptly cease use of the applicable Client Marks and shall remove, on a prospective basis, all references to such Client Marks from all marketing and publicity.
- c. The content of any press release, interview or other public statement by either Party regarding this Agreement or the Parties' relationship hereunder shall be mutually agreed to by the Parties in each case, except for any public disclosure required by applicable law, rule or regulation.

5. Termination. This Agreement shall remain in force and effect until terminated by either Party as provided in this Section 5. This Agreement may be terminated without payment of any termination penalty as follows:

- a. Immediately upon the mutual written consent of each Party hereto.
- b. By either Party upon providing sixty (60) days' prior written notice to the other Party; provided, however, that such notice may be waived by the Party

receiving such notice.

- c. Immediately by notice from one Party to the other Party if GiveClear: (i) ceases to qualify, or terminates its status, as a Code section 501(c)(3) public charity eligible to be a sponsoring organization of a DAF within the meaning of section 4966(d)(1) of the Code, or (ii) otherwise becomes a private foundation within the meaning of Code section 509(a).
 - d. By either Party by giving notice to the other Party, as of the date specified in the notice of termination, if either Party (i) files for bankruptcy, or (ii) becomes or is declared insolvent or is the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver or similar officer.
 - e. Client, if GiveClear fails to meet the Service Levels, if such failure remains uncured for sixty (60) days following receipt by GiveClear of written notice thereof from Client.
 - f. By either Party if the other Party fails to perform any of its material obligations under this Agreement and does not cure such failure (to the extent curable hereunder or as the circumstances require) within ten (10) days after being given notice specifying the nature of the failure. Without limiting the foregoing, the following shall be considered a material and incurable breach of this Agreement (provided that the Parties shall have a reasonable, good faith discussion in writing (email being sufficient) of the issues, if reasonably practicable under the circumstances, to resolve such issues prior to termination): (i) GiveClear's breach of any of its representations or warranties contained in Sections 1(a)-Client
 - g. Upon termination of this Agreement for any reason, the Parties agree to cooperate in good faith to take such action as is necessary to promptly transfer the assets in the Client Funds to an alternate Fund Sponsor selected by GiveClear (the "**Successor Charity**"); provided, however, that any such transfer shall be made in such a manner that it shall not result in a loss of eligibility for any charitable contribution deductions for Donors and the transfer shall not be either a taxable distribution described in Code section 4966 nor a prohibited benefit under Code section 4967; and provided further, that any such transfer shall not be made to the extent a particular Donor or Donor Advisor voluntarily elects to keep their Fund account at GiveClear. In selecting the Successor Charity, GiveClear shall give consideration to a Fund Sponsor identified to GiveClear in writing by Client, but GiveClear shall have the right to obtain guidance from counsel and/or the IRS confirming that such an asset transfer has no adverse tax consequences to Donors, GiveClear, or a disqualified person or organization manager as defined in Code section 4966.
6. Independent Contractors. GiveClear and Client shall at all times be independent contractors. Neither Party shall have any authority to enter into any agreement on behalf of, or to assume any obligation or liabilities, in the name of the other Party. This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties. Unless expressly provided otherwise, each Party shall bear its own costs and expenses incurred in connection with this Agreement.
7. Confidentiality.

- a. **Confidential Information; Restrictions.** Either Party ("**Disclosing Party**") may provide the other Party ("**Receiving Party**"), in any form, confidential, non-public and/or proprietary materials and information, including Personal Data (collectively "**Confidential Information**"). The Receiving Party shall maintain the confidentiality of the Confidential Information and shall not use or disclose such Confidential Information without the prior written consent of the Disclosing Party. At any time, upon the Disclosing Party's request, the Receiving Party shall return to the Disclosing Party all Confidential Information in its possession. Whenever the Receiving Party has the Disclosing Party's Confidential Information, the Receiving Party shall implement policies and procedures designed to notify the Disclosing Party of any unauthorized access to or unauthorized use or disclosure of the Disclosing Party's Confidential Information. The Receiving Party may disclose the Disclosing Party's Confidential Information to regulatory or governmental bodies asserting jurisdiction over the Receiving Party. In the event the Receiving Party has access to any data identifying or identifiable to an individual person ("**Personal Data**") including any customers or personnel of the Disclosing Party, the Receiving Party shall comply with all applicable laws relating to the collection, use, transfer, disclosure, retention or other processing of such information (collectively, "**Data Privacy Laws**"). The Receiving Party confirms that when it is processing Personal Data it shall act in accordance with the Data Privacy Laws and the written instructions of the Disclosing Party, and shall not transfer the Personal Data outside of country in which it was collected without the prior approval of the Disclosing Party. The Receiving Party shall provide relevant information and assistance required by the Disclosing Party to describe the measures taken by the Receiving Party to comply with its obligations under this Agreement and to assist the Disclosing Party in meeting its obligations under Data Privacy Laws, including regarding (i) registration and notifications, (ii) accountability, (iii) ensuring the security of Personal Data, (iv) responding to requests for access, correction, opt-out, erasure, restriction, data portability, and all similar requests, (v) responding to any complaint relating to the processing of Personal Data, including allegations that the processing infringes on an individual's rights, and (vi) carrying out privacy and data protection impact assessments and related consultations of data protection requirements. The Receiving Party shall only use or reference the Disclosing Party's Confidential Information and Personal Data (including any aggregate or performance data derived from the Disclosing Party's Confidential Information) to perform its obligations under this Agreement and for no other purpose, and shall require the same of its personnel, contractors, subcontractors and agents, all of whom must be bound by the confidentiality obligations and data use restrictions of this Section 9(a). The Receiving Party shall not decrypt, unmask, identify or re-identify any of the Disclosing Party's Confidential Information or Personal Data that is encrypted, masked or de-identified. As between Client and GiveClear, each Party shall own its Confidential Information. If a Party obtains any rights in any Confidential Information of the other Party (other than pursuant to an express license set forth herein), that Party hereby assigns those rights to the other Party.
- b. **Information Security Controls.** The Receiving Party shall implement, maintain and test controls reasonably designed to ensure the security and integrity of systems on or through which the Disclosing Party's Confidential Information is stored, accessed, processed or transmitted and cooperate with the Disclosing Party's requests for assurances and evidence of the effectiveness of those controls. In addition to other obligations with respect to the Disclosing Party's

Confidential Information, the Receiving Party shall implement and maintain (and require any of its subcontractors, sub-processors, agents and Affiliates that have, process, or otherwise have access to the Disclosing Party's Confidential Information to maintain) appropriate administrative, technical, physical, logical, and organizational safeguards designed to: (i) ensure the security and confidentiality of the Disclosing Party's Confidential Information; (ii) protect against anticipated threats or hazards to the security or integrity of the Disclosing Party's Confidential Information; (iii) protect against unauthorized or unlawful access to or use of the Disclosing Party's Confidential Information and against accidental loss or destruction of, or damage to, the Disclosing Party's Confidential Information; and (iv) ensure that the Disclosing Party's Confidential Information and any associated hardware, system, or software are housed in physically secure premises with adequate fire protection and facility access controls.

- c. Return or Destruction of Confidential Information. The Receiving Party shall return or destroy, as required by the Disclosing Party, any of the Disclosing Party's Confidential Information within thirty (30) days after the earlier of: (i) the Disclosing Party's request, or (ii) the date the Receiving Party no longer requires that Confidential Information to perform its obligations under this Agreement.
 - d. Security Breach Notification. The Receiving Party shall immediately notify the Disclosing Party of any actual or reasonably suspected Security Breach (as defined below) of any of the Disclosing Party's Confidential Information under the Receiving Party's control and the Receiving Party shall include with that notice the reasonably expected impact that the breach or access may have on the Disclosing Party or its customers. The Receiving Party shall cooperate fully with the Disclosing Party and its Affiliates to investigate any such breach. The Receiving Party further agrees to provide reasonable assistance and any cooperation requested by the Disclosing Party and/or the Disclosing Party's agents, in the furtherance of any correction or remediation of any Security Breach and/or the mitigation of any potential damage, including any notification that the Disclosing Party may determine appropriate to send to affected individuals, regulators, or third parties. As used herein "Security Breach" means any actual or reasonably suspected act or omission that compromises the integrity of any of the Disclosing Party's Confidential Information or any systems used for transmitting, processing, storing or otherwise handling any of the Disclosing Party's Confidential Information, including unauthorized or suspicious intrusion into those systems, improper access to or misuse of such Confidential Information or systems.
8. Books and Records. Each Party agrees that it shall keep accurate books, records and accounts in connection with the operation of the Client Fund Program and its obligations under this Agreement. Each Party shall make its records and systems (as applicable) available to the other Party, its third party auditor (who is bound by a confidentiality agreement) or a regulator of the other Party, upon reasonable advance written notice.
9. No Publicity. Neither Party shall furnish the name, trademark or proprietary indicia of the other as a reference, or utilize any of the foregoing in any advertising, announcement, press release or promotional materials without the prior written consent of the other Party, except to the extent provided in Section 4 hereof.

10. Indemnification. Each Party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party and its officers, directors, employees, agents, successors and assigns (the "**Indemnified Party**") from any and all losses, liabilities, damages (including taxes), and all related costs and expenses, including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties (collectively "**Losses**"), and threatened losses due to, arising from or relating to any third-party claim made against an Indemnified Party and arising from or relating to: (a) the Indemnifying Party's actual or alleged breach of the confidentiality provisions set forth in Section 7; (b) violations of any of the Indemnifying Party's representations, warranties or covenants set forth in this Agreement; or (c) grossly negligent, willful or fraudulent acts or omissions of or by the Indemnifying Party or its personnel, contractors or agents. No settlement or compromise that imposes any liability or obligation on any Indemnified Party shall be made without the Indemnified Party's prior written consent (not to be unreasonably withheld).
11. Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. Notwithstanding the foregoing, the limitations of liability set forth in the preceding sentence shall not apply to damages or losses in connection with: (a) death, personal injury or property damage caused by either Party or its personnel; (b) fraud, negligence or the willful or reckless misconduct of either Party or its personnel, contractors or agents; or (c) claims pursuant to the indemnification provisions set forth in Section 10.
12. Dispute Resolution. This Agreement and any claim, controversy, dispute or legal action arising under or related to this Agreement, whether arising in contract, tort or otherwise, shall be governed by the laws of the State of North Carolina without giving effect to principles of conflicts of laws. Each Party irrevocably agrees that any legal action brought by it in any way arising out of this Agreement must be brought solely and exclusively in, and each Party irrevocably submits to the sole and exclusive personal jurisdiction of, the state and federal courts in the State of New York. Each Party waives its right to a jury trial for any dispute or claim between or among the Parties or any of their Affiliates related to this Agreement. Notwithstanding anything to the contrary in this Agreement, in the event a Party believes it shall be irreparably harmed, the Party may seek equitable relief to enforce its rights in a court of competent jurisdiction.
13. Notices. All notices under this Agreement must be in writing and shall be deemed given only when sent by first class mail (return receipt requested), hand-delivered, e-mailed or sent by a national recognized overnight delivery service to the Party to whom the notice is directed, at its place of business and, with respect to GiveClear, with a copy to accountservicest@giveclear.com. Each Party shall promptly notify the other Party of any occurrence that affects the first Party's ability to materially perform its obligations to the other Party.
14. Severability. If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, (a) that provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, (b) the remaining provisions of the Agreement shall not be affected, and (c) each of those provisions shall be valid and enforceable to the extent permitted by

law.

15. Waivers. The failure or delay of either Party to enforce strict performance by the other Party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver of that Party's right to assert or rely upon any provision of this Agreement. Waiving one breach shall not be construed to waive any succeeding breach. All waivers must be in writing and signed by the Party waiving rights.
16. Counterparts. This Agreement and any amendment to this Agreement may be executed in two or more counterparts and delivered by electronic means and the executed versions of each counterpart shall be considered an original but all of which together shall constitute one agreement.
17. Entire Agreement; Modification. This Agreement contains the entire agreement between the Parties regarding the subject matter described herein. This Agreement may be amended by an agreement in writing (and not in electronic form) agreed by authorized representatives of both Parties, that expressly states that is an amendment to this Agreement. Neither Party may assign, or permit to be assigned, any rights or delegate any obligations under this Agreement without the prior written consent of the other Party. Notwithstanding that consent, any assignment by either Party that is not accompanied by an assumption agreement executed by the assignee shall be null and void. Notwithstanding the foregoing, Client may assign this Agreement, or any of its rights under this Agreement, in whole or in part, (a) to any Client Affiliate; or (b) to a surviving entity in the case of a Client merger, acquisition, divestiture, consolidation or corporate reorganization. Any assignment or attempted assignment contrary to this Section 17 shall be null and void. This Agreement shall be binding upon the successors, legal representatives and permitted assigns of the Parties.

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EXHIBIT 1

Service Levels

I. Client Experience Service Levels

All reproducible issues in the Licensed Services will be categorized by Client and GiveClear Foundation according to the category definitions outlined below. In the event the parties disagree with classification of any issue, such dispute will be resolved in accordance with a mutually agreed upon dispute resolution process. The support provisions do not apply to any issues: (i) that resulted from any inappropriate actions or inactions of Client that violate the Agreement or that are not in accordance with the Documentation; or (ii) that resulted from Client equipment or systems and/or third party equipment or systems (not within the primary control of GiveClear Foundation).

- A. **Severity 1/ Critical Issue.** This indicates an Issue that materially affects data integrity, critical system functions or system security; and/or which materially disrupts operations.
- B. **Severity 2/ Major Issue.** This indicates an Issue that causes a business impact but does not materially disrupt operations.
- C. **Severity 3/ Minor Issue.** This indicates a general interface Issue that is not related to failure of functionality nor data corruption.

For purposes of this Section:

- A. **"Initial Response"** means the time it takes from Client's initial fax, e-mail or telephone call notification of the Defect until GiveClear Foundation, or its representative from [TIFIN Give Inc.](#), responds to the appropriate Client Personnel.
- B. **"Interim Resolution"** means the time it takes [TIFIN Give Inc.](#) to apply a functional resolution to the reported Defect measured from the time at which the initial notification was made, meaning GiveClear's software provider, [TIFIN Give Inc.](#), provides Client with a temporary fix or workaround that solves a reported Defect and that can be used by Client with minimal inconvenience and minimal impact on Client's business operations.
- C. **"Final Resolution"** means GiveClear's software provider, [TIFIN Give Inc.](#), provides a final correction or modification of the Software that corrects the Defect.

For purposes of the table below:

- A. **"Effort"** means continuous and uninterrupted commercially reasonable efforts during normal business hours
- B. **"Hours"** means consecutive hours during normal business hours.

Severity Level	Initial Response	Interim Resolution	Final Resolution
Severity 1	Within 2 hours	Reasonable efforts to resolve within 12 hours	Reasonable efforts to finally resolve as soon as is practical
Severity 2	Within 4 hours	Within 24 hours	Reasonable efforts to finally resolve within 5 business days
Severity 3	Within 48 hours	N/A	Next release

II. GiveClear Administrative Service Levels

Service Level	Time Commitment	Additional Details
Customer Service Escalations	GiveClear and/or TIFIN Give Inc. shall respond to CLIENT Customer Service Center within 1-2 Business Days with update of resolution.	N/A
Calculation of Monthly DAF Fees	On a daily basis, GiveClear shall calculate 1/365th of the DAF Fees, based upon the daily fair market value (FMV) of each DAF Account.	The DAF Fees cover the cost of grant and contribution processing, verification of the charitable status of organizations, recordkeeping and reporting, and related Donor services provided by GiveClear. The DAF Fee is assessed per DAF Account. The costs are deducted from the DAF Account balance at the end of each month.
Charitable Contribution Fraud	Funds shall be returned within 2-3 Business Days upon notification of a verified fraud case.	"Verified fraud cases" means those where the Donor attests that he or she did not authorize the charitable contribution from their CLIENT account.

EXHIBIT 2
GiveClear Marks

