

## Terms of Use

By entering your email, or making a donation, you agree to receive personalized email notifications including but not limited to receipts. You may unsubscribe at any time.

Welcome to the SuccessFund Site (defined below). By using it, you are agreeing to these Terms of Use (defined below). Please read them carefully. If you have any questions, [contact us here](#).

These Terms of Use were last updated on July 10, 2018.

## ACCEPTANCE OF TERMS OF USE

SuccessFund, Inc. ("**SuccessFund**" "**we**" or "**us**" or "**our**") owns and operates the website, [www.successfund.com](http://www.successfund.com), the mobile and touch versions and any sites we have now or in the future that reference these Terms of Use (collectively, "**Site**"). By (a) using the Site and SuccessFund's services through the Site, (b) signing up for an account and/or (c) completing a payment on the Site, you agree to these Terms of Use (defined below) and any additional terms applicable to certain programs in which you may elect to participate. You also agree to our Privacy Statement, incorporated herein by reference and located at <http://www.successfund.com/privacy> ("**Privacy Statement**"), and acknowledge that you will regularly visit the Terms of Use (defined below) to familiarize yourself with any updates. The Privacy Statement, together with these terms of use, and any other terms contained herein or incorporated herein by reference, are collectively referred to as the "**Terms of Use**." The term "using" also includes any person or entity that accesses or uses the Site with crawlers, robots, data mining, or extraction tools or any other functionality.

IF YOU DO NOT AGREE TO THESE TERMS OF USE, IMMEDIATELY STOP USING THE SITE AND DO NOT USE ANY SUCCESSFUND SERVICE, PARTICIPATE IN ANY PROGRAM, OR MAKE ANY PAYMENT THROUGH THE SITE.

PLEASE REVIEW THE FOLLOWING SECTIONS OF THESE TERMS OF USE CAREFULLY: (A) **DISPUTE RESOLUTION/ARBITRATION AGREEMENT**, INCLUDING THE **CLASS ACTION WAIVER** DESCRIBED THEREIN, (B) **LIMITATION OF LIABILITY**, AND (C) **INDEMNIFICATION/RELEASE**.

### 1. About the Site

The Site is a platform through which certain school district education foundations ("**School Districts**") accept digital payments as monetary donations ("**Donations**"). School Districts are the recipients of the donations and are solely responsible for the appropriate use of funds received based on any intention(s) provided.

### 2. Ownership of the Site

The Site, any content on the Site, and the infrastructure used to provide the Site are proprietary to us, our affiliates, School Districts, and other content providers. By using the Site and accepting these

Terms of Use: (a) SuccessFund grants you a limited, personal, nontransferable, nonexclusive, revocable license to use the Site pursuant to these Terms of Use and to any additional terms and policies set forth by SuccessFund; and (b) you agree not to reproduce, distribute, create derivative works from, publicly display, publicly perform, license, sell, or re-sell any content, software, products, or services obtained from or through the Site without the express permission of SuccessFund.

### 3. Use of the Site

As a condition of your use of the Site, you agree that:

- You have reached the age of majority in the state or province in which you reside;
- You are able to create a binding legal obligation;
- You are not barred from receiving products or services under applicable law;
- You will not attempt to use the Site with crawlers, robots, data mining, or extraction tools or any other functionality;
- Your use of the Site will at all times comply with these Terms of Use;
- You will only make legitimate donations that comply with the letter and spirit of the terms of the respective solicitation(s);
- You will only make donations on the Site for your own intrinsic benefit or on behalf of another person;
- You have the right to provide any and all information you submit to the Site, and all such information is accurate, true, current, and complete;

### 4. Access to the Site

SuccessFund retains the right, at our sole discretion, to deny service or use of the Site or an account to anyone at any time and for any reason. While we use reasonable efforts to keep the Site accessible, the Site may be unavailable from time to time. You understand and agree that there may be interruptions in service or events, Site access, or access to your account due to circumstances both within our control (e.g., routine maintenance) and outside of our control.

### 5. Modification

We reserve the right at all times to discontinue or modify any part of these Terms of Use in our sole discretion. If we make changes that affect your use of the Site or our services we will post notice of the change on the Terms of Use page. Any changes to these Terms of Use will be effective upon our posting of the notice; provided that these changes will be prospective only and not retroactive. If you do not agree to the changes, you should not use the Site or any services offered through the Site after the effective date of the changes. We suggest that you revisit our Terms of Use regularly to ensure that you stay informed of any changes. You agree that posting notice of any changes on the Terms of Use page is adequate notice to advise you of these changes, and that your continued use of the Site or our services will constitute acceptance of these changes and the Terms of Use as modified.

### 6. Your Conduct

All interactions on the Site must comply with these Terms of Use. To the extent your conduct, in our sole discretion, restricts or inhibits any other user from using or enjoying any part of the Site, we may limit or terminate your privileges on the Site and seek other remedies.

The following activities are **prohibited** on the Site and constitute violations of these Terms of Use:

- Submitting any content to the Site that:
  - Violates applicable laws (including, without limitation, intellectual property laws, laws relating to rights of privacy and rights of publicity, and laws related to defamation);
  - Contains personal information, except when we expressly ask you to provide such information;
  - Contains viruses or malware;
  - Offers unauthorized downloads of any copyrighted, confidential, or private information;
  - Has the effect of impersonating others;
  - Contains messages by non-spokesperson employees of SuccessFund purporting to speak on behalf of SuccessFund or provides confidential information concerning SuccessFund;
  - Is purposely inaccurate, commits fraud, or falsifies information in connection with your SuccessFund account; or
  - Is protected by copyright, trademark, or other proprietary right without the express permission of the owner of the copyright, trademark or other proprietary right.
- Attempting to do or actually doing any of the following:
  - Accessing data not intended for you, such as logging into a server or an account which you are not authorized to access;
  - Scanning or monitoring the Site for data gathering purposes in an effort to track donations, usage, aggregate information, pricing information, or similar data;
  - Scanning or testing the security or configuration of the Site or breaching security or authentication measures; or
  - Interfering with service to any user in any manner, including, without limitation, by means of submitting a virus to the Site or attempting to overload, “flood,” “spam,” “mail bomb,” or “crash” the Site.
- Using any of the following:
  - Frames, framing techniques, or framing technology to enclose any content included on the Site without our express written permission;
  - Any Site content, including, without limitation, User Content (defined below), in any meta tags or any other “hidden text” techniques or technologies without our express written permission;
  - The Site or any of its contents to advertise or solicit, for any commercial, political, or religious purpose or to compete, directly or indirectly, with SuccessFund; or
  - The Site or any of its resources to solicit consumers, School Districts, or other third-parties to become users or partners of other online or offline services directly or indirectly competitive or potentially competitive with SuccessFund, including, without limitation, aggregating current or previously active fundraisers.
- Collecting any of the following:

- Content from the Site, including, without limitation, in connection with current or previously active fundraisers, and featuring such content to consumers in any manner that diverts traffic from the Site; or
- Personal Information (defined in our Privacy Statement), User Content (defined in Section 12 below), or content of any consumers or School Districts.
- Engaging in any of the following:
  - Tampering or interfering with the proper functioning of any part, page, or area of the Site or any functions or services provided by SuccessFund;
  - Taking any action that places excessive demand on our services or imposes, or may impose, an unreasonable or disproportionately large load on our servers or other portion of our infrastructure (as determined in our sole discretion);
  - Using SuccessFund for speculative, false, fraudulent, or any other purpose not expressly permitted by these Terms of Use;
  - Accessing, monitoring, or copying any content from the Site using any “robot,” “spider,” “scraper,” or other automated means or any manual process for any purpose without our express written permission;
  - Violating the restrictions in any robot exclusion headers on the Site or bypassing or circumventing other measures employed to prevent or limit access to the Site;
  - Aggregating any current or previously active fundraisers or content or other information from the Site (whether using links or other technical means or physical records associated with donations made through the Site) with material from other sites or on a secondary site without our express written permission;
  - Deep-linking to any portion of the Site without our express written permission;
  - Hyperlinking to the Site from any other website without our initial and ongoing consent; or
  - Acting illegally or maliciously against the business interests or reputation of SuccessFund, our School Districts, or our services.

## 7. Your Privacy

We take the privacy of your Personal Information (defined in the Privacy Statement) seriously. We encourage you to carefully review our Privacy Statement for important disclosures about ways that we may collect, use, and share personal data and your choices. Our Privacy Statement is incorporated in and subject to these Terms of Use, and available [here](#).

## 8. Terms of Payment

By donation to any School District or fundraiser via the Site, you agree to these Terms of Use, including, without limitation, the Terms of Payment, available [here](#).

## 9. Copyright and Trademarks

The Site contains copyrighted material, trademarks, and other proprietary information, including, without limitation, text, software, photos, video, graphics, music, and sound, and the entire contents of the Site are protected by copyright, trademark, and other intellectual property laws of the United States. SuccessFund owns a copyright in the selection, coordination, arrangement, and

enhancement of such content, as well as in the content original to it. You may not modify, distribute, publish, transmit, publicly display, publicly perform, participate in the transfer or sale, create derivative works, or in any way exploit any of the content, in whole or in part. Except as otherwise expressly stated under copyright law, no downloading, copying, redistribution, retransmission, publication, or commercial exploitation of the content without the express permission of SuccessFund or the copyright owner is permitted. If downloading, copying, redistribution, retransmission, or publication of copyrighted material is permitted, you will make independent attribution and/or make no changes in or deletion of any author attribution, trademark legend, or copyright notice. You acknowledge that you do not acquire any ownership rights by downloading copyrighted material. Any violation of these restrictions may result in a copyright, trademark, or other intellectual property right infringement that may subject you to civil and/or criminal penalties.

SuccessFund owns trademarks, registered and unregistered, in many countries and "SUCCESSFUND," the SuccessFund logos and variations thereof found on the Site are trademarks owned by SuccessFund, Inc. or its related entities and all use of these marks inures to the benefit of SuccessFund. "SUCCESSFUND" is a trademark registered in the United States of America.

Other marks on the site not owned by SuccessFund may be under license from the trademark owner thereof, in which case such license is for the exclusive benefit and use of SuccessFund unless otherwise stated, or may be the property of their respective owners. You may not use SuccessFund's name, logos, trademarks or brands, or trademarks or brands of others on the Site without SuccessFund's express permission.

## 10. User Content

The Site may provide registered users and visitors various opportunities to submit or post reviews, opinions, advice, ratings, discussions, comments, messages, survey responses, and other communications, as well as files, images, photographs, video, sound recordings, musical works, and any other content or material submitted or posted to the Site (collectively, "**User Content**") through forums, bulletin boards, discussion groups, chat rooms, surveys, blogs, or other communication facilities that may be offered on, through, or in connection with the Site from time to time. You may be required to have a SuccessFund account to submit User Content.

If you contribute any User Content, you will not upload, post, or otherwise make available on the Site any material protected by copyright, trademark, or other proprietary right without the express permission of the owner of the copyright, trademark, or other proprietary right. SuccessFund does not have any express burden or responsibility to provide you with indications, markings, or anything else that may aid you in determining whether the material in question is copyrighted or trademarked. You will be solely liable for any damage resulting from any infringement of copyrights, trademarks, proprietary rights, or any other harm resulting from such a submission. In addition, if you contribute any User Content, you represent and warrant that: (a) you are the creator of the User Content; or (b) if you are acting on behalf of the creator, that you have (i) express, advance authority from the creator to submit or post the User Content, and that they have waived any moral rights in such User Content, and (ii) all rights necessary to grant the licenses and grants in these Terms of Use. You further represent and warrant (or, if you are acting on behalf of the creator of the User Content, you

have ensured that the creator represents and warrants) that the use and sharing of the User Content for the purposes you have selected will not violate or infringe any copyrights, trademarks, or any other intellectual property rights or rights of third parties, including, without limitation, the rights of publicity or privacy. You represent and warrant that you will not upload, post, transmit, or otherwise make available User Content that is unlawful, harmful, tortious, threatening, abusive, harassing, hateful, racist, infringing, pornographic, obscene, violent, misleading, defamatory or libelous, invasive of the privacy of another person, or violative of any third-party rights; and that you will not upload, post, transmit, or otherwise make available User Content that contains any material that harbors viruses or any other computer codes, files, or programs designed to intercept, misappropriate, interrupt, destroy or limit the functionality of any software or computer equipment.

SuccessFund shall have the sole and absolute right, but not the obligation, to review, edit, post, refuse to post, remove, monitor the User Content, and disclose the User Content and the circumstances surrounding its transmission to any third-party, at any time, for any reason, including, without limitation, to determine compliance with these Terms of Use and any operating rules established by SuccessFund, as well as to satisfy any applicable law, regulation, or authorized government request. Without limiting the foregoing, SuccessFund shall have the right to remove any material from the Communities or any other SuccessFund controlled sites, in its sole discretion. SuccessFund assumes no liability for any User Content or other information that appears or is removed from the Site or elsewhere. SuccessFund has no obligation to use User Content and may not use it at all.

In some instances and from time to time, it may be possible to modify or remove the User Content submitted or posted through your account. SuccessFund makes no representations or warranties that the User Content you modify or remove will be modified or removed from the Site or elsewhere, or that the User Content will cease to appear on the Internet, in search engines, social media websites, or in any other form, media or technology.

- Public Nature of Your User Content.
  - You understand and agree that User Content is public. Any person (whether or not a user of SuccessFund's services) may read your User Content without your knowledge. Please do not include any Personal Information in your User Content unless you wish for it to be publicly disclosed. SuccessFund is not responsible for the use or disclosure of any Personal Information that you disclose in connection with User Content.
  - Any User Content of any kind made by you or any third-party is made by the respective author(s) or distributor(s) and not by SuccessFund. Other users may post User Content that is inaccurate, misleading, or deceptive. SuccessFund does not endorse and is not responsible for any User Content, and will not be liable for any loss or damage caused by your reliance on such User Content. User Content reflects the opinions of the person submitting it and may not reflect the opinion of SuccessFund. SuccessFund does not control or endorse any User Content, and specifically disclaims any liability concerning or relating to your contribution of, use of, or reliance on any User Content and any actions resulting from your participation in any part of the Site, including, without limitation, any objectionable User Content.

- License Grants.
  - Some User Content you submit to SuccessFund may be displayed or may give you the option to display in connection with your Personal Information, or a portion of your Personal Information, including, without limitation, your name, initials, username, social networking website user account name, image, likeness, preferences, voice, and location. You grant SuccessFund a royalty-free, perpetual, irrevocable, sublicensable, fully paid-up, non-exclusive, transferrable, worldwide license and right to use, commercial use, display and distribute any Personal Information in connection with your User Content in accordance with these Terms of Use, including, without limitation, a right to offer for sale and to sell such rights in Personal Information, whether the User Content appears alone or as part of other works, and in any form, media or technology, whether now known or hereinafter developed, and to sublicense such rights through multiple tiers of sublicensees, all without compensation to you. However, SuccessFund shall have no obligation to use your Personal Information in connection with any User Content.
  - As between you and SuccessFund, you shall retain all ownership rights in and to the User Content you submit or post. However, by contributing User Content or other information on or through the Site, you grant SuccessFund a royalty-free, perpetual, irrevocable, sublicensable, fully paid-up, non-exclusive, transferrable, worldwide right and license to use, reproduce, create derivative works from, publish, edit, translate, distribute, perform, display, transmit, offer for sale, and sell the User Content alone or as part of other works in any form, media or technology, whether now known or hereinafter developed, and to sublicense such rights through multiple tiers of sublicensees and without compensation to you. You waive any "moral rights" or other rights with respect to attribution of authorship or integrity of materials regarding the User Content that you may have under any applicable law under any legal theory. SuccessFund's license in any User Content or Personal Information submitted includes, without limitation, use for promotions, advertising, marketing, market research, merchant feedback, quality control, or any other lawful purpose.
  - As detailed in Section 3, contributing User Content or other information on or through the Site, is limited to individuals who are over the age of majority in the state or province in which they reside. The Site is designed and intended for adults. By contributing User Content or other content on or through the Communities, you affirm that you are over the age of majority in the state or province in which you reside. We will promptly delete User Content or other content associated with any account we obtain actual knowledge of that is associated with a registered user who is not at least the age of majority in the state or province in which he or she resides.

## 11. Unsolicited Ideas

We do not accept or consider, directly or through any SuccessFund employee or agent, unsolicited ideas of any kind, including, without limitation, ideas or suggestions relating to new or improved products, enhancements, names or technologies, advertising and marketing campaigns, plans, or other promotions. Do not send us (or any of our employees) any unsolicited ideas, suggestions, material, images, or other work in any form ("**Unsolicited Materials**"). If you send us Unsolicited

Materials, you understand and agree that the following terms will apply, notwithstanding any cover letter or other terms that accompany them:

- SuccessFund has no obligation to review any Unsolicited Materials, nor to keep any Unsolicited Materials confidential; and
- SuccessFund will own, and may use and redistribute, Unsolicited Materials for any purpose without restriction and free of any obligation to acknowledge or compensate you.

## 12. Infringement Reporting Procedures and Digital Millennium Copyright Act (DMCA) Procedures

- Infringement Reporting Procedures. If you own copyright, trademark, patent, or other intellectual property rights (“**IP Rights Owner**”), or if you are an agent authorized to act on the IP Rights Owner’s behalf (“**Authorized Agent**”), and you have a good faith belief that material or products on the Site infringe the IP Rights Owner’s copyright, trademark, or other intellectual property right, and you would like to bring it to SuccessFund's attention, you can report your concern(s) by submitting your complaint [here](#).
- DMCA Procedures. SuccessFund reserves the right to terminate your, or any third-party’s, right to use the Site if such use infringes the copyrights of another. SuccessFund may, under appropriate circumstances and at its sole discretion, terminate your, or any third-party’s, right to access to the Site, if SuccessFund determines that you are, or a third-party is, a repeat infringer. If you believe that any material has been posted via the Site by any third-party in a way that constitutes copyright infringement, and you would like to bring it to SuccessFund's attention, you must provide SuccessFund's DMCA Agent identified below with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyrighted work; (b) an identification of the copyrighted work and the location on the Site of the allegedly infringing work; (c) a written statement that you have a good faith belief that the disputed use is not authorized by the owner, its agent, or the law; (d) your name and contact information, including, without limitation, telephone number and email address; and (e) a statement by you that the above 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.
- The contact information for SuccessFund’s DMCA Agent for notice of claims of copyright infringement is: SuccessFund, Inc. Attn: Copyright Agent, 3467 North 500 West Lehi, Utah, 84043, email: [mark@successfund.com](mailto:mark@successfund.com).

## 13. Limitation of Liability

AS PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SUCCESSFUND, ITS SUBSIDIARIES OR AFFILIATES OR ANY OF THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, SCHOOL DISTRICTS, PARTNERS, THIRD-PARTY CONTENT PROVIDERS OR LICENSORS, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE FOR ANY DIRECT OR INDIRECT LOST PROFITS OR LOST BUSINESS DAMAGES, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES



ARISING OUT OF, RELATED TO, OR IN CONNECTION WITH ANY OF THE FOLLOWING: (A) YOUR USE OF THE SITE, THE CONTENT, USER CONTENT, INCLUDING, WITHOUT LIMITATION, ANY PERSONAL INFORMATION, AND ANY OTHER INFORMATION EITHER CONTAINED IN THE SITE OR SUBMITTED BY YOU TO THE SITE; (B) YOUR INABILITY TO USE THE SITE; (C) MODIFICATION OR REMOVAL OF CONTENT SUBMITTED ON THE SITE; (D) THE SCHOOL DISTRICT FUNDRAISERS, AND OTHER AVAILABLE PROGRAMS ACCESSIBLE OR AVAILABLE THROUGH THE SITE; (E) THESE TERMS OF USE; OR (F) ANY IMPROPER USE OF INFORMATION YOU PROVIDE TO THE SITE, INCLUDING, WITHOUT LIMITATION, ANY PERSONAL INFORMATION.

#### **14. Electronic Communications**

When you use the Site or send emails to SuccessFund, you are communicating with us electronically and consent to receive electronic communications related to your use of the Site. We will communicate with you by email or by posting notices on the Site. You agree that all agreements, notices, disclosures, and other communications that are provided to you electronically satisfy any legal requirement that such communications be in writing. Notices from us will be considered delivered to you and effective when sent to the email address you provide on the Site or from which you otherwise email us.

#### **15. Websites of Others**

The Site contains links to websites maintained by other parties. These links are provided solely as a convenience to you and not because we endorse or have an opinion about the contents on such websites. We expressly disclaim any representations regarding the content or accuracy of materials on such websites or the privacy practices of those websites. If you decide to access websites maintained by other parties, you do so at your own risk. We are not responsible or liable, directly or indirectly, for any damage, loss, or liability caused or alleged to be caused by or in connection with any use of or reliance on any content, Products, or services available on or through any such linked site or resource.

#### **16. Indemnification/Release**

You agree to defend, indemnify, and hold harmless SuccessFund, its subsidiaries and affiliates, and their respective directors, officers, employees and agents from and against all claims and expenses, including, without limitation, attorneys' fees, arising out of, related to, or in connection with any of the following: (a) any User Content submitted or posted by you, in connection with the Site, or any use of the Site in violation of these Terms of Use; (b) fraud you commit or your intentional misconduct or gross negligence; or (c) your violation of any applicable U.S., Canadian, or foreign law or rights of a third-party.

You are solely responsible for your interactions with School Districts and other users of the Site. To the extent permitted under applicable laws, you hereby release SuccessFund from any and all claims or liability related to any product or service of a School District, regardless of whether such product or service is a School District Offering available through the Site, any action or inaction by a School District, including, without limitation, but not limited to any harm caused to you by action or

inaction of a School District, a School District's failure to comply with applicable law and/or failure to abide by the terms of a School District Offering or any service purchased or obtained by you from the School District, and any conduct, speech or User Content, whether online or offline, of any other third-party.

## 17. Force Majeure

SuccessFund shall be excused from performance under these Terms of Use, to the extent it or a School District is prevented or delayed from performing, in whole or in part, as a result of an event or series of events caused by or resulting from: (a) weather conditions or other elements of nature or acts of God; (b) acts of war, acts of terrorism, insurrection, riots, civil disorders, or rebellion; (c) quarantines or embargoes; (d) labor strikes; (e) error or disruption to major computer hardware or networks or software failures; or (g) other causes beyond the reasonable control of SuccessFund or a School District, as applicable.

## 18. Assignment

You may not assign these Terms of Use, or any rights, benefits, or obligations hereunder, by operation of law or otherwise, without the express written permission of SuccessFund. Any attempted assignment that does not comply with these Terms of Use shall be null and void. SuccessFund may assign these Terms of Use, in whole or in part, to any third-party in its sole discretion.

## 19. Entire Agreement

The Terms of Use, including, without limitation, the incorporated Terms of Sale, Special Programs, Privacy Statement, and other terms incorporated by reference, constitute the entire agreement and understanding between you and SuccessFund with respect to the subject matter hereof and supersedes all prior or contemporaneous communications and proposals, whether oral or written, between you and SuccessFund with respect to such subject matter.

## 20. Choice of Law

Any disputes arising out of or related to these Terms of Use and/or any use by you of the Site or SuccessFund's services shall be governed by the laws of the State of Illinois, without regard to its choice of law rules and without regard to conflicts of laws principles.

If you reside in Canada, any disputes arising out of or related to these Terms of Use and/or any use by you of the Site or SuccessFund's services shall be governed by the laws of the Province in which you reside at the time you enter into these Terms of Use, without regard to its choice of law rules and without regard to conflicts of laws principles.

## 21. Dispute Resolution/Arbitration Agreement

**(a) Binding Arbitration. Except as specifically stated herein, any dispute or claim between you and SuccessFund and/or its subsidiaries, affiliates, and/or any of their respective members,**

officers, directors, and employees (all such entities collectively referred to herein as the “SuccessFund Entities”) arising out of, relating in any way to, or in connection with the Terms of Use, the Site or your use of the Site, your Personal Information, or any Products or School District Offerings (“Dispute(s)”) shall be resolved exclusively by final, binding arbitration; except that you may bring a qualifying claim over a Dispute in a small claims court. By virtue of this Dispute Agreement (defined below), you and SuccessFund are each giving up the right to go to court and have a Dispute heard by a judge or jury (except as otherwise set forth in this Section 24(a) or Section 24(d)). The provisions of this Section 24 shall constitute your and SuccessFund’s written agreement to arbitrate Disputes under the Federal Arbitration Act (“Dispute Agreement”). The arbitration will be administered by the American Arbitration Association (“AAA”) and conducted before a single arbitrator pursuant to its rules, including, without limitation, the AAA’s Consumer-Arbitration Rules, available at <https://www.adr.org/consumer>. The arbitrator will apply and be bound by this Agreement, apply applicable law and the facts, and issue a reasoned award, if appropriate.

To begin an arbitration proceeding, you must submit the Dispute by utilizing the forms available at <https://www.adr.org/consumer>, and simultaneously sending a copy of the completed form to the following address: C T Corporation System, 208 S. LaSalle Street, Suite 814, Chicago, IL 60604. Payment of all filing, administration, and arbitrator fees will be governed by the AAA’s rules. SuccessFund will reimburse those fees for Disputes totaling less than \$10,000 unless the arbitrator determines the Dispute is frivolous. Likewise, SuccessFund will not seek attorneys’ fees and costs in arbitration unless the arbitrator determines the Dispute is frivolous. The arbitration will be conducted based upon written submissions unless you request, and/or the arbitrator determines, that a telephone or in-person hearing is necessary. In addition, you hereby unconditionally agree that (1) the arbitrator’s decision shall be controlled by these Terms of Use and any of the other agreements referenced herein that you may have entered into in connection with the Site; (2) the arbitrator shall apply Illinois law consistent with the FAA and applicable statutes of limitations, and shall honor claims of privilege recognized at law; and (3) in the event the AAA is unavailable or unwilling to hear the Dispute, you and the applicable SuccessFund Entity(ies) shall agree to, or a court shall select, another arbitration provider.

**(b) No Class Action Matters. We each agree that we shall bring any Dispute against the other in our respective individual capacities and not as a plaintiff or class member in any purported class, representative proceeding or as an association. In addition, we each agree that Disputes shall be arbitrated only on an individual basis and not in a class, consolidated, or representative action and that the arbitrator may award relief (including injunctive relief) only on an individual basis. The arbitrator does not have the power to vary these provisions.**

**(c) Choice of Law and Forum; No Jury Trial.** If for any reason a Dispute proceeds in court: (i) except with respect to a qualifying claim over a Dispute in a small claims court, which you shall have the right to bring in a court of competent jurisdiction in the county in which you reside, you and SuccessFund agree that any Dispute may only be instituted in a state or federal court in Cook County, Illinois/Northern District of Illinois; (ii) you and SuccessFund irrevocably consent and submit to the exclusive personal jurisdiction and venue of such courts for resolution of such Disputes; and (iii) you and SuccessFund agree to waive any right to a trial by jury. You and SuccessFund agree

that the Federal Arbitration Act, the AAA rules, applicable federal law, and the laws of the State of Illinois, without regard to principles of conflicts of law, will govern this Dispute Agreement and any Disputes.

**(d) Injunctive Relief.** Notwithstanding anything to the contrary in this Dispute Agreement, either party may bring suit in court seeking an injunction or other equitable relief arising out of or relating to the infringement of a party's intellectual property, or any illegal or intentional act affecting the accessibility, functionality, or the security of the Site, and/or any illegal or intentional act against your interests or the general business interests of SuccessFund.

**(e) Severability.** With the exception of Section 24(b) above, if any part of this Section 24 is ruled to be unenforceable, then the balance of this Section 24 shall remain in full effect and construed and enforced as if the portion ruled unenforceable were not contained herein. If Section 24(b) above is ruled to be unenforceable, then Section 24(a) shall be deemed unenforceable, but the rest of Section 24 shall remain in full effect.

## 22. Additional Disclosures

No waiver by either you or SuccessFund of any breach or default or failure to exercise any right allowed under these Terms of Use is a waiver of any preceding or subsequent breach or default or a waiver or forfeiture of any similar or future rights under our Terms of Use. The section headings used herein are for convenience only and shall be of no legal force or effect. If a court of competent jurisdiction holds any provision of our Terms of Use invalid, such invalidity shall not affect the enforceability of any other provisions contained in these Terms of Use, and the remaining portions of our Terms of Use shall continue in full force and effect.

You are contracting with SuccessFund, Inc. Correspondence should be directed to: SuccessFund, Inc., 3467 North 500 West Lehi, Utah, 84043; <http://www.successfund.com/helpcenter>.

If you are a California resident, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N-112, Sacramento, California 95834, or by telephone at (800) 952-5210.

The provisions of these Terms of Use apply equally to, and are for the benefit of, SuccessFund, its subsidiaries, affiliates, School Districts, and its third-party content providers and licensors, and each shall have the right to assert and enforce such provisions directly.