

# Terms and Conditions

Last Revised January 31, 2014

**IMPORTANT INFORMATION FOR CHILDREN:** If you are under 18 years old (or otherwise not of legal age to enter into a contract) you must review this Agreement with your parent or guardian. Make sure that you and your parent or guardian understands this Agreement and that they agree to it for you before you use LivingTree or provide information to us. **If your parent or guardian does not agree to this Agreement, you may not use LivingTree.** You should always get an adult's permission before using the Internet.

LivingTree is a proprietary service (as it may be updated from time to time, the "Service") offered by Snowflake Technologies, Inc., a Delaware corporation, d/b/a "LivingTree" ("LivingTree," "our," "us," or "we") that is designed to help parents and legal guardians ("Parents"), schools and teachers (collectively "School Admins"), and coaches and team, league and other activity administrators ("Activity Admins") make the experience of raising young children more memorable, and less chaotic. The Service is also designed to enable student users ("Students") to connect and engage with other Students in their class or school and with School Admins. Parents, Students, School Admins and Activity Admins are all "Users" hereunder. Some Users may use the Service in the capacity as one or several of those User types.

## Your Acceptance Of This Agreement and its Application to You.

Before we can permit use of the Service, it is important to us that we have a common understanding concerning the terms and conditions that govern such use. This document and the documents that we incorporate by making reference to them here, like our privacy policy ("Privacy Policy"), together set forth and establish our common understanding about your use of the Service (together, the "Agreement"). By clicking the "I AGREE" button or using the Service, you ("you") agree, effective as of such date (the "Effective Date") to be bound by this Agreement. Our Privacy Policy is hereby incorporated by reference into this Agreement. You also agree to our Privacy Policy and consent to the practices concerning data collection, transmission and use set forth therein. You are only authorized to use the Service if you agree to abide by all applicable laws and this Agreement as it applies to you. Please read this Agreement carefully and save it. If you do not agree with it, you should discontinue use of the Service immediately.

## Acknowledgment.

In your capacity as a Parent, School Admin or Activity Admin, you may be invited to join classes, schools, teams, leagues and other groups (or, if you are a Student, you may be invited to join classes or schools) (each a "Community") created within the Service by other Users. You acknowledge that the way our Communities are organized and administered, the Users that have included you within the applicable Community, based on a Student's class/school or the activities of your child(ren), have discretion in monitoring the usage, Content (defined below) and sub-Communities applicable to such Community, and that these Users, not LivingTree, determine whether and the extent to which you are permitted to continue to participate in such Community. Such Users also have administrative ability to remove Content and sub-Communities from a given Community. You agree that you will not make any claim against LivingTree as a result of the way that any User governs a Community. If you yourself create a Community (whether as a Parent, School Admin or Activity Admin), you will have similar responsibilities and controls, provided that you acknowledge that (a) LivingTree may change the manner in which Communities are administrated at any time, and that (b) if as the creator of a Community you wish to link it as a sub-Community under another Community (e.g. a subset of Students within a class Community or a subset of athletes within a team), you will necessarily give up some control to the User responsible for the superior Community (e.g. the applicable class or team).

## Special Terms For Child Users.

For a Student under the age of 13 (a "Child"), a Parent must read this Agreement and give consent before we can allow the Child to use LivingTree. We require School Admins to obtain consent from Parents prior to inviting Children to the applicable Community. Children are not allowed to be Users of LivingTree unless they are Students invited by a School Admin or Teacher that has received the prior consent from Parents. In other words, children under 13 may not join team, league or other activity Communities as Users.

To learn about the information we collect from Children and how we use such information, please see our [Children's Privacy Policy \(/privacy-policy.php#children\\_privacy\\_policy\)](https://www.livingtree.com/privacy-policy.php#children_privacy_policy). If you believe that a Child's School Admin did not obtain the consent of a Parent prior to our collection of any personal information of the Child, please contact us immediately at [support@livingtree.com](mailto:support@livingtree.com).

## School Admin Acknowledgement.

If you are a School Admin or Teacher, you acknowledge and agree that: (a) you will obtain verifiable parental consent from all Parents whose Children you invite to join a LivingTree Community, (b) before obtaining consent, you will provide Parents with a copy of our Privacy Policy, (c) you are solely responsible for compliance with the Children's Online Privacy Protection Act of 1998 ("COPPA"), which, among other things, requires verifiable parental consent for the collection of personal information from children under 13, and (d) you will provide us with a copy of all consents you obtain from Parents upon request.

## Other Admin Acknowledgment.

If you are an Admin of an Organization other than a school, you acknowledge and agree that you will not invite children under 13 to join your team, league or other activity Community as a User. Any violation of this section will result in termination of your User account and any Communities you create.

## Parent Acknowledgment.

You acknowledge and agree that your acceptance of this Agreement indicates that you agree to this Agreement both on your own behalf as well as on behalf of your Child or Children who use LivingTree. A Child under 13 may not use LivingTree unless a Parent has provided consent to provide information about the Child to the applicable School Admin and the Parent has accepted this Agreement on the Child's behalf. If your Child has been invited to join a LivingTree Community without your consent, please contact us immediately at [support@livingtree.com](mailto:support@livingtree.com).

## Representations About You.

As a condition to becoming a User, you represent and warrant to us that you are at least 18 years of age and have the power and authority to enter into this Agreement for yourself and, as applicable on behalf of a Child User. Also, you represent and warrant that the information that you provide to us about you in connection with the Service will be current, true, accurate, supportable and complete.

## Grant of License in Content.

We do not claim ownership rights in the text, files, images, photos, video, sounds, links, works of authorship, or any other materials that you post or share via the Service (collectively, "**Content**"). However, by posting or sharing Content through the Service, you hereby grant to us and our third party partners a license under all of your applicable intellectual property or other rights protecting the Content to transmit and publish such Content through the Service and to provide the Service to you and other applicable Users. We reserve the right to remove any of the Content from the Service in our sole discretion.

## User Representations About the Content.

It is important to us that Users do not use the Service to infringe the rights of others. As such, you represent and warrant to us that (a) you have all necessary rights and permissions to grant us the license set forth in the preceding section, and (b) the posting and sharing of your Content via the Service does not violate the privacy rights, publicity rights, copyrights, trademark rights, contract rights or any other rights of any person or entity.

## Copyright Policy.

You may not post, modify, distribute, or reproduce in any way any copyrighted material, trademarks, or other proprietary information belonging to others without obtaining the prior written consent of the owner of such proprietary rights.

## Reservation of Rights With Respect To The Service.

We reserve all rights in and to the Service and all related intellectual property not expressly granted under this Agreement. If you submit comments, suggestions, ratings, or other feedback regarding the Service, Users, or your experience ("**Feedback**"), you agree that we will be free to use such Feedback for any purpose and without restriction or obligation to you.

## Restrictions On Use Of The Service.

You may not rent, lease, lend, sell, redistribute, reproduce or sublicense the Service. You may not copy, decompile, reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Service, or any part thereof. If for some reason these restrictions are prohibited by applicable law or by an agreement we have with one of our licensors, then the activities are permitted only to the extent necessary to comply with such law or license(s). You shall not exploit the Service in any unauthorized way whatsoever, including, but not limited to, by trespass or burdening network capacity. In addition, You agree that you shall not (a) upload or transmit any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, or otherwise objectionable, or that may invade another's right of privacy or publicity; (b) create a false identity for the purpose of misleading others or impersonate any person or entity, including, without limitation, any LivingTree representative or any Parent, Student, School Admin or Activity Admin, or falsely state or otherwise misrepresent your affiliation with a person or entity; (c) upload or transmit any material that you do not have a right to reproduce, display or transmit under any law or under contractual or fiduciary relationships (such as nondisclosure agreements); (d) upload files that contain viruses, trojan horses, worms, time bombs, cancel-bots, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property of another; (e) use the Service in a manner that adversely affects the experience of other Users (e.g., excessive shouting, use of all caps, flooding continuous posting of repetitive text, activity within a Community that is inconsistent with the guidelines established by the applicable administrator(s) thereof, etc.); (f) upload or transmit any unsolicited advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes" or any other similar form of solicitation, commercial or otherwise; (g) violate any applicable local, state, national or international law; (h) delete or revise any material posted by any other person or entity unless such material is incorrect and you are permitted to delete or revise it; (i) register, subscribe, attempt to register, attempt to unsubscribe, or attempt to unsubscribe, any party for any services if you are not expressly authorized by such party to do so; (j) harvest or otherwise collect information about others; or (k) use any robot, spider, scraper, or other automated or manual means to access the Service, or copy any content or information on this Service.

## Legal Matters.

LivingTree may cooperate with law enforcement and/or third parties in the investigation of any suspected or alleged crime or civil wrong. LivingTree reserves the right at all times to disclose any information as LivingTree deems necessary to satisfy any applicable law, regulation, legal process or governmental request.

## Disputes among Users.

EACH USER IS SOLELY RESPONSIBLE FOR ITS INTERACTIONS WITH OTHER USERS OF THE SERVICE, AGREES TO LOOK SOLELY TO SUCH OTHER USERS FOR ANY CLAIM, DAMAGE OR LIABILITY ASSOCIATED WITH ANY ACTION OR OMISSION OF SUCH OTHER USER, INCLUDING VIA THE SERVICE, AND EXPRESSLY WAIVES AND RELEASES LIVINGTREE FROM ANY AND ALL CLAIMS, DAMAGES AND LIABILITIES ARISING OUT OF ANY ACT OR OMISSION OF ANY SUCH USER, INCLUDING WITHOUT LIMITATION DAMAGES RELATING TO PERSONAL INJURY OR DESTRUCTION OF PROPERTY. LivingTree reserves the right, but has no obligation, to monitor disputes between Users.

## Limitations on Availability.

The Service or some aspects thereof may not be available in all languages or in all countries. We make no representation that the Service is available or permitted in any particular location. Use of the Service is void where prohibited. You use the Service at your own initiative and are responsible compliance with any applicable laws. We may also impose limits on the use or access to the Service as required by law.

## Support and Maintenance.

We will use commercially reasonable efforts to provide you with a reasonable amount of email support regarding use of the Service. Scheduled system maintenance shall take place from time to time, and during such time, the Service may be unavailable. Emergency maintenance may be required at other times in the event of system failure. We make no guarantees about Service uptime.

## Disclaimer of Warranties.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND WE HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT THERETO, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND OF NONINFRINGEMENT OF THIRD-PARTY RIGHTS. WE DO NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE SERVICE, THAT THE FUNCTIONS CONTAINED IN OR SERVICES PERFORMED OR PROVIDED BY THE SERVICE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE SERVICE WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE THAT WE GIVE SHALL CREATE A WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY.

## Limitation of Liability.

IN NO EVENT SHALL LIVINGTREE OR OUR AFFILIATES BE LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OF OR INABILITY TO USE THE SERVICE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE) AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL WE OR OUR AFFILIATES HAVE LIABILITY TO YOU FOR DAMAGES IN EXCESS OF THE GREATER OF THE AMOUNT OF TWENTY-FIVE DOLLARS (\$25) OR THE AMOUNT YOU PAID FOR THE SERVICE IN THE SIX (6) MONTHS PRECEDING THE CLAIM. THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY OR EXCLUSION OF CERTAIN DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO CUSTOMERS.

## Modifications.

We may modify the terms of this Agreement from time to time. Any such modification shall be effective when we notify you of the modification (via an update to the terms delivered via email or through the Service) and you subsequently signify your acceptance or use the Service.

## Supplemental Terms.

To enjoy certain aspects of the Service, additional terms may apply. An example of this are the "**APPLICATION SPECIFIC TERMS AND CONDITIONS**" set forth below, which apply to you only insofar as you wish to install and/or use our iOS application (the "**App**"). We will present supplemental terms and conditions within this Agreement (as with the **APPLICATION SPECIFIC TERMS AND CONDITIONS** below), or we will present them for review and acceptance at the time that you undertake the supplemental activity within the Service. Any such supplemental terms (each, "**Supplemental Terms**") shall become a part of this Agreement. Supplemental Terms are different from Third Party Terms (defined below) in that Supplemental Terms relate to offerings provided by LivingTree, whereas Third Party Terms relate to third party offerings. You acknowledge and agree that in the event of any conflict between the terms hereof and any Supplemental Terms, the Supplemental Terms shall govern with respect to the matters contemplated thereby.

## Export Restrictions.

You may not use or otherwise export or re-export the Service or elements thereof except as authorized by United States law and the laws of the jurisdiction in which the Service was accessed or obtained. In particular, but without limitation, the Service may not be exported or re-exported (a) into any U.S.-embargoed countries or (b) to anyone on the U.S. Treasury Department's Specially Designated Nationals List or the U.S. Department of Commerce Denied Persons List or Entity List. By using the Service, you represent and warrant that you are not located in any such country or on any such list. The Service and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

## Consent to Receive Messages.

We may need to be able to communicate with you about the Service. Further, though we will not abuse the privilege, we would like to be able to make certain commercial offers available to you from time to time, though you will always have the option to opt out of this category of messages. AS SUCH, YOU CONSENT TO RECEIVE COMMERCIAL E-MAIL MESSAGES FROM US AND/OR OUR PARTNERS, AND ACKNOWLEDGE AND AGREE THAT YOUR PRIMARY EMAIL ADDRESSES AND OTHER INFORMATION MAY BE USED FOR THE PURPOSE OF INITIATING COMMERCIAL E-MAIL MESSAGES. In order to stop receiving any messages from us whatsoever (including administrative messages regarding the Service), you will need to terminate your account.

## Fees.

Though presently there is no charge for the basic Service, we reserve the right to charge for the Service or features thereof.

## Third Party Offerings.

To enjoy certain third party offerings, certain third party terms (each, "Third Party Terms") may apply. Third Party Terms will be presented for review and acceptance at the time that you undertake such activity within the Service, and any such Third Party Terms shall constitute an agreement between you and such third party. We are not responsible for such third party offerings.

## Termination.

This Agreement is effective until terminated as set forth herein. Your right to use or access the Service will terminate automatically without notice from us if you fail to comply with any term(s) of this Agreement. Upon termination of the Agreement, you shall cease all use of or access to the Service. You acknowledge that except to the extent we otherwise agree in writing or in the Supplemental Terms, we may restrict, modify, or terminate your access to the Service, without liability, for our convenience.

## Miscellaneous.

The laws of the State of Texas, excluding its conflicts of law rules, govern this license and your use of the Service. Use of the Service may also be subject to other local, state, national, or international laws. This Agreement constitutes the entire agreement between you and LivingTree regarding use of or access to the Service. Our failure to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. The section titles in this Agreement are for convenience only and have no legal or contractual effect. "LivingTree" and all associated logos displayed within the Service are our trademarks (unless otherwise noted). This Agreement operates to the fullest extent permissible by law. We may freely transfer or assign this Agreement and any of our rights or obligations hereunder. You may not transfer or assign this Agreement or any of its rights or obligations hereunder without our prior written consent, and any attempt to do so shall be null and void. If any provision of this Agreement is unlawful, void or unenforceable, that provision is deemed severable from this Agreement and does not affect the validity and enforceability of any remaining provisions.

## Contact Us.

We can be reached at: Snowflake Technologies, Inc., Suite 610 Brazos, Suite #680, Austin TX 78701, USA, (512) 582-0170 or toll-free at (844) LivTree (548-8733), [info@livingtree.com](mailto:info@livingtree.com).

# APPLICATION-SPECIFIC TERMS AND CONDITIONS

## Applicability.

The following terms apply solely to the extent you install our iOS application the "Application" which shall in such event be deemed to be a component of the Service and subject to the terms above as well.

## License Terms with Respect to the Application.

The Application is licensed, not sold, to you. LivingTree reserves all rights in and to the Application not expressly granted to you under this Agreement. This license granted to you for the Application is limited to a nontransferable license to use the Application on any iOS-based device (including but not limited to iPad, iPhone, and iPod touch) that you own or control and as permitted by the Usage Rules set forth in Apple, Inc.'s App Store Terms and Conditions (the "Usage Rules").

## Notifications.

To the extent the Application enables you to send or receive SMS messages, the standard text messaging rates or other carrier charges may apply to such use. Further, you acknowledge and agree that you may receive push notifications through the Application.

## Acknowledgements Regarding Apple, Inc.

You acknowledge that this Agreement is between you and LivingTree, and that Apple is not a party hereto and has no responsibility for the Application, the Service, or for other Users. You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application or the Service or for addressing any claims relating thereto or your possession and/or use thereof, including, but not limited to (a) product liability claims, (b) any claim that the Application fails to conform to any applicable legal or regulatory requirement, and (c) claims arising under consumer protection or similar legislation. You further acknowledge that Apple has no responsibility for the investigation, defense, settlement or discharge of any third party intellectual property claims that the Application or the Service or your use thereof infringes intellectual property rights. Apple, Inc. and Apple's subsidiaries, are third party beneficiaries of this Agreement. Upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third party beneficiary hereof. To the extent LivingTree sponsors any promotion through the Application or the Service, you hereby acknowledge that Apple is not a sponsor of or responsible for conducting such promotion.

## Apple Related Disclaimer.

YOU ACKNOWLEDGE AND AGREE THAT APPLE MAKES NO WARRANTIES WHATSOEVER HEREUNDER, AND HAS NO WARRANTY OBLIGATIONS WITH RESPECT TO THE APPLICATION OR THE SERVICE.

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(<https://www.facebook.com/pages/LivingTree/616885581670724?fref=ts>)

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(<http://www.pinterest.com/raisethepride/>)

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