

# Terms of Use

## Hive Social

*Last revised: June 24, 2018*

Please read the TERMS OF USE carefully BEFORE ACCESSING <http://hivesocial.com>, the Hive Social App OR SUBMITTING INFORMATION TO Hive Social (collectively "Hive Social"). THESE TERMS OF USE AND THE REFERENCED PRIVACY POLICY constitute the "Agreement" between you and Hive Social. By accessing or using Hive Social, you signify that you have read the Agreement and that you understand and agree to be bound by the TERMS OF THE Agreement.

DISPUTE NOTICE: THIS AGREEMENT INCLUDES AN ARBITRATION CLAUSE. EXCEPT FOR CERTAIN TYPES OF DISPUTES REFERENCED IN THE ARBITRATION CLAUSE, YOU AGREE THAT DISPUTES WITH HIVE SOCIAL WILL BE RESOLVED BY MANDATORY BINDING ARBITRATION AND YOU WAIVE YOUR RIGHTS TO PARTICIPATE IN A CLASS-ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

You should review this Agreement each time you access Hive Social. Hive Social reserves the right to modify this Agreement at any time. By continuing to access Hive Social, you acknowledge that you will be bound by the Agreement. If you do not agree with this Agreement, do not use Hive Social.

### **Privacy Policy**

We consider our users' privacy to be of utmost importance. For a detailed description of our information gathering and dissemination practices, we encourage you to read our Privacy Policy closely because by using Hive Social, you agree that Hive Social can collect, use, and share your information consistent with that policy.

### **Who Can Use Hive Social**

To create an account and use Hive Social, you must be at least 13 years old and reside in the United States. By using the Services, you are forming a binding contract with Hive Social and must have the ability to read, understand and accept this Agreement and our privacy policy.

Hive Social is not directed to residents of the EU and is not intended for use in any country where it would violate local law or would subject Hive Social to any regulations in another country.

### **Restrictions on Your Conduct**

You may not engage in the following activities on Hive Social:

- use Hive Social for any illegal purpose;

- submit any content that contains lies, falsehoods or misrepresentations that could damage us or anyone else;

submit content that is obscene, defamatory, threatening, intimidating, harassing, hateful, racially, or ethnically offensive, or instigate or encourage conduct that would be illegal, or otherwise inappropriate;

violate, misappropriate, or infringe the rights of Hive Social, our users, or others, including privacy, publicity, intellectual property, or other proprietary rights;

transmit any unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of solicitation;

impersonate anyone else or lie about your affiliation with another person or entity;

upload, launch, post, email or transmit any material (including any bot, worm, scripting exploit or computer virus) that is likely to harm or corrupt Hive Social, or harm or corrupt our or anyone else's computer systems, or data; and

collect or gather other people's personal information (including account information) from Hive Social.

We have the sole right, but not necessarily the obligation, to delete at any time any content that violates these rules or that we believe to be inappropriate for any reason.

## **Licenses**

*Your Rights.* Hive Social does not claim ownership of the information that you submit to Hive Social. You must have the necessary rights to such information that you submit to Hive Social and the right to grant the rights and licenses in our Agreement.

*Hive Social's Rights.* We own all copyrights, trademarks, domains, logos, trade dress, trade secrets, patents, and other intellectual property rights associated with Hive Social. You may not use our copyrights, trademarks, domains, logos, trade dress, patents, and other intellectual property rights unless you have our express permission.

*Your License to Hive Social.* You grant Hive Social a worldwide, non-exclusive, royalty-free, sublicensable, and transferable license to use, reproduce, distribute, create derivative works of, display, and perform the information (including the content) that you upload, submit, store, send, or receive on or through Hive Social. The rights you grant in this license are for the limited purpose of operating Hive Social in accordance with this Agreement and our Privacy Policy.

*Hive Social's License to You.* We grant you a limited, revocable, non-exclusive, non-sublicensable, and non-transferable license to use Hive Social, subject to and in accordance with this Agreement. This license is for the sole purpose of enabling you to use Hive Social, in the manner permitted by this Agreement. No licenses or rights are granted to you by implication or otherwise, except for the licenses and rights expressly granted to you.

## **Materials on the Hive Social**

Hive Social cannot and does not take responsibility for any content, including content by other users or third party content on Hive Social.

Hive Social may link to other sites on the Internet that are not under the control of or maintained by Hive Social. Such links do not constitute an affiliation with or endorsement by Hive Social. You acknowledge that such links are solely a convenience to you, and that Hive Social is not responsible for the content or links displayed. Hive Social does not endorse or make any representations about the materials on Hive Social, or any content found thereon. If you access or use any of the third party material on Hive Social, you do so at your own risk. In no event shall Hive Social be liable for any loss, claim, damages, or costs that may arise in connection with your use of these materials.

## **Accounts; Passwords; Security**

Please see our Privacy Policy for a detailed description of our information gathering and dissemination practices which govern your use of Hive Social and your submission of personal information. If you choose to submit your personal information to Hive Social or by contacting Hive Social, you acknowledge that you are doing so voluntary and there is no absolute guarantee of security.

You may not use someone else's account without permission. When you are setting up your account, you must provide accurate and complete information. This means that you cannot set up an account using someone else's name or contact information, or make up name or contact information.

You have complete responsibility for your account and everything that happens on your account. This means you need to be careful with your password. If you find out that someone is using your account without your permission, let us know immediately. You may not transfer your account to someone else. We are not liable for any damages or losses caused by someone using your account without your permission. If we (or anyone else) suffer any damage due to the unauthorized use of your account, you may be liable.

In the event of an interception or unauthorized access despite our efforts, Hive Social will not be responsible for such interceptions or unauthorized access. You are responsible for the security of your own account.

## **Disclaimer of Warranties**

You expressly agree that access to and use of HIVE SOCIAL is at your sole risk. HIVE SOCIAL IS provided on an "as is" and an "as available" basis. Hive Social does not make, and hereby disclaims, any representations or warranties, express, implied, or statutory, regarding Hive Social, including (without limitation) implied warranties of merchantability, fitness for a particular purpose,

title, non-infringement, FREEDOM FROM COMPUTER VIRUS OR OTHER HARMFUL CODE and any warranties arising by course of dealing or custom of trade. Hive Social makes no representation or warranty that any material, content, products, or services displayed on or offered through Hive Social is accurate, complete, appropriate, reliable, timely, OPERATIONAL, ERROR FREE, SECURE, SAFE, OR THAT HIVE SOCIAL WILL FUNCTION WITHOUT DISRUPTIONS, DELAYS, OR IMPERFECTIONS. WE DO NOT CONTROL, AND ARE NOT RESPONSIBLE FOR, CONTROLLING HOW OR WHEN OUR USERS USE HIVE SOCIAL. WE ARE NOT RESPONSIBLE FOR AND ARE NOT OBLIGATED TO CONTROL THE ACTIONS OR INFORMATION (INCLUDING CONTENT) OF OUR USERS OR OTHER THIRD PARTIES. Some jurisdictions do not allow the exclusion of certain warranties. Accordingly, some of the above exclusions may not apply to you.

### **Limitation of Liability**

To the maximum extent permitted by applicable law and notwithstanding any other provision of this Agreement, in no event shall Hive Social or any of its affiliates or suppliers (including any of its or their partners, officers, employees, agents, contractors, successors, or assignees) be liable to you (including any of your partners, officers, employees, agents, contractors, successors, or assignees) for any indirect, special, incidental, exemplary, punitive, or consequential damages, whether arising in contract, equity, negligence, intended conduct, tort, or otherwise (including breach of warranty, negligence, and strict liability in tort), including, without limitation, ANY ERRORS OR OMISSIONS IN THE CONTENT OF HIVE SOCIAL, FOR YOUR ACTION OR INACTION IN CONNECTION WITH HIVE SOCIAL, FOR ANY DAMAGE TO YOUR COMPUTER OR DATA, any damages associated with the loss of your personal information OR ANY OTHER DAMAGE or economic loss YOU MAY INCUR ensuing from or in connection with (a) HIVE SOCIAL; OR (B) YOUR SUBMISSION OF PERSONAL OR OTHER INFORMATION THROUGH HIVE SOCIAL, even if Hive Social or any of its affiliates or suppliers has been advised of the possibility of such damages. These limitations shall apply notwithstanding the failure of the essential purpose of any limited remedy.

Despite the foregoing limitation of liability for damages, if a tribunal of competent jurisdiction decides to award monetary damages to you for any claim or cause of action arising from the same, the amount of monetary damages for such claim or cause of action shall be LIMITED TO A MAXIMUM AMOUNT OF \$100.

THE LAWS OF SOME STATES OR JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES, SO SOME OR ALL OF THE EXCLUSIONS AND LIMITATIONS SET FORTH ABOVE MAY NOT APPLY TO YOU. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN OUR TERMS, IN SUCH CASES, THE LIABILITY OF HIVE SOCIAL WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

### **Indemnification**

You agree, to the extent permitted by law, to indemnify, defend, and hold harmless Hive Social, our affiliates, directors, officers, employees, licensors, and agents from and against any and all complaints, charges, claims, damages, losses, costs, liabilities, and expenses (including attorneys'

fees) due to, arising out of, or relating in any way to: (a) your access to or use of Hive Social, including information provided in connection therewith; (b) your content; (c) your breach of this Agreement; or (d) any misrepresentation made by you. You will cooperate as fully as required by us in the defense or settlement of any claim.

### **Arbitration, Class-Action Waiver, and Jury Waiver**

PLEASE READ THE FOLLOWING PARAGRAPHS CAREFULLY BECAUSE THEY REQUIRE YOU TO AGREE TO RESOLVE ALL DISPUTES BETWEEN US THROUGH BINDING INDIVIDUAL ARBITRATION.

*Waiver of Jury Trial.* HIVE SOCIAL AND YOU EACH AGREE TO WAIVE THE RIGHT TO A TRIAL BY JUDGE OR JURY FOR ALL DISPUTES, EXCEPT FOR DISPUTES RELATING TO THE ENFORCEMENT OR INFRINGEMENT OF YOUR OR OUR INTELLECTUAL PROPERTY RIGHTS (SUCH AS COPYRIGHTS, TRADEMARKS, DOMAINS, LOGOS, TRADE DRESS, TRADE SECRETS, AND PATENTS). Such disputes include those relating to, arising out of, or in any way in connection with your rights of privacy and publicity, will be resolved through final and binding arbitration, which is typically more limited, more efficient, and less costly than rules applicable in court and are subject to very limited review by a court. Hive Social and you agree not to combine a dispute that is subject to arbitration under this Agreement with a dispute that is not eligible for arbitration under this Agreement.

*Waiver of Class or Consolidated Actions.* ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If, however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor we are entitled to arbitration; instead all claims and disputes will be resolved in a court as set forth herein.

*Required Use of AAA.* You agree that the arbitration will be administered by the American Arbitration Association (AAA) under its Commercial Arbitration Rules in effect at the time the arbitration is started, including the Optional Rules for Emergency Measures of Protection and the Supplementary Procedures for Consumer-Related Disputes (together, the "AAA Rules"). The arbitration will be presided over by a single arbitrator selected in accordance with the AAA Rules. The AAA Rules, information regarding initiating a dispute, and a description of the arbitration process are available at [www.adr.org](http://www.adr.org). The arbitrator will decide whether a dispute can be arbitrated. The location of the arbitration and the allocation of fees and costs for such arbitration shall be determined in accordance with the AAA Rules.

*Opt-Out Procedure.* You may opt out of this agreement to arbitrate. If you do so, neither we nor you can require the other to participate in an arbitration proceeding. To opt out, you must notify us in writing postmarked within 30 days of the later of: (i) the date that you first accepted our Terms; and (ii) the date you became subject to this arbitration provision. You must use this address to opt-out:

Hive Social  
Arbitration Opt-Out  
8530 Eagle Point Blvd, Unit 100  
Lake Elmo, MN 55042

You must include: (1) your name and residence address; (2) the mobile phone number associated with your account; and (3) a clear statement that you want to opt out of our agreement to arbitrate.

*Place to File Permitted Court Actions.* If you opt out of the agreement to arbitrate, if your dispute is related to intellectual property rights, or if the arbitration agreement is found to be unenforceable, you and Hive Social agree and consent that jurisdiction, proper venue, and the most convenient forums for such claims, actions, and proceedings will be exclusively in the federal or state courts located in Minnesota and will apply Minnesota law.

*Time Limit to Start Arbitration.* We and you agree that for any dispute (except intellectual property disputes) must commence an arbitration proceeding within one year after the dispute first arose; otherwise, such dispute is permanently barred. This means that if we or you do not commence an arbitration within one year after the dispute first arose, the arbitration will be dismissed as untimely.

*Arbitration Agreement Survival.* This arbitration agreement will survive the termination of your relationship with Hive Social.

### **Reporting Copyright Infringement**

If you believe that anything on Hive Social infringes a copyright that you own or control, please contact:

[info@hivesocial.com](mailto:info@hivesocial.com)

The notice must include the following information:

the physical or electronic signature of a person authorized to act on behalf of the copyright owner.

identify the copyrighted work claimed to have been infringed.

identify the material claimed to be infringing or to be the subject of infringing activity and that is to be removed, or access to which is to be disabled, and information reasonably sufficient to let us locate the material.

your contact information, including your address, telephone number, and an email address.

a personal statement that you have a good-faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.

a statement that the information in the notification is accurate and, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

## **Availability and Termination of Hive Social**

Hive Social may be interrupted, including for maintenance, repairs, upgrades, or network or equipment failures. We may discontinue some or all of our services at any time and events beyond our control may affect our services.

We may modify, suspend, or terminate your access to or use of Hive Social anytime for any reason, such as if you violate our Agreement or create harm, risk, or possible legal exposure for us, our users, or others.

## **General**

### Modifications

At any time and at Hive Social's sole discretion, we may add, delete, or modify these Agreement or Hive Social. We will provide you notice of amendments to our Terms, as appropriate by amending the "Last Modified" date at the top of our Terms of Use. Your continued use of Hive Social confirms your acceptance of our Agreement, as amended. If you do not agree to our Agreement, as amended, you must stop using Hive Social. Please review our Agreement from time to time. All changes to the Agreement shall be effective immediately.

### Miscellaneous

This Agreement, which includes our Privacy Policy and any other legal notices published on Hive Social, constitute the entire agreement between you and us. If any part of this Agreement are determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the Agreement shall continue in effect.

Our failure or delay to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this agreement. We may assign our rights and duties under this agreement to any party at any time without notice to you.

All of our rights and obligations under our Agreement are freely assignable by us to any of our affiliates or in connection with a merger, acquisition, restructuring, or sale of assets, or by operation of law or otherwise, and we may transfer your information to any of our affiliates, successor entities, or new owner. You will not transfer any of your rights or obligations under our Agreement to anyone else without our prior written consent.

### Contacting Us

If you have any questions about these Agreement, please contact us at:

Hive Social

8530 Eagle Point Blvd, Unit 100

Lake Elmo, MN 55042

[info@hivesocial.com](mailto:info@hivesocial.com)

Although Hive Social will in most circumstances be able to receive your e-mail or other information provided, Hive Social does not guarantee that it will receive all such e-mail or other information timely and accurately and shall not be legally obligated to read, act on or respond to any such e-mail or other information.

Bringing **Social** Back

The logo for Hive Social, featuring the word "hive" in a lowercase, white, sans-serif font. A small yellow square is positioned above the letter 'i'. The logo is set against a blue background with a faint, light blue hexagonal pattern.