

Terms and Conditions of Use ThinkGive Website

ThinkGive, Inc. (“**ThinkGive**,” “we” or “us”), has created this website (the “**Website**” or the “**Site**”) to provide an online platform for teaching Youth the power of kindness.

PLEASE READ THIS DOCUMENT CAREFULLY BEFORE YOU ACCESS OR USE THE WEBSITE. BY ACCESSING OR REGISTERING AT THE WEBSITE, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS SET FORTH BELOW. IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS, PLEASE DO NOT ACCESS OR REGISTER FOR OUR WEBSITE.

1. **Our Services: Overview.** Our Website is designed to provide a user-friendly platform where Youth who are registered to participate (“**Youth Participants**”) by their teachers (“**Teacher Participants**”) can take part in a Challenge to give gifts of kindness over a certain number of days (the “**Challenge**”). Additionally, parents of Youth Participants will be able to support their child in their participation in the Challenge (“**Parent Participants**”). A “**Daily Gift**” is not necessarily a material item, but rather an act of kindness for a different person each day. Youth Participants can use our Site to keep track of their Daily Gifts, see what Daily Gifts their classmates have given and write in the Team Blog for their class. Teacher Participants can use our Site to track the Daily Gifts given by the Youth Participants in their class (“**Team**”), review Youth Participant entries for the Team Blog to determine if they are appropriate for posting, and update their Teacher page to help inspire the Youth Participants in the Challenge.

2. **Eligibility.** Our Website is intended for general audiences, with some pages intended for children. You are eligible to participate at our Website if you agree to abide by our Terms and Privacy Policy.

3. **Types of Participants.** We have structured our Website so that you may visit our Site, and review selected information about our Services without registering. However, in order to fully participate in our Services, we require that you register with our Site.

3.1. **Youth Participants.** If you are under the age of 13, your teacher must register you for participation before you can use our Website or participate in our Services. Please see our Privacy Policy regarding our use of information obtained from children under age 13. While Youth Participants may have different ideas for their Daily Gifts, we expect our Youth Participants to be respectful of each other, in accordance with our Code of Conduct (Section 7).

3.2. **Teacher Participants.** As a Teacher Participant, we will provide information and tools to assist you in facilitating the Challenge. It will be your job to help the Youth Participants register on your Team, monitor Youth Participant Daily Gift entries and their postings to the Team Blog, and to remove inappropriate content from Daily Gift entries and Team blog entries. As with Youth Participants, Teacher Participants must comply with our Code of Conduct (Section 7).

3.3. **Parent Participants.** As a Parent Participant, we will provide information and tools to assist you in supporting your child in his/her participation in the Challenge. As with Youth and Teacher Participants, Parent Participants must comply with our Code of Conduct (Section 7).

4. Participant Rights and Obligations. You are invited to fully enjoy our Services for all purposes permitted in these Terms. The following specific provisions govern the rights and obligations related to the different types of Participants.

4.1. Privacy and Your Content. Please choose carefully the information you choose to share on your personal page, in your Daily Gift Entries, Team Blog entries, and any other interactive areas of our Website. You should use discretion in including any information that personally identifies you, such as your telephone number, street address, last name, and any geographically or contextually recognizable information.

4.2. Comments/Feedback. Our Website allows you to provide comments or feedback regarding the Services and your experience participating in the Challenge. By providing comments/feedback, you grant us the right to publish your comments and feedback and to use your comments and feedback for the purposes of providing and improving the Services.

4.3. Your Grant of Rights to ThinkGive. By participating in the Services, you grant us a royalty-free, non-exclusive, worldwide license, under your intellectual property rights, to use, copy, reformat, index, modify, display, and distribute your Content for purposes of providing our Services (as such services may change over time), for educational purposes, and for purposes of informing others concerning these activities. No compensation will be paid with respect to our use of your Content under this grant.

ThinkGive will not further distribute or use your Content or your name for any purposes other than those specified in this section (Section 4.3) without your consent.

4.4. Rights You Must Have in Your Content. When you participate in the Challenge through our Site, you represent and warrant (i) that you hold all rights needed to grant requisite rights under Section 4.3 (Your Grant of Rights to ThinkGive); and (ii) that you own the copyright in all Content subject to copyright protection (or have been given needed permissions by the copyright owner, or use the Content under "fair use" principles).

5. Teacher Participant Obligations and Restrictions. Protecting our community is important to us. As such, if you register as a Teacher Participant with our Site, you agree to (i) fully disclose requested information in response to inquiries by ThinkGive, and (iii) follow all applicable rules in connection with your participation, including the following (as noted above):

- You must register each of the Youth Participants on your Team.
- You must monitor Youth Participant Daily Gift entries daily and edit content, as needed.
- Review email notices regarding Team Blog entries, and photos submitted; review entries, recommendations and photos for appropriate content, and edit content, as needed, before posting.
- Remove inappropriate content from Daily Gift entries and Team Blog entries and enforce rules real time, including:
 - Removing swear words
 - Ensuring Youth Participants use appropriate ideas and language when posting their Daily Gift entries and Team Blog entries
 - Enforcing a no bullying rule
 - Ensuring Youth Participants do not post the name of the school or identifying information about other Team members

- Ensuring Youth Participants keep their tweets appropriate
- Ensuring Youth Participants do not share their login and password with third parties
- Comply with our Code of Conduct (Section 7)

6. Right to Decline Submitted Content. We expressly reserve the right to refuse to use (or to disable) any User Content that we conclude, in our sole discretion, violates these Terms or our Privacy Policy, or is incompatible with the purposes of the Website.

7. Grant of Rights to You. As a visitor at our Website, you are granted the right to enter and/or upload text, photographs, videos, and other information related to the Challenge and your Daily Gift, and to otherwise participate in our Services (“**User Content**”). Except as expressly provided for Teacher Participants, you may not modify, copy, distribute, or otherwise use (i) the User Content of other users, or (ii) the ThinkGive Content or Services available on the Website unless we expressly state that you can do so.

7.1. Ownership; Reservation of Rights. The information, software, artwork, text, video, audio, pictures, trademarks, trade dress, and other intellectual property embodied in the Website and/or the Services (“**ThinkGive Content**”), are the proprietary property of ThinkGive and its licensors, and are protected by U.S. and international copyright and other intellectual property laws, or are used under the principles of fair use. ThinkGive and its licensors retain all rights with respect to the Services and the ThinkGive Content except those expressly granted to you in these Terms. You agree not to duplicate, publish, display, distribute, modify, or create derivative works from the material presented through the Website and/or through the Services unless specifically authorized in writing by ThinkGive.

8. Code of Conduct. As a condition to your use of the Website and participation in the Services, you agree to follow our Code of Conduct, set out below. Under this Code, you will not:

- Upload, email or otherwise transmit any images or other User Content that is unlawful, obscene, harmful, hateful, invade the privacy of any third party, contain nudity or pornography, or are otherwise objectionable.
- Disseminate materials that impact or invade the privacy of others, such as photographs, video clips, sound recordings, personally identifiable information, or other materials that reveal personal, private or sensitive information about another person, without that person’s consent.
- Submit material that is intentionally false, defamatory, unlawfully threatening, or unlawfully harassing.
- Infringe any third party’s copyright, patent, trademark, trade secret, or other proprietary rights or rights of publicity or privacy. Electronic materials—such as music, videos, games, images, and text in electronic form—can easily be copied, modified and sent over networks (such as the Internet). These electronic materials are thus extremely vulnerable to unauthorized distribution and copyright infringement. These materials may not be transmitted over the Website without the copyright owner’s permission, or without a legitimate “fair use” justification for the transmittal.
- Transmit materials that contain any viruses, Trojan horses, worms, time bombs, cancelbots, or other computer-programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or personal information.

- Use the Website to artificially generate traffic or page links to a website or for any other purpose not expressly allowed under these Terms.
- Use the Website in a manner that could disable, overburden, or impair the Website or Services or interfere with any other party's use and enjoyment of the Website and Services, such as through sending "spam" email.
- Use the Website to test or reverse engineer the Website in order to find limitations, vulnerabilities or to evade filtering capabilities.
- Seek to obtain access to any materials or information through "hacking," "data harvesting," or through other means we have not intentionally made available to you through the Website.
- Use the Website for any purpose that is unlawful or prohibited by these Terms. For example, you will not use the Website to violate any law, statute, or regulation (including, without limitation, those governing export control, consumer protection, unfair competition, anti-discrimination, or false advertising).

Users should also understand that our Code of Conduct is based in many instances on principles of applicable law. Users who violate our Code of Conduct accordingly may be exposed under these laws to criminal charges, and civil liability to harmed parties for compensatory damages and attorney's fees. ThinkGive reserves the right at all times to disclose information it deems necessary to satisfy any applicable law, regulation, legal process, or governmental request, consistent with its Privacy Policy.

9. Monitoring; Revocation or Suspension of Use Privileges. We reserve the right in our discretion (i) to screen Content transmitted through the Site, (ii) to restrict or foreclose access from certain features or resources on our Site, and (iii) to take other actions we deem necessary to protect our community of users and our resources, including termination or suspension of your access to some or all of the features on our Site if you engage in activities that we conclude, in our discretion, breach our Code of Conduct.

9.1. Filters; Blocking and Removal of Content. Although we have no—and assume no—obligation to monitor activities on the Website, please understand that we may employ filters designed to detect and block inappropriate content under this Code of Conduct. We reserve the right to edit your User Content, to refuse to post, or to remove any information or materials, in whole or in part, that we believe, in our sole discretion, are incompatible with our Code of Conduct.

9.2. Reports and Complaints. If you believe that a user has acted inappropriately, such as by violating our Code of Conduct, you may report your concerns either via the links we have included on the Site, or by contacting us in accordance with Section 19 (Contact Us). If we are notified by a user that he or she believes Content at the Site does not comply with our Code of Conduct, we may investigate the allegation and determine in good faith, in our sole discretion, whether to remove or block access to such Content, or to take action with respect to the person or persons responsible for posting the Content.

10. Links to Third-Party Sites. The Website may also contain links or produce search results that reference links to third party websites, including connectivity to social media through widgets and badges (collectively "Linked Sites"). ThinkGive does not allow advertisers on our Site. ThinkGive does not endorse the content of any Linked Site, nor does ThinkGive warrant

that a Linked Site will be free of computer viruses or other harmful code that can impact your computer or other web-access device. By using the Website to search for or link to another site, you agree and understand that such use is at your own risk.

11. Warranty Disclaimer. THINKGIVE DOES NOT PROMISE THAT THE WEBSITE OR SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT THE WEBSITE WILL PROVIDE SPECIFIC RESULTS FROM YOUR PARTICIPATION IN THE SERVICES OR YOUR USE OF ANY CONTENT, SEARCH, OR LINK ON IT. THE WEBSITE AND ALL SERVICES AND CONTENT WITHIN IT ARE DELIVERED ON AN “AS IS” AND “AS AVAILABLE” BASIS. WHEN YOU ACCESS THE WEBSITE, YOU DO SO AT YOUR OWN RISK. THINKGIVE DOES NOT WARRANT OR REPRESENT THAT MATERIALS YOU DOWNLOAD FROM THINKGIVE SITE WILL BE FREE OF VIRUSES OR OTHER HARMFUL FEATURES.

THINKGIVE IS NOT RESPONSIBLE FOR THE ACTIONS OF TEACHER PARTICIPANTS, YOUTH PARTICIPANTS OR PARENT PARTICIPANTS, WHETHER IN THE COURSE OF THEIR PARTICIPATION IN THE SERVICES OR OUTSIDE OF THE SERVICES, AND THINKGIVE FULLY DISCLAIMS ANY RESPONSIBILITY FOR THE TEACHER PARTICIPANTS, YOUTH PARTICIPANTS OR PARENT PARTICIPANTS AND THEIR CONDUCT IN CONNECTION WITH PARTICIPATION IN THE SERVICES.

THINKGIVE DISCLAIMS (i) ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; (ii) ANY RESPONSIBILITY OR LIABILITY FOR THE ACCURACY, CONTENT, COMPLETENESS, OR LEGALITY OF INFORMATION AVAILABLE THROUGH THE WEBSITE; AND (iii) ANY RESPONSIBILITY OR LIABILITY FOR HARM RESULTING FROM DOWNLOADING OR ACCESSING INFORMATION THROUGH THE WEBSITE, INCLUDING HARM CAUSED BY VIRUSES OR SIMILAR DESTRUCTIVE FEATURES. YOU EXPRESSLY AGREE THAT USE OF THE THINKGIVE WEBSITE AND RELATED SERVICES AND CONTENT IS AT YOUR SOLE RISK.

11.1. Limitation of Liability. UNDER NO CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, TORT, OR NEGLIGENCE, WILL THINKGIVE BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) THAT ARISE OUT OF OR ARE RELATED TO YOUR USE OF THE THINKGIVE WEBSITE AND RELATED SERVICES AND CONTENT.

You agree that injunctive relief shall provide you with a good and sufficient remedy for any complaints against ThinkGive arising out of its Services, and agree that you will not subsequently claim that such remedy or the remedy and damages limitations provisions of these Terms have “failed of their essential purpose.”

Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to you.

11.2. Indemnity. You agree to defend, indemnify, and hold ThinkGive and its subsidiaries, affiliates, officers, directors, agents, and employees harmless from any liability to third parties, including reasonable attorneys’ fees, arising from or related to your breach of these Terms.

11.3. Contact for Alleged Copyright Infringement. ThinkGive respects the intellectual property rights of others and requires that its users do the same. If you believe that Content on the Website or other activity taking place on the Website constitutes infringement of a work protected by copyright (a “**Work**”), please notify our agent, designated under the Digital Millennium Copyright Act (17 U.S.C. §512) (the “**DMCA**”) to respond to such concerns, as follows: info@thinkgiveproject.org

Your notice must comply with the DMCA. Upon receipt of a compliant notice, we will respond and proceed in accordance with the DMCA.

11.4. Modifications to these Terms. We may modify and change these Terms over time. We will not “retroactively” change these Terms, and any modifications we make shall take effect proactively, once you next access the Website. Please feel free to print out a copy of these Terms for your records.

11.5. Assignment. These Terms shall not be assignable by you, either in whole or in part. ThinkGive reserves the right to assign its rights and obligations under these Terms.

11.6. General. These Terms shall be governed in all respects by the laws of the Commonwealth of Massachusetts without giving effect to its conflicts of law provisions. Both parties submit to the personal jurisdiction of and venue in the state and federal courts in the Commonwealth of Massachusetts in the judicial district where ThinkGive has its principal place of business. The parties further agree that any cause of action arising under these Terms or our Privacy Policy shall exclusively be brought in such courts. If any provision of these Terms is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. Headings are for reference purposes only and in no way define, limit, construe, or describe the scope or extent of such section. ThinkGive’s failure to act with respect to a breach by you or others does not waive its right to act with respect to subsequent or similar breaches. This agreement and the terms and conditions contained herein set forth the entire understanding and agreement between ThinkGive and you with respect to the subject matter hereof and supersede any prior or contemporaneous understanding, whether written or oral.

11.7. Survival. The following provisions shall survive the termination of these Terms and shall apply indefinitely:

- Section 6 (Ownership; Reservation of Rights)
- Section 10 (Warranty Disclaimer)
- Section 11 (Limitation of Liability)
- Section 12 (Indemnity)
- Section 15 (Assignment)
- Section 16 (General)
- Section 17 (Survival)

11.8. Relationship to Privacy Policy and Other Contracts. These Terms must be read in conjunction (i) with other agreements into which you may enter concerning the Website or our Services, and (ii) with our Privacy Policy. The provisions of our Privacy Policy are incorporated herein. To the extent these Terms conflict with the terms of our Privacy Policy, the terms of our Privacy Policy will control. Similarly to the extent these Terms conflict with the terms and

conditions of any specific agreement you enter with us, the terms and conditions of such specific agreement will control.

11.9. **Contact Us.** If you have any questions about these Terms, the practices of this Site, or your dealings with this Website, please contact us at: info@thinkgiveproject.org / 978-460-4345
You may contact us by mail as follows:

ThinkGive
Attn: Penny Austen
26 Elm Street
Concord, MA 01742

Effective Date: The effective date of these Terms and Conditions is November 20, 2013.

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