

Treebytree B.V.

# Gift Recipient Terms



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# Overview

We are Treebytree B.V. (**Treebytree** or **we/our**). We provide an online platform available at [www.treebytree.earth](https://www.treebytree.earth) (**Platform**), which allows users (**User** or **you/your**) to track and monitor the growth and impact of trees gifted to you via an online dashboard (**Platform Services**). These services are gifted to you by one of clients (**Clients**), because you are their valued customer or business relation or acquired by you independently.

Our services do not imply that you or our clients acquire any ownership of the physical trees or the land on which they are located. These trees form part of larger forested areas owned by independent landowners. If you accept our services by creating an Account and registering your tree, Treebytree is committed to ensuring that the tree assigned to you is properly cared for and maintained by third parties, such as non-governmental organisations, with whom we cooperate (**Tree Care Services**). For more information, you can visit our website [www.treebytree.earth](https://www.treebytree.earth) (**Website**).

The Platform Services, the Tree Care Services and our Website are collectively referred to as the **Services**.

These user terms (**Terms**) apply to the relationship between Treebytree and you, the User (**Agreement**) in relation to the Services. Any use of the Services shall be subject to these Terms and you may not use our Services without accepting these Terms.

# Agreement

## 1. Definitions

- 1.1. **Account:** a personal account that every User gets after registration. Through the Account, Users have access to and can use the Platform.
- 1.2. **Clients:** Organisations that have entered into agreements with Treebytree to provide our Services to you as our User.
- 1.3. **Platform:** the Treebytree platform accessible via <https://portal.treebytree.earth/>
- 1.4. **Platform Services:** The services provided through the Platform, which include enabling Users to track and monitor the growth and impact of trees via the dashboard.
- 1.5. **Services:** The Platform Services and the Tree Care Services.
- 1.6. **Treebytree:** a company with limited liability (besloten vennootschap met beperkte aansprakelijkheid), incorporated under the laws of the Netherlands, having its corporate seat in Den Haag (address: Bink 36, Binckhorstlaan 36, unit M219, 2516 BE), trade register number 86955411.
- 1.7. **Tree Care Services:** Treebytree's efforts to engage with third-party non-governmental organisations to ensure the proper care and maintenance of the trees.
- 1.8. **Terms:** the user terms set out below, which govern the relationship between Treebytree and the User in relation to the Services.
- 1.9. **User(s):** a legal or natural person making use of the Platform.

## 2. Registration and personal account

- 2.1 To use the Platform Services, you have to register and create an Account. You can create an Account by providing your information requested when signing up and choosing a password. You are entirely responsible for maintaining the security of your password. You must choose a password that adheres to the requirements prescribed by us during registration.
- 2.2 You agree to only provide correct and complete information when creating an Account on the Platform. You are responsible for the accuracy of the data in your Account, and we cannot be held liable in that respect.
- 2.3 You may only create Accounts on the Platform in accordance with these Terms. If, for whatsoever reason, your Account is blocked or deleted, you are no longer entitled to use the Platform Services.
- 2.4 You are responsible and liable for your own acts and omissions regarding your use of the Platform Services. You must act with integrity and comply with these Terms as well as all applicable laws and regulations with regard to your use of the Platform Services. You are not permitted to use the Platform Services in a manner that is contrary to these Terms and/or the applicable laws and regulations and/or violates any applicable third-party rights.
- 2.5 You may not allow use of your Account by any unauthorised third party nor others that do not have the authority to represent you. You guarantee that any third party that uses your Account is authorised to represent you.
- 2.6 You must ensure that the Platform Services are used in conformity with our instructions, such as those communicated through the Platform.
- 2.7 You are solely responsible for the technical operation and maintenance of your internet connection, internal network and all other systems that are relevant or necessary for undisturbed use of the Platform Services.

### 3. Our rights and responsibilities

- 3.1 Treebytree will provide the Services independently, to the best of its knowledge and ability, at its own discretion. Treebytree will operate with due care towards Users.
- 3.2 We use reasonable efforts to ensure the Platform's availability to you at all times. However, we do not make any commitments with regard to the availability, continuity, functionality or usability of the Platform, nor do we make any other commitments other than those expressly set out in these Terms. You acknowledge that the Platform Services are provided over the internet and mobile networks and thus the quality and availability of the Platform Services may be affected by factors outside our reasonable control.
- 3.3 We have the right to deny, partially or entirely terminate, suspend or alter the provision of the Platform Services to you at any time, without prior notification, and for any reason at our sole discretion, for example (without limitation) if we have reason to believe that you act in violation of these Terms, applicable law or the rights of a third party, or we decide to cease or alter one or more of our services in general.
- 3.4 We reserve the right to modify the Platform Services at any time and to use third parties for the provision of (parts of) the Services.
- 3.5 We reserve the right to (temporarily or permanently) suspend, block, or delete your Account, or deny access to our Services, if we suspect or detect (i) a violation or attempted violation of these Terms, applicable laws, regulations, or Treebytree's policies as published on the Website; (ii) any form of fraud, intentional abuse, or willful misconduct; or (iii) any disruption of the proper functioning of the Services. Additionally, we may refuse or block an Account if it is linked to an already blocked Account, or during an investigation into your Account. This may include revoking your license to use the Platform Services.

3.6. We reserve the right to (temporarily or permanently) cease with providing our Services to you at any time, including but not limited to instances where (i) trees or land are no longer available; (ii) the Services are no longer available; or (iii) Treebytree ceases its business operations.

#### 4. Fair use of the Services

- 4.1. You are solely responsible for the information and content you upload to the Platform.
- 4.2. As a condition for using the Services, you agree not to provide any information, data or content to us or into our Platform that is incorrect, inaccurate, incomplete or that violates any law or regulation. This shall include, but is not limited to information, data or content that can be construed as defamatory, abusive, misleading, violent, racist, sexist, intimidating or discriminatory.
- 4.3. In addition, you agree that you will not, nor allow third parties to:
  - 4.3.1. enter any non-public / secure areas of the Platform Services;
  - 4.3.2. infringe upon intellectual property rights of other Users or third parties;
  - 4.3.3. send viruses, worms, junk mail, spam, chain letters, promotional materials or advertisements of any kind and for any purpose;
  - 4.3.4. investigate, scan or test the Platform Services or any other related system or network, or violate any security or authentication;
  - 4.3.5. use any automated systems or software to withdraw data from our Platform Services;
  - 4.3.6. make and distribute copies of our Platform Services;
  - 4.3.7. falsely impersonate another individual or legal entity;
  - 4.3.8. attempt to sell, distribute, copy, rent, sub-license, loan, merge, reproduce, alter, modify, reverse engineer, disassemble, decompile, transfer, exchange, translate, hack, distribute, harm or misuse the Services; and
  - 4.3.9. or create derivative works of any kind whatsoever.
- 4.4. You may not create an Account under someone else's name or act like someone else in any other way.

#### 5. Privacy

- 5.1. When you make use of our Services, we will process certain personal data from you within the meaning of the General Data Protection Regulation (the GDPR). You can find more information about the processing of your personal data in our Privacy Notice.

#### 6. Intellectual Property

- 6.1. We (or our licensors) are the exclusive owner of all intellectual property rights vested in and/or arising from the Platform and the Services (including the underlying source and object code), including, but not limited to, copyrights, patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, licenses, domain names, know how, property rights and processes.
- 6.2. As long as you comply with all your obligations under the Terms, we grant you a non-transferable, non-sublicensable, royalty-free and non-exclusive right to use the Platform and/or the Services.
- 6.3. The Platform and/or the Services may be used for non-commercial individual use and internal business purposes only. You will not reproduce, resell, or distribute the Platform or any content therein for any other purpose unless you have been specifically permitted to do so under a separate agreement with us.
- 6.4. If you no longer comply with your obligations under these Terms, we can withdraw the license to use the Platform and/or the Services with no notice of default being required or any compensation being due.

## 7. Liability and indemnity

### *The user*

- 7.1. You shall indemnify us for any third-party claims that may arise from any use of the Platform and/or the Services that is in violation of applicable law or third-party rights or is unlawful in any other way and/or in conflict with these Terms.
- 7.2. You are not entitled to any compensation in connection with the suspension, blocking or deletion of the Account by us and you hereby waive any right to any compensation of damages in that regard.
- 7.3. To the maximum extent permitted by applicable law, you agree to indemnify, defend and hold Treebytree harmless from any and all third-party claims, liability, damages and/or costs (including, but not limited to, attorney fees) arising out of or in any way connected with:
  - 7.3.1. a breach by you or any other User of your Account of these Terms; or
  - 7.3.2. a breach by you or any other user of your Account of any laws and regulations or third-party rights such as intellectual property or privacy rights.

### *Treebytree*

- 7.4. You acknowledge and agree that in the event User pays no fees in respect of the Services, Treebytree's aggregate liability of all kinds towards User for any damages and claims arising from or related to the Services, shall be fully excluded and User thus waives any claim whether for breach (including dissolution), infringement, in tort, indemnification or otherwise. The foregoing only applies to the extent permitted under applicable law (and shall not apply in case of willful misconduct or gross negligence by Treebytree). If we are liable, for any reason, our liability will be limited to an amount of EUR 500 per event.
- 7.5. We are not liable for damages resulting from your use of the Platform or the Services. This includes (but is not limited to) loss of profits, business, data or information or for any remote, incidental, indirect, special or consequential damages. For the avoidance of doubt: we explicitly disclaim any liability for damages arising from the use of, or reliance on, information accessible through the Platform or the Services.
- 7.6. We are not liable for your damage that occurs due to the fact we assumed incorrect or incomplete information provided by you to be correct or complete in the execution of the Terms.
- 7.7. We are not in any event liable for:
  - 7.7.1. the proper functioning of (hyper)links provided by the Platform, its software or its content, as well as the content of any linked third-party site;
  - 7.7.2. the quality of any account settings, provided by us or Users on the Platform;
  - 7.7.3. loss of data, content or other information;
  - 7.7.4. the (lack of) progress experienced by Users in relation to their assigned tree as part of our Services;
  - 7.7.5. all damages arising out of Users' acts or omissions, or the information, actions or inactions of other Users;
  - 7.7.6. any damages resulting from the content or information placed by Treebytree on the Platform and/or any inaccuracy or incorrectness relating to the operation of the Platform;
  - 7.7.7. the situation where the device of a User is stolen and any third party subsequently makes use of the Account of User;
  - 7.7.8. any damage or alteration to your equipment including, but not limited to, computer equipment and devices because of your use of the Platform;

7.7.9. failure to meet any of our obligations under these Terms where such failure is due to events beyond our reasonable control (for example a network failure, DDoS, cyberattacks, epidemics, pandemics, power-outs, strikes or interruption of internet services); and

7.7.10. any damage caused by a User's failure to comply with its obligations under these Terms.

7.8. To the maximum extent permitted by law, We hereby disclaim all implied warranties regarding the Platform. The Platform is provided 'as is' and 'as available' without warranty of any kind.

7.9. Nothing in these Terms will exclude or limit our liability if this cannot be excluded or limited under the applicable law, such as in the case of intent or gross fault on our side.

## 8. Term and termination

8.1. The Agreement between you and Treebytree reflected by these Terms is effective when you access the Platform, for example by creating an Account, and remains in effect until either you or we terminate the Agreement in accordance with these Terms.

8.2. You may terminate this Agreement at any time by deleting your Account. You can delete your Account using the delete account option in the profile.

8.3. We may terminate this Agreement and your Account for any reason by giving you thirty (30) days' notice via email or using any other contact information you have provided for your Account. We may also terminate this Agreement immediately and without notice and stop providing access to the Platform if:

8.3.1. You breach these Terms;

8.3.2. You violate applicable laws; or

8.3.3. We reasonably believe termination is necessary to protect us or any third parties.

8.4. If we terminate the Agreement, this shall be without any obligation to compensate any damages, on any grounds whatsoever.

## 9. Changes to the Terms

9.1. Treebytree reserves the right to change these Terms. When we change these Terms in a significant way, we will notify Users by newsletter (if you have provided Treebytree with your e-mail address to this end) and post a notification on our Platform along with the updated Terms. You will be asked to accept the new Terms when logging in to the Platform.

## 10. Miscellaneous

10.1. The invalidity or unenforceability of any provision of these Terms shall not affect any other provisions of these Terms, unless any such provision is inextricably linked to the invalid or unenforceable provision. Any invalid or unenforceable provision shall be replaced or, insofar possible under applicable law, deemed to be replaced, by a valid and enforceable provision which differs as little as possible from the invalid or unenforceable provision and reflects the intent of the invalid or unenforceable provision.

10.2. If we do not enforce (parts of) these Terms, this shall not be construed as consent or waiver of the rights to enforce these rights at a later moment in time or against another User.

10.3. User cannot transfer the rights and obligations from these Terms to third parties.

## 11. Governing law and jurisdiction

11.1. These Terms, and any matter, claim or dispute arising in connection with it, whether contractual or non-contractual, is governed by the laws of the Netherlands.

11.2. Treebytree and the User shall in good faith attempt to resolve any dispute in connection with these Terms through constructive discussion and negotiation.

11.3. Unless mandatory law compels differently, all disputes resulting from or arising in connection with these Terms shall be exclusively submitted to the competent court of The Hague, the Netherlands, unless the dispute can be settled in an amicable fashion.

## 12. Complaints, comments and suggestions

12.1. Treebytree aims to provide Users high-end service. Please direct any complaints, suggestions or comments to [info@treebytree.earth](mailto:info@treebytree.earth). Kindly provide us with your contact details and a clear description and reason for your complaint. We strive to process complaints within 1 working days.