

**Lively App on Apple Watch  
Term-Based Customer  
Contract**

Welcome to the Lively™ family! This Lively App on Apple Watch Customer Contract (“Agreement”) applies to your use of our Lively Premium Health and Safety Plan, including use of the Lively app, Lively Urgent Response, Lively Link™ app, and Nurse On-Call (collectively referred to herein as “Services” and individually referred to herein as “Service”). References to “Lively”, “our”, “we”, or “us” refers to Best Buy Health, Inc. Please read this Agreement carefully.

THESE TERMS INCLUDE A BINDING ARBITRATION AGREEMENT, CLASS ACTION WAIVER, AND JURY TRIAL WAIVER THAT AFFECT YOUR RIGHTS. IN ARBITRATION, THERE IS NO JUDGE OR JURY AND LESS DISCOVERY AND APPELLATE REVIEW THAN IN COURT. PLEASE CAREFULLY REVIEW THE DISPUTE RESOLUTION SECTION BELOW.

**1. Your Acceptance of this Agreement**

By accepting, you are agreeing to be bound by the terms and conditions of this Agreement. You accept this Agreement by doing any of the following things:

- Activating, using, or paying for your Services;
- Giving us a written or electronic signature indicating your acceptance; or
- Telling us electronically that you accept.

If you do not wish to accept this Agreement, do not do any of the above actions.

You represent that you’re at least 18 years old and have the legal capacity to accept the Terms. If you are ordering for a friend or a member of your family, you are bound by the terms of the Terms, unless and until, your friend or family member has agreed to the terms of the Terms. If you’re ordering for a company, you’re representing that you are authorized to bind the company to the terms of the Terms, where the context “you” means the company.

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Section	Summary
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14. Our Right to Limit, Suspend, or Terminate Your Services	This section explains our right to limit or end your Services or this Agreement.
15. Disclaimer of Warranties	We provide our Services as is, and we make no promises or guarantees about the Services. <b>Please read this section carefully; you should understand what to expect.</b>
16. Limitations of Liability	We will not be liable for damages or losses arising from your use or inability to use the Services, or otherwise arising under these Terms. <b>Please read this section carefully; it limits our obligations to you.</b>
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21. Dispute Resolution by Binding Individual Arbitration	This section describes what will happen if there is a dispute between you and us regarding the Services. <b>Please read this section carefully; it limits certain legal rights you may have.</b>
22. This Is The Entire Agreement	This section contains miscellaneous legal details regarding these Terms.
23. Effective Date	This provides the date for when these Terms went into effect.

## 2. Privacy Policy

Your use of Lively Properties is subject to our Privacy Policy. To review our Privacy Policy, visit <https://www.lively.com/legal/privacy-policy>. Please review the Privacy Policy for more on how we collect and use information.

If you would like to learn more about your rights under individual state laws, please visit <https://www.lively.com/legal/states-rights-privacy-policy>.

## 3. Term

By taking advantage of the subsidized price of your Apple Watch, you have agreed to an initial, minimum contract term for your Lively monthly Plan (the “Plan”). Such term commences on the date you purchased the Plan and will continue for the duration that you agree at the point of purchase, which is confirmed to you via an email that we send following your purchase (the “Initial Term”). After the Initial Term, regardless of whether you made a one-time payment for it or were making monthly payments, your Plan will continue on a month-to-month basis, and we will charge the payment card on a monthly basis that you provided us when you initiated the Service.

## 4. Your Use of the Services

You agree to comply with U.S. or other applicable law regarding the transmission of any information obtained from the Services in accordance with this Agreement, not to use the Services for illegal purposes or in manner inconsistent with this Agreement, and not to interfere with or disrupt the networks connected to the Services. You agree to use the Services solely for

your own noncommercial use and benefit, and not for resale or other transfer or disposition to, or use by or for the benefit of, anyone else. You agree that you will not take any action that imposes an unreasonable or disproportionately large load on our infrastructure. You acquire no rights to the Services and/or materials we provide to you other than the limited right to utilize the Services in accordance with this Agreement.

## **5. How Lively App Works**

To use the Plan with your Apple Watch, you will need to first connect your Apple Watch to your iPhone. Go to the Apple App Store and download the Lively app onto your iPhone. The Lively app will automatically install to your Apple Watch. If the Lively app didn't install on your Apple Watch, you will need to go to the "Watch" app on your iPhone, go to "General" and turn on the toggle for "Automatic app install". You may disable the toggle after the Lively app is installed on your Apple Watch if you prefer. Lastly, you will need to open the Lively app on your iPhone and set it up to connect with your Apple Watch using the in-app instructions. For Lively Health and Safety Services to function properly, your account must be current on payment and these conditions must be met:

- be running iPhone iOS 12 and above;
- be running Apple WatchOS 5 and above;
- be charged;
- be powered on;
- have an adequate wireless signal;
- be in audible range of the connected device;
- have location services enabled;
- have airplane mode off;
- have Bluetooth on; and
- be running the Lively app.
  
- Your Apple Watch must:
  - be paired and connected to your iPhone via Bluetooth and Wifi or have cellular data services; and
  - have adequate battery level.

## **6. Lively App License Grant**

The Lively app software is licensed, not sold, to you by Lively and it is for use only under the terms of this License. The Lively app is intended for your personal, non-commercial use and may not be rented, leased, sold, or redistributed by you. Lively retains ownership of the Lively app software and reserve all rights not expressly granted to you. In its sole discretion, we may make available app updates and the terms of this License shall govern such updates unless such update is accompanied by a separate license, in which case the terms of that license will govern.

Subject to the terms and conditions herein, you are granted a limited non-exclusive license to use the Lively app software on a single device. You may not, and you agree not to enable others to, reverse engineer, disassemble, attempt to derive the source code of, create derivative works of, or modify the software or any services provided by the software.

You acknowledge and agree that certain Lively app features transmit data through your Bluetooth-paired and connected iPhone and could impact charges to your wireless data plan. You agree that all such charges are your responsibility. You can view and control data use of apps, including the Lively app, in your iPhone settings.

## **7. Payment Terms**

### 7.1.1. Payment Options

You have the option to make a one-time payment for the Services for the Initial Term, or to make monthly payments as set forth in Section 7.1.2 below. You may elect to make the one-time payment using any form or combination of forms of tender accepted by Best Buy (excluding lease-to-own). In addition, you may make the one-time payment using a financing option on the My Best Buy Credit Card. The one-time payment option is only available for in-store purchases.

If you chose to cancel your Lively Services prior to the end of your contracted Term, you will be refunded a prorata amount based on the number of days left in the contract term. You will also be subject to an Early Termination Fee equal to the amount of subsidized discount you received. The Early Termination Fee will not be prorated. You will be subject to the full fee. Please review Section 9 for further information on the Early Termination Fee.

You are responsible for directly paying all charges for services provided to you by others (such as emergency service providers).

### 7.1.2. Monthly Payment Option Terms

#### (a) Your Monthly Payment Responsibilities

You are responsible to pay for the Services on time and in full (unless the law provides otherwise). We invoice for Services one month in advance. Payment is due 18 days from the invoice date (“Payment Due Date”). A late payment is defined as anything received after Payment Due Date. Failure to timely pay your invoice could result in Lively suspending or disconnecting your account.

You are also responsible for directly paying all charges for Services provided to you by others (such as emergency service providers).

#### (b) Recurring Auto Payments

By activating our Services, you have authorized Lively to charge the credit card or debit card on file for recurring monthly payments. **Your monthly service payment will be charged automatically to this credit or debit card, which will be kept on file.** To cancel recurring monthly payment, you can contact our Customer Service Department at 1-800-733-6632, by email, or in the Billing Section of My Account. For instructions on how to cancel by email, please visit our Services & Apps FAQs on the Support Page and scroll to the My Account section.

#### 7.1.3. Your Responsibility to Tell Us Right Away About Disputed Charges

If you object to any fees or charges for Services, you must tell us in writing within 60 days after the fee or charge is incurred, (unless the law does not allow a limit, or the law requires a longer period), or you are waiving the dispute. Disputed charges may be sent to Lively c/o Customer Care at 2200 Faraday Ave., Ste. 100, Carlsbad, CA 92008.

#### 7.1.4. Your Responsibility To Pay For Taxes And Government Fees

We are required by law to charge you certain taxes, surcharges and assessments that will be included on your bill. Also, we are entitled to impose surcharges to cover the cost of our own required contributions to certain federal programs, as well as administrative fees to help defray other expenses we incur. You are responsible for paying all fees, taxes, surcharges, and assessments associated with your Lively products and services. These may change from time to time, and we may not be able to give you advance notice about how these changes may affect you. Any customer who is eligible for an exemption from any tax or fee must provide us with a verifiable, valid and properly executed tax-exempt certificate. Any tax exemption applies only after the date we receive the certificate from you and have verified your eligibility for the exemption.

#### 7.1.5. Options for Paying Your Bill

Lively offers a variety of options for you to pay your monthly invoice.

Automatic Payment: Visit [www.lively.com/support](http://www.lively.com/support) for automatic monthly payment from checking or savings form and instructions. Or, log in to [www.lively.com/myaccount](http://www.lively.com/myaccount) to set up recurring credit or debit payments. These services are secure, convenient and free of charge.

Online: Log in to [www.lively.com/myaccount](http://www.lively.com/myaccount). First time logging in? Go online now to register

and receive 50 free anytime minutes.

By Phone: Make a payment using our automated system by calling 1-866-237-8641. It's convenient, available anytime and there are no additional charges. Friendly customer care advisors are also available 7 days a week. Payments processed with an advisor over the phone will be assessed a processing fee.

By Mail: Send your payment to Lively, P.O. Box 660688, Dallas, TX 75266-0688. To ensure proper processing, remember to include the payment slip from your bill or write down your Lively account number on your check when mailing in a payment.

## **8. 14-Day Return Policy**

You can cancel your Services within 14 days of the purchase of your Apple Watch, without having to pay an early termination fee as long as you return the Apple Watch, within that 14-day time period, to any Best Buy store location. Lively and Best Buy will work together to deactivate your Services and refund any fees charged to your credit card, including all associated taxes and fees.

Please see [www.bestbuy.com](http://www.bestbuy.com) for complete details and information on returning your Apple Watch.

## **9. Canceling Your Services During the Initial Term; Early Termination Fee**

**If you choose to cancel your Services prior to the end of the Initial Term, you will be assessed an early termination fee equal the subsidized discount you received, which could be as high as \$200.** The subsidized discount you received is reflected on your receipt of purchase.

If you wish to terminate early, you may visit a Best Buy store location or call our Customer Service department at 1-800-733-6632 to request early termination. If you cancel your Services during a billing cycle, the cancellation will be effective immediate. However, because Lively does not bill for partial months of Services, your monthly billing charges will not be prorated. Lively will not refund a partial monthly service charge, you will be responsible for the entire billing cycle. In addition, the early termination fee will be charged to your card on file with Best Buy.

## **10. Canceling Your Services After the Initial Term**

Once the Initial Term expires, you may cancel your Services at any time by calling us at 1-800-733-6632 and telling us that you want to cancel the Services. We will cancel the Services immediately and you will not be charged for any future months. If you cancel your Services during a billing cycle, the cancellation will be effective immediate. However, because Lively



does not bill for partial months of Services, your monthly billing charges will not be prorated. Lively will not refund a partial monthly service charge, you will be responsible for the entire billing cycle.

## **11. Lively Services**

### **11.1. Lively Urgent Response Service**

#### 11.1.1. How Lively Urgent Response Works

In the event help is needed, pushing the Lively Urgent Response button or the Lively app complication on your Apple Watch will connect you to a Lively Urgent Response Agent through your connected iPhone and/or Apple Watch, depending on how you placed the call. Calls made to Lively Urgent Response through your iPhone may use your data unlike a normal cellular call. Data usage via the cellular network may incur additional costs as defined by your carrier. Calls made to Lively Urgent Response through your Apple Watch will use cell phone minutes. When the Lively Urgent Response button is pushed, your iPhone or Apple Watch will automatically place an outgoing call to Lively Urgent Response. In some cases, Lively Urgent Response will place an incoming cellular call to your phone number that you must answer to connect. This will use your cell phone minutes, like a normal cellular call and could incur additional costs as defined by your carrier. In the case you are unable to answer your phone, emergency services will be contacted on your behalf and at your expense.

Lively Urgent Response is only available in the United States. Lively Urgent Response IS NOT A SUBSTITUTE FOR 9-1-1, and in fact, if a Lively Urgent Response Agent conferences in 9-1-1 emergency services on your behalf, there could be a delay in reaching 9-1-1 emergency services. The Service will only work if your account is current on payment and if your device is charged, turned on, has network access, and the Lively Urgent Response is enabled on your Apply Watch and paired with your phone. Lively Urgent Response may not be available in remote or enclosed areas.

Upon Services enrollment, we will be able to track your approximate location whenever your Apple Watch is paired and connected by Bluetooth to your iPhone. You agree that we can provide this information to third-party service providers in case of an emergency or service incident. **However, we cannot guarantee that we can track your exact location, and, in some cases, we may only be able to provide the information provided in your Personal Emergency Profile.**

#### 11.1.2. Your Use Of Lively Urgent Response

You promise not to use Urgent Response for any fraudulent, unlawful, or abusive purpose, or in any way that interferes with our provision of services to our other customers. If you do any of these things, you agree you will be responsible for any amount anyone else claims from us, plus any expenses, resulting from your actions. You are solely responsible for maintaining the content and accuracy of your Personal Emergency Profile, which may be updated by logging into your MyLively.com/myaccount or providing us with your updates by mail.

#### 11.1.3. Your Interactions With Lively Urgent Response Agents

We may record and monitor conversations between you and our Agents, emergency service providers, the police, or other third parties. Please note that our Agents may also remain on the line if they conference in a third-party to assist in completing a service request. Please understand that Lively Urgent Response is not required to release any audio or physical records that are created as part of the Lively Urgent Response without a subpoena (unless otherwise required by law). We will do our best to accommodate you if English is not your first language and you require translation services, but we cannot guarantee the availability or competence of a third-party translator.

#### 11.1.4. Connection To Other Service Providers

Our agents may link, conference or transfer you to other service providers such as the police, fire department, ambulance service, 9-1-1 emergency services or towing service. We'll use reasonable efforts to contact appropriate service providers for help when you ask for it, but we can't promise that any service providers will respond in a timely manner or at all. Furthermore, we can't promise we will provide the best service provider or guarantee any level of service from such service provider. We may not contact emergency services if (1) we are unable to confirm an emergency exist, and the local emergency services in your area requires an emergency situation be confirmed; or (2) you indicate, or we have reason to believe, you are safe and out of danger or that emergency services are not needed.

#### 11.1.5. Your Responsibility For Others Who Use Lively Urgent Response

You are solely responsible for any use of Lively Urgent Response associated with your Apple Watch, even if you are not the one using it, and even if you later claim the use was not authorized. You are also solely responsible for the Lively Urgent Response requested by you, or by anyone using the Lively Urgent Response on your behalf. You agree that our Agent may share your information with any authorized person calling Lively Urgent Response on your behalf.

### **11.2. Optional Services**

Additional terms and conditions may apply to your use of Optional Services. If applicable, these terms and conditions are incorporated by reference and made a part of this Agreement. You agree to abide by such other terms and conditions, including where applicable representing that you are of sufficient legal age to use or participate in such service or product. If there is a conflict between this Agreement and the terms and conditions applicable to a specific service or product, the latter terms shall control with respect to your use of that portion of that service or product. Not all optional Services are available for all Devices. For more information regarding Lively services, please visit <https://www.lively.com/support/>.

#### 11.2.1. Lively Link

Lively Link is an optional service that allows you to authorize contacts to have access to information about your Urgent Response enabled-Device and Service. Your authorized contacts will have access to your information such as current and prior location history (including some limited history regarding frequency and duration of time away from home), current and prior battery levels, and device usage (e.g., whether device is being used and whether any calls for assistance were made). Authorized contacts will also be alerted if you contact our Urgent Response team. Authorized contacts may access this information through the Lively Link smartphone or web app. You may add or remove authorized contacts at any time through the Lively Link web app or through My Account.

To the extent you use the Lively Link with your Device, you are also subject to Lively Terms of Use, which are incorporated herein, at <https://www.lively.com/legal/terms-of-use>.

For more information about how Lively Link works, visit our Services & Apps FAQs on the <https://www.lively.com/support/faqs/>.

#### 11.2.2. Nurse On-Call

With Nurse On-Call, you have access to registered nurses and board-certified doctors. You can ask any kind of medical question and get prescriptions or refills for common medications right over the phone. The registered nurses and contracted physicians offer advice regarding health care decisions and physicians may prescribe prescriptions and refills for common medications over the phone. Physicians do not prescribe DEA controlled substances, non-therapeutic drugs, and certain drugs which may be harmful because potential for abuse. Before you speak with a physician you will be asked questions according to standardized protocol. Physician transfer subject to screening by nurse (and subject to doctor availability). Physician consults are subject to availability and may require appointments or a callback. In the event that physician services are not available, the nurse may suggest that you contact your primary care physician or visit

your local Urgent Care. The nurses and contracted physicians reserve the right to deny care for potential misuse of services. Emergencies will be transferred to a 911 call center or customers may be directed to call 911. If you are experiencing a medical emergency, you should seek appropriate emergency medical assistance or call 9-1-1- immediately.

Lively is not a healthcare provider. Because Lively is not a healthcare provider, we cannot be equipped to validate or confirm the accuracy or completeness of any of the advice made available by contracted physicians or to determine whether such advice is appropriate for you or your specific needs and we are neither qualified to evaluate. We are not liable for any acts or omissions, including negligence, of contracted physicians. Use of Nurse On-Call does not create any kind of treatment or other patient relationship with nurses or physicians. You should always seek the advice of your physician or other qualified health care provider if you have any questions about medical treatment or a medical condition.

### 11.2.3. Care Advocate

Care Advocate brought to you by Lively allows our customer to work with a licensed social worker, over the phone and email, to develop a Personal Care Plan to help meet your individual needs and goals. Customer will first participate in a screening which will help identify possible areas of opportunity where the Care Advocate can offer assistance. Then together with the Care Advocate, the customer will determine their personal objective and wellness goals, as well as next steps. Care Advocates can advise on areas of wellness, health, personal care, and technology. Care Advocates cannot provide legal, financial, or medical advice. For certain areas of expertise, your Care Advocate may connect you with professionals in specialized practices that can address your questions and concerns. Lively utilizes third-party resources to connect customers with such professionals. Lively is not responsible for any acts or omissions, including negligence, by these third-party partners or the professionals or services recommended by them. Care Advocate services provided by state-licensed social workers available in some locations. For more information about our Care Advocates, please view the Services & Apps FAQs at <https://www.lively.com/support/faqs/>.

## **12. Customer Communications**

You understand and agree that Lively, or its agents, may contact you for any purpose regarding your Service, Devices, or your My Account, including billing and collection, and any additional products and services we may offer, in any manner, including by phone, mail, email, text message, and push notifications. You agree that such contact may be to any mailing address, telephone number, cellular phone number, email address, or any other electronic address that you have provided, or may in the future provide, to us. You understand and agree that calls or text messages may be made using an automatic telephone dialing system or artificial or

prerecorded voices, and SMS text messaging. You agree to notify us promptly if you can no longer be reached at a contact number, email or address you provided us. You represent that you have received the consent of any authorized users and other users on your account to be contacted by us as described in this Section. Your consent shall survive cancellation of your Services and your account.

### **13. Our Right To Change, Amend, Modify or Supplement Your Service**

Unless otherwise prohibited by law, we may change, modify, or supplement any Services provided to you, including, but not limited to, rates, fees, prices, charges or features. We will provide notice regarding material changes to your Services.

If you choose to use your Services after that point, you're accepting the change, modification, amendment, or supplement. If you do not accept the changes, amendments, modifications, or supplements, you can cancel the Service, just by calling us at 1-800- 733-6632. Please note, that the Early Termination Fee may apply if you cancel prior to the end of your Initial Term.

### **14. Our Right To Suspend, Limit, or Terminate Your Services**

We may terminate this Agreement at any time without notice if we cease to provide Service in your area. WE CAN, WITHOUT NOTICE, LIMIT, SUSPEND OR END YOUR SERVICE OR ANY AGREEMENT WITH YOU FOR VIOLATING THIS AGREEMENT OR FOR ANY OTHER GOOD CAUSE, INCLUDING, BUT NOT LIMITED TO:

1. For conduct that we believe violates this Agreement;
2. If we see excessive or unusual patterns that we, in our discretion, think may be fraudulent or abusive;
3. Misuse or abuse of Services;
4. If you behave in an abusive, derogatory, harassing, or similarly unreasonable manner with any of our representatives, employees, or agents, whether in person, over the phone, or in writing;
5. If you fail to make all required payments when due;
6. If you resell our Services either alone or as part of any other goods or service;
7. If we discover that you are underage;
8. If we discover that you have made any statement or provided any information to us that was untrue or inaccurate at the time you provided it to us;

9. If you interfere with our operations;
10. If you fail to keep any promise set forth in this Agreement or any other agreement with Lively;
11. If you modify your Device from the manufacturer's specifications;
12. If you allow anyone to tamper with your Lively number; or
13. If you use your Device and/or Services in any way that: (a) is harmful to, interferes with, or negatively affects our network, other customers, or the network of any other provider, (b) is harmful to, interferes with, or negatively affects our Services or operations, (c) infringes on our intellectual property rights or the rights of others, (d) results in the publication of threatening, offensive or illegal material, or generates spam or other abusive messaging or calling, a security risk, or a violation of privacy.

We can also temporarily limit your service for any operational or governmental reason.

## **15. Disclaimer of Warranties**

While we strive to ensure that our Services are provided without interruption and are accurate and reliable, we, and our suppliers, make no representation or warranty, either expressly or tacitly, for the accuracy, reliability, completeness, correctness or otherwise with respect to the Services and we assume no liability or responsibility of any kind for omissions or errors in the Services. Use of our Services is at your own risk. We assume no liability for or relating to the delay, failure, interruption or corruption of any voice, call quality, or data transmitted on a device while using our Services.

TO THE FULLEST EXTENT PERMITTED BY LAW, WE, OUR SUPPLIERS, AND OUR THIRD-PARTY CONTENT AND SERVICE PROVIDERS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON- INFRINGEMENT OR THIRD-PARTIES' RIGHTS, AND FITNESS FOR PARTICULAR PURPOSE, AND FREEDOM FROM COMPUTER VIRUS. SPECIFICALLY, WE, OUR AFFILIATES, OUR SUPPLIERS, AND OUR THIRD-PARTY CONTENT AND SERVICE PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE ACCURACY, RELIABILITY, COMPLETENESS INCLUDING ERRORS OR OMISSIONS, CURRENTNESS OR TIMELINESS OF CONTENT, SOFTWARE, TEXT, GRAPHICS, LINKS, OR COMMUNICATIONS PROVIDED ON OR THROUGH THE USE OF THE SERVICES.

## **16. Limitations of Liability**

We assume no liability for or relating to (1) the delay, failure, interruption or corruption of any voice, call quality, or data transmitted on a device while using the Services; (2) dropped calls or

interrupted service, or for problems caused by or contributed to by you, by any third-party, by buildings, hills, tunnels, network congestion, weather, or any other things we do not control, (3) any non-performance by us or any service provider caused in whole or in part by any equipment failure, act of God, natural disaster, strike, equipment or facility shortage, or other causes beyond the control of us or our service providers, (4) claims against you by a third-party; (5) damage or injury cause by our suspension or termination of your Service pursuant to Section 12; (6) any act or omission by a third-party; or (7) errors, defects, problems or mistakes in data or information we provide to you.

LIVELY WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ATTRIBUTABLE TO YOUR USE OF ANY LIVELY PROPERTY OR ANY PRODUCT OR SERVICE PURCHASED THROUGH A LIVELY PROPERTY REGARDLESS OF THE TYPE OF THE CLAIM, UNLESS PROHIBITED BY LAW.

You agree that the limitations of liability and indemnities in these Terms will survive even after the Terms have ended.

## **17. Governing Law**

To the fullest extent permitted by law, and except as explicitly provided otherwise, this Agreement and any disputes arising out of or relating to it will be governed by the laws of the state of California, in accordance with the Federal Arbitration Act, if applicable, without regard to its conflict of law principles, and by any applicable tariffs, wherever filed.

## **18. Our Relationship With You**

This Agreement does not create any fiduciary relationships between you and us. It doesn't create any relationship of principal and agent, partnership, or employer and employee, either.

## **19. Modification of this Agreement**

We may update, modify, or change these terms from time to time with or without notice to you. Any changes, amendments, modifications, or supplements to this Agreement will be posted on the Lively website. The date of the latest version of the Agreement will be indicated at the bottom of this page. Be sure to check the Lively website from time to time to make sure that you are aware of the most recent Agreement, which will govern your use of our products and services.

Your continued use of the Services constitutes your agreement to any changes, modification, or updates.

## **20. We Can Assign This Agreement**

We can assign these Terms or your obligations to pay under it in whole or in part to anyone we choose. You cannot assign this agreement or your obligations to anyone else without our prior notice.

## **21. Dispute Resolution by Binding Individual Arbitration**

### **ANY DISPUTE INVOLVING YOU AND BEST BUY OR ANY OF ITS AGENTS MUST BE RESOLVED THROUGH INDIVIDUAL ARBITRATION, EXCEPT AS FOLLOWS:**

- ANY DISPUTE FALLING WITHIN THE JURISDICTIONAL SCOPE AND AMOUNT OF AN APPROPRIATE SMALL CLAIMS COURT MUST BE BROUGHT IN SMALL CLAIMS COURT ON AN INDIVIDUAL BASIS; AND
- ANY DISPUTE TO SEEK TO ENJOIN INFRINGEMENT OR OTHER MISUSE OF INTELLECTUAL PROPERTY RIGHTS MAY BE BROUGHT IN ANY COURT OF COMPETENT JURISDICTION.

“Dispute” shall be interpreted broadly and cover any claim or controversy arising out of or relating in any way whatsoever to your relationship or interaction with Best Buy, its agents, and its present and future subsidiaries, affiliates, and designees – including, but not limited to, GreatCall, Lively, Geek Squad, Magnolia, and Pacific Sales – whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory. Examples of relationships or interactions giving rise to a covered claim include, without limitation: (1) your use of Best Buy’s websites; (2) your membership in any Best Buy loyalty or rewards program (e.g., My Best Buy®) or subscription-based services (e.g., Best Buy Totaltech™); (3) your receipt of delivery, repair or installation services or consultation services provided by Best Buy or its agents; (4) any communications between you and Best Buy; (5) application for financing; and/or (6) your purchase of products or services offered, sold, or distributed by Best Buy including, but not limited to, any Dispute arising from the advertising of, or the sales practices related to, such products and services. If you are a My Best Buy® member, Dispute shall also include all disputes that arose before your enrollment in, and after the cancellation or termination of, the My Best Buy® program, including any claims that are the subject of a purported class action litigation.

BY AGREEING TO ARBITRATION, YOU UNDERSTAND AND AGREE THAT YOU ARE WAIVING YOUR RIGHT TO MAINTAIN OTHER AVAILABLE RESOLUTION PROCESSES, SUCH AS A COURT ACTION OR ADMINISTRATIVE PROCEEDING, TO SETTLE DISPUTES. THE RULES IN ARBITRATION ARE DIFFERENT. THERE IS NO JUDGE OR JURY, LESS



DISCOVERY, AND LIMITED APPELLATE REVIEW. ARBITRATORS CAN AWARD THE SAME DAMAGES AND RELIEF THAT A COURT CAN AWARD.

Before either Party may initiate an arbitration proceeding, you and Best Buy agree to engage in a good faith effort to resolve the Dispute informally for 60 days, unless that time is extended by agreement. If you intend to initiate an arbitration proceeding, you must first send a fully completed notice of your Dispute (the "Notice") to Best Buy. The Notice must include your name and contact information (address, telephone number, and email address) and information sufficient to enable Best Buy to identify any transaction at issue. The Notice must also include a detailed description of (1) your Dispute; (2) the specific facts supporting your claim(s); (3) the nature and basis of the damages you claim to have suffered; and (4) a calculation and explanation of the relief sought. Your Notice shall be personally signed by you and sent to Best Buy at CT Corporation System, Inc., 1010 Dale Street North, St. Paul, MN 55117-5603 or by email at Arbitration@BestBuy.com. If Best Buy intends to initiate an arbitration proceeding, it will send a Notice to you at the contact information we have on file. If requested by Best Buy as part of this mandatory informal dispute resolution process, you agree to personally participate (along with your counsel, if you are represented) in a telephone conference to discuss the potential resolution of the Dispute between you and Best Buy. If the Dispute is not resolved within 60 days after receipt of the Notice (or the longer period agreed to by the Parties), you or Best Buy may proceed with individual arbitration (this informal process is a condition precedent to doing so.). If the sufficiency of a Notice or compliance with this mandatory informal dispute resolution process is at issue, it may be decided by a court at either Party's election, and any formal dispute resolution proceeding shall be stayed pending resolution of the issue. A court shall have the authority to enforce this condition precedent, which includes the power to enjoin the filing or prosecution of a demand for arbitration. The statute of limitations and any filing fee deadlines shall be tolled while the Parties engage in this informal process.

If the Parties are not able to resolve the Dispute through the mandatory informal dispute resolution process referenced above, either Party may initiate an arbitration proceeding by sending a demand to the American Arbitration Association (AAA) that describes the nature and basis for the claim and includes all of the information required in the Notice. The Party initiating arbitration must include as part of the demand a personally signed certification of compliance with the informal dispute resolution process. You may serve a copy of a demand on our registered agent CT Corporation System, Inc., 1010 Dale Street North, St. Paul, MN 55117-5603. The arbitration will be governed by the AAA's applicable Consumer Arbitration Rules or Commercial Arbitration Rules (collectively, the "AAA Rules"), as appropriate, and as

modified by these Terms, and will be administered by the AAA. The AAA Rules and the form for filing an arbitration claim are available at [www.adr.org](http://www.adr.org). If the AAA is unavailable or unwilling to administer the arbitration consistent with this Dispute Resolution section, another arbitration provider shall be selected by the Parties that will administer the arbitration consistent with it. If the Parties cannot agree on a provider, one shall be selected by a court that will administer the arbitration consistent with this Dispute Resolution section.

Payment of all filing, administration and arbitrator fees will be governed by the AAA's Rules; however, Best Buy will consider reimbursing the consumer portion of the AAA fees upon a showing of financial hardship.

The Parties shall be responsible for their own attorney's fees and costs in arbitration, unless they are authorized by law or the arbitrator determines that a claim or proceeding was frivolous or brought for an improper purpose or in bad faith (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). The arbitrator shall apply the provisions of Federal Rule of Civil Procedure 68 after entry of the award.

You may choose to have the arbitration conducted by telephone, virtually, based on written submissions, or at an in person hearing in the county where you live or at another mutually agreed upon location. Best Buy reserves the right to request a hearing from the arbitrator. You agree to personally appear at any in person hearing (along with your counsel if you are represented).

YOU AND BEST BUY AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, CONSOLIDATED, PRIVATE ATTORNEY GENERAL, OR REPRESENTATIVE PROCEEDING. THIS MEANS THAT YOU MAY NOT PURPORT TO ACT ON BEHALF OF A CLASS OR ANY OTHER PERSON. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. The arbitrator may not award relief for or against anyone who is not a party to the arbitration proceeding. Further, unless both you and Best Buy agree otherwise, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding. If a court determines that a claim for public injunctive relief may not be waived and all appeals from that decision have been exhausted, then the Parties agree that any claim for public injunctive relief shall be stayed pending arbitration of the remaining claims. If this specific paragraph is found to be unenforceable, then the

entirety of this dispute resolution provision (except for the jury trial waiver) shall be null and void.

This paragraph sets forth additional procedures that apply to mass arbitrations. If twenty-five (25) or more similar claims are asserted against Best Buy by the same or coordinated counsel or are otherwise coordinated, you understand and agree that these additional procedures apply and that the resolution of your Dispute might be delayed. Counsel for the claimants and counsel for Best Buy shall each select fifteen cases (per side) to proceed first in individual arbitration proceedings as part of a bellwether process. Each of these thirty (30) cases shall be assigned to a different arbitrator. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed to individual arbitration proceedings as part of this bellwether process. If the Parties are unable to resolve the remaining cases after the conclusion of the initial thirty (30) proceedings after conferring in good faith, each side shall select another fifteen (15) cases (per side) to proceed to individual arbitration proceedings as part of a second bellwether process. Each of these thirty (30) cases shall be assigned to a different arbitrator. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed to individual arbitration proceedings as part of a bellwether process. A single arbitrator shall preside over each case. Only one case may be assigned to each arbitrator as part of a bellwether process unless the Parties agree otherwise. Identical sets of arbitrators shall not be assigned to sets of bellwether proceedings. This staged process shall continue with thirty (30) cases in each set of bellwether proceedings, consistent with the parameters identified above, including that the remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed, until all the claims included in these coordinated filings, including your case, are adjudicated, settled, or otherwise resolved. The statute of limitations and any filing fee deadlines shall be tolled for claims subject to these additional procedures that apply to mass arbitrations from the time of the first cases are selected for a bellwether process until the time your case is selected for a bellwether process, withdrawn, or otherwise resolved. You and Best Buy agree to engage in this process in good faith. A court shall have the authority to enforce this paragraph and, if necessary, to enjoin the mass filing or prosecution of arbitration demands against Best Buy.

If for any reason a claim may proceed in court rather than in arbitration, WE EACH WAIVE ANY RIGHT TO A JURY TRIAL, UNLESS SUCH WAIVER IS UNENFORCEABLE. THIS MEANS THAT ANY CLAIM WOULD BE DECIDED BY A JUDGE, NOT A JURY.

This dispute resolution provision shall be governed by the Federal Arbitration Act. It shall survive any termination or cancellation of, or your participation in, any membership programs or subscription services and your relationship with Best Buy. Any amendments to this dispute resolution provision shall not affect any then active or pending arbitration proceeding.

## **22. This Is The Entire Agreement**

This Agreement, in addition to the policies and other terms referenced herein, is the entire agreement between you and us with respect to your Services. It supersedes all other agreements or representations, oral or written, between us, past or present, and may not be amended except in a writing signed by Lively, unless otherwise stated herein. If any part of this Agreement is considered invalid, the rest of it will remain enforceable. No waiver of any part of this Agreement or of any breach of it, in any one instance will require us to waive any other instance or breach. In some circumstances we might decide to provide you service voluntarily even if you would not otherwise qualify. This will not be a waiver or require us to do so again.

## **23. Effective Date: December 21, 2023**