

# Yiftee Merchant Agreement

## YIFTEE MERCHANT AGREEMENT

PLEASE READ THIS MERCHANT AGREEMENT ("AGREEMENT") CAREFULLY BEFORE USING THE SERVICE (AS DEFINED BELOW) OFFERED BY YIFTEE INC. ("YIFTEE"). BY ACCESSING OR USING THE SERVICE IN ANY MANNER, THE MERCHANT IDENTIFIED IN THE MERCHANT SIGN-UP FORM (AS DEFINED BELOW) ("MERCHANT") AGREES THAT IT HAS READ AND AGREES TO BE BOUND BY AND A PARTY TO THE TERMS AND CONDITIONS BELOW, AND ANY TERMS INCLUDED IN THE MERCHANT SIGN-UP FORM(S) THAT MERCHANT HAS EXECUTED OR WILL EXECUTE FROM TIME-TO-TIME (EITHER ONLINE OR IN HARD COPY) WITH YIFTEE (EACH, A "MERCHANT SIGN-UP FORM"), WHICH ARE HEREBY INCORPORATED INTO THIS AGREEMENT BY REFERENCE. IF THE TERMS OF THIS AGREEMENT ARE CONSIDERED AN OFFER, ACCEPTANCE IS EXPRESSLY LIMITED TO THESE TERMS. IF YOU ARE AGREEING TO THIS AGREEMENT ON BEHALF OF AN ORGANIZATION OR OTHER ENTITY, YOU REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO AGREE TO THESE TERMS ON THAT ORGANIZATION OR ENTITY'S BEHALF AND BIND THEM TO THESE TERMS.

YIFTEE MAY MODIFY THE TERMS OF THIS AGREEMENT FROM TIME TO TIME, UPON NOTICE TO MERCHANT. IF MERCHANT DOES NOT WISH TO ACCEPT THE NEW TERMS, ITS SOLE REMEDY (AND YIFTEE'S SOLE LIABILITY) SHALL BE MERCHANT'S TERMINATION OF THIS AGREEMENT.

### 1. Gift Purchase.

1.1 Subject to the terms and conditions of this Agreement, a "Yiftee Affiliate" is an entity contracting with and approved by Yiftee to make Yiftee products available via the entity's website or other channel. Yiftee or a Yiftee Affiliate may feature Merchant's place of business generally on Yiftee's or affiliate's website, via the Yiftee Developer Interface (Yiftee API) and on the Yiftee mobile applications available on the Apple App Store and through the Android Marketplace (such website(s), Yiftee API and applications together, the "Services"), and allow Yiftee users (which users may, in certain circumstances, be Merchants, as further described in Section 3.5) ("Users") to "build a gift" by specifying a gift amount (up to a Yiftee-specified maximum) that it wishes to purchase for other Yiftee Users ("Recipients"), to be redeemed for any products and services then-currently and publicly available at Merchant's place of business at the time of redemption ("General-use Gifts"). Yiftee or its affiliates, or senders or receivers of gifts may refer to their gifts and the merchants associated with these gifts on social media and Yiftee may deliver gift messaging via social media that may be viewed by an audience other than the specific recipient of the gift.

Yiftee may also (but is under no obligation to) feature on the Services, at its discretion and subject to the terms and conditions of this Agreement, one (1) or more specific products or services available from Merchant ("Specific Gifts"), and allow Users to purchase such Specific Gifts for Recipients. These Specific Gifts are implemented as a voucher good for the value ascribed to the specific gift, but there is no enforcement mechanism to require the Recipient to utilize the voucher for that Specific Gift -the voucher is intended to be usable for the dollar amount specified on the voucher (up to the amount remaining on the voucher if the voucher has been used) for any item at the merchant. If a Specific Gift is defined, the merchant is solely responsible for defining a price ascribed to said Specific Gift that is suitable to cover the cost of purchase of that gift along with any applicable taxes or fees. However, it is solely up to the Recipient to determine if the voucher is to be applied to the Specific Gift or to another item available for sale by the Merchant.

Yiftee, at Merchant's direction, may also (but is under no obligation to), feature on the Services, at its discretion and subject to the terms and conditions of this Agreement, a gift without any cash value, but which can be used by Recipients at Merchant's establishment in connection with the purchase or redemption of goods (a "zGift"). zGifts function like coupons; for example, a zGift may allow a Recipient to visit Merchant's establishment and exchange the zGift for a particular product or service, or may provide a percentage discount based on the purchase of goods or services from Merchant.

zGifts, Specific Gifts and General-use Gifts shall be referred to collectively as "Gifts."

1.2 Yiftee or its Affiliates will display on the Services the Gifts that have been approved by Yiftee through Merchant's completion and Yiftee's approval of the Merchant Sign-up Form(s) provided by Yiftee and, where required, processing a special voucher provided by Yiftee (such completion and approval is the "Registration"). If Yiftee has approved a Specific Gift through the Registration process, the parties will agree to, among other terms, the Specific Gift Value (defined below), the start and end dates for the Specific Gift to be displayed on the Services, if applicable, and the number of Specific Gifts to be offered for sale through the Services, if applicable. In Yiftee's discretion, Yiftee may also promote the General-use Gift and/or, if applicable, the zGift or Specific Gift, which may include email marketing and/or displaying content via third-party web sites and services.

1.3 Merchant will provide Yiftee, on a timely basis, with all reasonably requested information regarding (a) Merchant's place of business generally, including photos thereof, hours of operation, physical address, and products and services offered, and (b) if Yiftee has approved a Specific Gift or zGift involving a specific product or service (collectively, "Special Gifts"), each such Special Gift, including a description of the Special Gift, photos of the Special Gift, and a description of any restrictions or limitations on Recipient's redemption and/or use of Special Gifts (e.g., expiration or blackout dates), so that Yiftee may provide such information to a User before he or she sends the Special Gift to Recipient. It is Merchant's responsibility to keep this information and that regarding any of its additional locations up to date at all times including

adding or closing branches or related stores, changing product, location or telephone data and updating Special Gift offers.

1.4 Yiftee will collect payment from Users who send the Gifts to Recipients, notify each Recipient that he or she has received a Gift by providing him or her with a Virtual Gift Voucher ("Voucher") for such Gift and provide Recipient with directions on how to redeem such Voucher at Merchant's place of business by using a mobile phone or the Yiftee mobile application(s) or by other means such as by printing said Voucher and presenting printed version of Voucher. The price Yiftee charges a User for a Gift (if any) ("Gift Purchase Price") shall consist of the gift amount of the Voucher specified by such User that can be redeemed by the Recipient ("Gift Value"), plus a non-refundable electronic delivery fee ("eDelivery Fee") that is calculated as a function of the Gift Value and/or a fixed amount.

1.5 Yiftee is under no obligation to enroll any merchant in the Yiftee program, even if Merchant has been advised that such enrollment is possible. Acceptance into the Yiftee program is at the sole discretion of Yiftee.

1.6 Yiftee may offer to assist Merchant to enhance Merchant's website or other online media such as Facebook in order to better present the Yiftee product offering (sometimes referred to as implementing an 'egift button'). Yiftee may offer to do this at a fee that will be described to Merchant prior to Merchant's acceptance of this service. If Merchant requests that Yiftee perform this service, Merchant does so entirely at its own risk and Yiftee will assume no liability for any errors or any liability whatsoever resulting from this activity, including any disablement of Merchant's website. Furthermore, Yiftee is under no obligation to remove such enhancements at Merchant's request. Yiftee will assume no responsibility for any security violations or 'hacking' of Merchant's website or other media.

## 2. Gift Redemption.

2.1 General-use Gifts and Specific Gifts. The terms of Section 2.1 and 2.2 shall apply only to General-use Gifts and Specific Gifts, and not zGifts. Merchant will use the Yiftee Voucher redemption process described herein, unless otherwise agreed by the parties in writing. Recipient will receive a Virtual Gift Voucher for the Gift Value. Merchants will redeem each Voucher, in accordance with the terms and conditions herein, by running such voucher as a standard "Card Not Present"(CNP) transaction.

At the time of running the voucher, the amount requested is "Authorized" wherein the Merchant's payment processor accepts or declines the requested amount. Merchant will not receive remuneration for any amount that is not authorized and Merchant assumes all risks if they undertake an 'offline' authorization where certain transactions are assumed to be valid and authorization is attempted at a later time.

(i) Gift redemption. A Voucher must be redeemed by the Recipient by the end of the validity period (generally between one (1) day and three hundred and sixty five (365) days, but may be customizable by Merchant in certain cases, up to a Yiftee-defined maximum) after purchase

("Gift Validity Period"). During the Gift Validity Period, Merchant will redeem the Voucher for any products or services currently and publicly available at Merchant's place of business at the time of redemption, as long as the total for such products and services inclusive of any applicable taxes and fees does not exceed the remaining value of the Voucher.

(ii) Upon initial receipt of any Voucher, before the Recipient "accepts" such Voucher, Yiftee may provide the Recipient with the option of exchanging the applicable Voucher for another Yiftee Gift available on the Services, or the option to donate the voucher value to charity (however, in some instances, donation or exchange may not be an option). In some cases (and with Merchant explicit agreement), Voucher may be associated with a group of participating merchants such as a group of merchants located in close proximity or other basis for grouping. If a Voucher is associated with a group, it is redeemable at any Merchant associated with the group. A Voucher, if exchangeable, may, prior to its Acceptance by the Gift Recipient, be bound to a merchant other than the one originally designated by the Gift Purchaser. Merchant understands and agrees that exchangeable Vouchers may be used at any merchant that accepts the applicable Voucher Payment Processor (defined below) for such Voucher until the User has Accepted the Voucher at which time it is tied to Merchant or group of associated Merchants. In some cases, a single identifier ("PAN") on a voucher (which is the 16-digit code on the voucher) and associated information such as CVV (3- or 4-digit code) and expiration date, may be tied to different gifts with different amounts at different merchants. This will not affect the mechanisms described herein on redemption. If Merchant attempts to charge over the maximum Voucher value for any Voucher, the Voucher may be rejected. Merchant will allow for any Voucher to be redeemed incrementally; that is, each Voucher is multi-use, but Voucher will be denied payment in any case where charges are made for more than the remaining Voucher value.

(iii) Merchant agrees to only apply authorizations to the Voucher and NOT any forced postings. Any amount forced or cleared against the Voucher that exceeds the amount that would be authorized at the time of posting is null and void, and Yiftee will invoice Merchant and/or automatically collect from Merchant's stored credit card for any such amount(s) that have been forced to the Voucher. It is up to the Merchant to enforce policies that mitigate the need for force postings or clearing over the authorized amount, such as asking the Recipient to pay any tip amount at the time of authorization, or to request that any tips be paid for separately with a different payment vehicle such as cash or the Recipient's personal credit or debit card. Authorized amounts that are improperly voided by merchant (without reference to a prior authorization) and are later cleared by merchant may also be subject to invoice or collection from merchant's stored credit card. Merchants who utilize offline transactions run the risk of accepting a Voucher which may later not authorize for the requested amount; in such case, Yiftee is not responsible for any refunds to Merchant or for settling any disputes between a Merchant and a Recipient.

2.2 If, at the end of the applicable Validity Period for any Gift, a Voucher has been partially redeemed, but there is any amount of Gift Value remaining on such Voucher (the "Remaining Amount"), the Remaining Amount shall be refunded to the purchasing User (in credit to his or her Yiftee account). Yiftee account credits never expire and may be used to purchase any

available Yiftee voucher, provided that in certain circumstances, Yiftee may be required to remit some or all of such credit to the state in which a User is located. The purchasing User may contact Yiftee if it instead desires a refund of its account value to the credit card used for purchase; if this is not possible, a check may be issued. If at the end of the applicable Validity Period for any Gift, a Voucher has not been redeemed at all, the Gift Value may be refunded as described above with respect to partial redemptions, or such Gift Value may be donatable if the Voucher was never accepted by the Recipient.

**2.3 zGift Redemption.** A Voucher for a zGift ("zGift") must be redeemed by the Recipient by the end of its validity period (generally between one (1) day and three hundred and sixty five (365) days, but may be customizable by Merchant in certain cases) after distribution to the Recipient ("zGift Validity Period"). During the zGift Validity Period, Merchant will redeem the zGift Voucher in accordance with the terms of such zGift Voucher. Once the Recipient has redeemed the zGift Voucher, Merchant will mark (or will ensure that the Recipient marks) the zGift Voucher as "redeemed" as permitted by the functionality of the Yiftee Services.

**2.4** Notwithstanding anything else, if a Gift is a ticket to a one-time event (a "Ticket"), no refunds will be granted to the purchasing or receiving User, nor any charitable donations made, for an unredeemed Ticket, and the Specific Voucher for such Specific Gift will be considered "redeemed" when the Voucher is accepted by the Recipient.

**2.5** Merchant is responsible for all applicable taxes, and in no event will Yiftee ever be responsible for any amount in excess of the amount which may be AUTHORIZED (not forced or over-cleared) against the Yiftee Voucher.

**2.6** Merchant will provide suitable instruction to Merchant employees on how to properly redeem a Voucher for a Gift.

**2.7** Merchant, and not Yiftee, shall be solely responsible for any claims, losses, or costs suffered by a Recipient in connection with Merchant's products or services.

**2.8** Merchant acknowledges and agrees that any party that offers such Merchant's Vouchers is an intended third party beneficiary of the indemnities contained in the Merchant Agreement. Merchant acknowledges and agrees that it will not assert a defense based upon lack of privity against any party that offers such Merchant's Vouchers.

### **3. Payment; Taxes.**

**3.1** Merchant will pay Yiftee an advance monthly or annual subscription fee ("Subscription Fee") for each month (or year, as applicable) during the term of this Agreement, which may include a component that varies based on how many Merchant locations it wishes Vouchers to be available for. A location will be considered "active" for the purposes of calculating the Subscription Fee after it runs the Yiftee-provided "Activation Card" and has designated its account as Active. If a Merchant no longer wishes a location to be active, Merchant may remove it by notice to Yiftee and Merchant will no longer be charged for such location on the following

month's billing cycle (and for clarity, no partial refunds for an unused portion of a month will be due). The initial Subscription Fee(s) shall be as agreed during Registration, but may change from time to time upon notice to Merchant, provided that no Subscription Fee modification will be retroactively applied. Subscription Fees will be charged in advance, on the date the parties first enter into this Agreement and each month "anniversary" thereafter for monthly Subscription Fees, or each anniversary thereafter for yearly Subscription Fees, unless, in each case, Merchant provides Yiftee with fifteen (15) days' notice prior to the end of the then-current subscription term, of its desire not to renew. If Merchant adds any active locations during a subscription term, Yiftee will automatically charge Merchant for each such addition (even for annual subscriptions); active locations are calculated according to the number of locations active at the monthly anniversary date (again, even for annual subscriptions). No refunds will be granted for Subscription Fees, regardless of whether the Agreement terminates prior to the end of any applicable subscription term to which such Subscription Fees apply, or for locations that may be removed prior to any monthly anniversary date. Subscription Fees will be charged to the payment method provided by Merchant at Registration. Failure to keep such payment method details current and accurate may result in Yiftee's failure to collect Subscription Fees, and may result in the suspension or termination of Merchant's account. In certain cases, Merchant may enter into this Agreement in connection with a number of services offered by an independent services organization ("ISO") or merchant services provider ("MSP"), in which case, if agreed by Yiftee, Subscription Fees may be payable directly to the ISO or MSP (but it shall be considered a breach of this Agreement to not pay such amounts when due and payable). No ISO or MSP is a party to or third party beneficiary of this Agreement. Yiftee or such ISO or MSP may waive or reduce Subscription Fees at its discretion, but is under no obligation to do so. For example, Yiftee, an ISO, or an MSP may waive Subscription Fees for the first subscription term as a "trial period," but Merchant understands and agrees that such subscription will automatically begin at the end of the trial period and will renew as described herein and may carry a Subscription Fee upon the conclusion of such trial period and on each renewal thereafter.

3.2 Merchant will receive payment for the authorized amount of redemption in connection with a Gift only after the applicable Voucher for such Gift has been redeemed for that amount; all payments to Merchant will be made via the applicable Voucher payment processor (the "Voucher Payment Processor") who processes payments to the merchant for redemption of ordinary MasterCard credit cards or another payment process as defined by Yiftee and its partners. Merchants accepting Vouchers which cannot be authorized in full or in part for the amount of redemption as payment for a gift will not receive remuneration for any unauthorized amount. Merchant must at all times be able to accept transactions made by the Voucher Payment Processor, and Merchant understands and agrees that it will not receive any payment in connection with Gifts or Vouchers if it is not able to do so. Merchant will authorize payments in advance to ensure the amount being charged is within the prepaid limit. Yiftee has the right to dispute any forced overages charged by Merchant including those done as offline transactions. The interchange rate associated with Virtual Gift Voucher transactions and assessed to the merchant (or its merchant processor) will appear as and/or be assessed as US MasterCard Business World Elite card transactions or another payment process as defined by Yiftee and its partners; and fees imposed or passed through to Merchant for merchant

processing are determined by the Merchant's acquiring bank or processor. For clarity, this Section 3.2 applies only to General-use Gifts and Specific Gifts, and not to zGifts.

3.3 If a Recipient has elected to donate an unredeemed Gift to charity, that Gift Value will be aggregated with other donations by Yiftee, and donated to charity on a quarterly basis, within thirty (30) days of the end of each calendar quarter.

3.4 Merchant shall bear and be responsible for any applicable federal, state, local, and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes and value added taxes) relating to the subject matter hereunder.

3.5 Merchant may elect to participate with Yiftee in one or more promotional programs allowing Merchant to send Gifts to groups of people or post gift availability on social media with the intent of driving more in-store revenue. If and when Merchant chooses to do so, if gift is given from Merchant itself, the following actions and payment terms to Yiftee apply, as well as all applicable terms in Yiftee's standard [Terms of Use](#):

- Merchant must have "opted in" to Yiftee and all stores or branches must have run the "acceptance card"
- Merchant will define promotional products, term or promotion and supply high quality photos and descriptions
- Merchant will create and fund its own Yiftee account with 100% of the total projected value (if any) of Gifts to be given. Gifts given in excess of the amount of funds in Merchant's account will not be generated.
- Merchant agrees to pay Yiftee's standard gift eDelivery fee for all Gifts sent.
- Yiftee reserves the right to charge implementation or consulting fees in the event that custom development work is necessary; payment is net 30 days. Any such fees will be quoted to Merchant in advance of work being done. Yiftee is under no obligation to provide such consulting and will do so in its sole discretion.
- Other payment processes are possible and will be agreed to between Merchant and Yiftee in advance of promotion launch.

#### 4. Compliance with Laws.

Yiftee and Merchant shall comply with all applicable laws with respect to the subject matter of this Agreement, including, without limitation, laws prohibiting Merchant from providing alcohol or tobacco products to those under the legal age to purchase or consume such items. If Merchant refuses to redeem a Voucher if it believes it is unlawful to do so (for example, if a minor attempts to redeem a Voucher for an alcoholic beverage Gift), Merchant has the right to deny service.

4.1 Without limiting the foregoing, Merchant will comply with all applicable laws with respect to the sending of text or SMS messages ("Texts") through the Services or otherwise in connection with Vouchers, including without limitation the CAN-SPAM Act of 2003, the Telephone Consumer Protection Act of 1991 (the "TCPA"), the Do-Not-Call Implementation Act,

and any other similar or analogous anti-spam, data protection, or privacy legislation in any jurisdiction. In particular, Merchant acknowledges that the TCPA, generally prohibits (1) the making of telemarketing calls using an artificial or prerecorded voice to residential telephones without prior express consent; and (2) the making of any non-emergency call using an automatic telephone dialing system or an artificial or prerecorded voice to a wireless telephone number, in each case, without prior express consent. Merchant represents and warrants that the owners of the phone numbers to which Texts are sent have given prior express consent or otherwise opted-in to the receipt of such calls or messages as required by any applicable law or regulation. Merchant agrees it will include links to Yiftee's terms regarding the use of Texts, as well as clear opt-out/unsubscribe information in its Texts when required to do so by any applicable law or regulation and will otherwise include any required text or content for Texts that is provided by Yiftee, and honor any opt-out requests that Yiftee informs Merchant of. Yiftee's provision of required content to be included in Texts does not mean Yiftee will be responsible for Merchant's compliance with laws, nor does Merchant's inclusion of such content guarantee compliance with laws. If Merchant obtains an individual's phone number in connection with the Services or any Voucher, it will not send Texts to such phone number in connection with Vouchers, Yiftee, and/or the Services, except through the Services.

## 5. Term and Termination.

5.1 This Agreement will be in effect from the date agreed to by Merchant and continue until terminated by either party, in accordance with the provisions of this Section. This Agreement may be terminated: (i) by either party, upon 30 days' notice, if the other party is in material breach of any provision of this Agreement and such breach is not cured by the breaching party within the 30 day notice period; (ii) by either party, immediately if the other party is judicially declared to be insolvent or commences any bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency law that is not dismissed within 90 days, or commences any dissolution or liquidation proceeding; (iii) by either party for any reason, upon 30 days' notice to the other party (or, if Merchant is terminating due to a modification to this Agreement it does not wish to accept as described above, it may do so immediately upon notice to Yiftee). In the event of termination, Merchant must continue to honor all unexpired gifts. For avoidance of doubt, Yiftee will not market or sell any Merchant Gifts on the Services as of the effective date of termination.

5.2 If termination occurs before the end of any outstanding Gift Validity Period for any Voucher that has not been entirely redeemed as of such termination, Merchant must continue to redeem all such Vouchers in accordance with the terms of this Agreement until the end of the applicable Gift Validity Period (from the effective date of termination until the earlier date of the foregoing, the "Post-Termination Period").

5.3 The following provisions shall survive termination of this Agreement: Sections 2.7, 3-6 (inclusive), 8-13 (inclusive), and any payment obligations incurred prior to the effective date of termination; and additionally, with respect to unredeemed Gifts described in Section 5.2 above,



all terms of this Agreement (except Yiftee's obligations in Section 1) will survive termination during the Post-Termination Period.

6. Use of Marks. Except as otherwise explicitly provided herein, neither party shall use the other party's names, trademarks, service marks or logos (collectively, "Marks") without the prior written consent of the other party. Yiftee may use Merchant's Marks on the Services and any services partnered or affiliated with Yiftee in connection with the provision or promotion of any Gift or in Yiftee's marketing and publicity materials. Merchant may obtain Yiftee's official media kit at <http://yiftee.com/press-center/#media>, which may contain images of certain Yiftee Marks (the "Official Yiftee Marks"). Merchant may use Official Yiftee Marks in its marketing materials, to promote the Services on Merchant's social media, on its website (including by linking to the Services) and other marketing programs. All Official Yiftee Marks must be used in the exact form they are provided by Yiftee, and use of the Official Yiftee Marks must at all times be in compliance with Yiftee's then-current trademark guidelines, the current version of which are available at <http://yiftee.com/trademark-usage> (the "Trademark Guidelines"), which are incorporated herein by reference. The Trademark Guidelines are subject to change upon notice to Merchant.

7. Content License. If Merchant has provided Yiftee photos, images, text, data, or other materials or content (collectively, "Content"), Merchant hereby grants Yiftee a royalty-free, nonexclusive, worldwide, license to display, reproduce, distribute, modify, prepare derivative works of, perform, and otherwise use and exploit all Content in connection with the promotion and marketing of the Gifts and the Services as long as this agreement is in effect.

## 8. Representations and Warranties.

8.1 Each party represents and warrants that (i) it has power and authority to enter this Agreement; (ii) the person executing this Agreement on behalf of a party has power and authority to bind such party to this Agreement; and (iii) its entry into and performance of this Agreement will not breach any contractual obligations with third parties.

8.2 Merchant represents and warrants: (i) it will honor the terms of all Gifts and Vouchers therefor; (ii) it shall provide all customer support in connection with all Gifts in a professional manner; (iii) it shall comply with all applicable laws, including but not limited to CAN-SPAM and TCPA, and shall not infringe the intellectual property or privacy or other right of any other person or entity with respect to the subject matter of this Agreement; and (iv) if applicable, it has all necessary rights to grant the license in Section 7 above, including the right to use the name, likeness, and identifying information of any identifiable person in the Content.

8.3 Yiftee represents and warrants that it shall perform its obligations hereunder in a professional manner.

## 9. Warranty Disclaimer.

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, YIFTEE MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND WITH RESPECT TO THE SERVICES OR ANY OF THE SERVICES AVAILABLE FROM YIFTEE IN CONNECTION THEREWITH, INCLUDING WITHOUT LIMITATION THE MANNER IN WHICH THE GIFT IS DISPLAYED ON THE SERVICES, AND YIFTEE HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SUBJECT MATTER UNDER THIS AGREEMENT, EXPRESS AND IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

10. Confidentiality and Privacy. Merchant may receive business, technical, financial, or other information, materials, and/or ideas from Yiftee during the term of this Agreement, including personal information about Users, aggregated, anonymized information about Users and details about each Gift such as eDelivery Fees, number of Vouchers sold, revenue generated by a Gift, and any applicable Subscription Fees ("Yiftee Confidential Information"). Merchant agrees to hold in confidence and not use or disclose (except as specifically allowed hereunder) the Yiftee Confidential Information. Yiftee has no obligation to provide any Confidential Information to Merchant beyond that needed for required accounting purposes, but Yiftee may, in its discretion, provide additional information to the Merchant. Yiftee may receive business, technical, financial, or other information, materials, and/or ideas from Merchant or Merchant's agent during the term of this Agreement, including without limitation details about each Gift such as Delivery Fees, number of Vouchers sold, and revenue generated by a Gift ("Merchant Confidential Information"). Yiftee agrees to hold in confidence and not use or disclose (except as specifically allowed hereunder) the Merchant Confidential Information. Notwithstanding anything to the contrary, Yiftee may freely use and disclose personal information about Users. If Merchant wishes to use information regarding a User for any reason other than fulfilling Merchant's obligations hereunder, it may do so in accordance with the following restrictions: (a) Merchant may only use the name and email address of the applicable User, and no other information whatsoever, for the sole purpose of marketing Merchant's products and services to such User and for no other purpose whatsoever (including marketing any products or services offered by other entities), (b) Merchant must provide such User an opportunity to opt-out of any further communications with Merchant in the first (and all subsequent) communications with such User, and without limiting the foregoing, must comply with all applicable privacy laws in connection with use of such User's name and contact information, including without limitation CAN-SPAM, and (c) Merchant will not disclose such User information (or any other User information) to any third party.

11. Indemnity. Merchant will indemnify and hold Yiftee, MasterCard and each of the other Voucher Payment Processors and each of their its parents, subsidiaries, affiliates, officers, and employees, respectively, harmless (including, without limitation, from all damages, fines, refunds, injuries, interest, expenses, liabilities, settlements, costs and attorneys' fees) from any claim or demand made by any third party (including without limitation any User) directly or indirectly due to or arising out of (a) content and fulfillment of any Gift Vouchers and listings of

Vouchers; (b) Merchant's breach of any of its warranties under this Agreement; (c) Merchant's breach of Section 4 or 10; (d) the operation or content of Merchant's website; (e) Merchant's actual or alleged violation or infringement of any intellectual property or privacy rights of any third-party; and (f) the quality, legitimacy or legality of any product, service or other thing that is the subject of a Voucher, or any consumer dispute concerning any matter relating thereto (each, a "Merchant Claim").

## 12. Limitation of Liability.

IN NO EVENT SHALL YIFTEE OR ITS SUPPLIERS OR AFFILIATES, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE WITH RESPECT TO THE SERVICES OR ANY SERVICES PROVIDED BY YIFTEE OR THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY (I) FOR ANY AMOUNT IN THE AGGREGATE IN EXCESS OF THE GREATER OF (A) \$500 OR (B) THE FEES PAID TO MERCHANT BY THE APPLICABLE VOUCHER PAYMENT PROCESSOR IN CONNECTION WITH THE GIFTS OFFERED PURSUANT TO THIS AGREEMENT, DURING THE TWELVE MONTH PERIOD PRECEDING THE APPLICABLE CLAIM; (II) FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER; (III) FOR DATA LOSS OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; OR (IV) FOR ANY MATTER BEYOND YIFTEE'S REASONABLE CONTROL. YOU ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL MASTERCARD OR ANY OTHER VOUCHER PAYMENT PROCESSOR AND/OR ITS OR THEIR SERVICE PROVIDERS BE LIABLE TO YOU WITH RESPECT TO THE PERFORMANCE OR NON-PERFORMANCE OF, OR THE ABILITY OR INABILITY TO ACCESS AND USE THE YIFTEE SERVICE. TO THE EXTENT PERMITTED BY LAW, THE LIABILITY OF MASTERCARD AND ANY OTHER VOUCHER PAYMENT PROCESSOR AND ANY OF THEIR SERVICE PROVIDERS, COLLECTIVELY, IN RELATION TO ANY TRANSACTION IS LIMITED IN THE AGGREGATE TO ZERO DOLLARS (\$0).

13. Miscellaneous. The failure of either party to exercise, in any respect, any right provided for herein shall not be deemed a waiver of any further rights hereunder. Yiftee shall not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond Yiftee's reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including "line-noise" interference). If any provision of this Agreement is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Merchant except with Yiftee's prior written consent. Yiftee may transfer, assign or delegate this Agreement and its rights and obligations without consent. You agree that MasterCard is a third party beneficiary of this Agreement [for the purposes of exercising any of its rights expressly set forth hereunder]. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to the conflict of laws provisions thereof. Any dispute arising from or relating to the subject matter of this Agreement shall be finally settled by arbitration in Santa Clara County, California, using the

English language in accordance with the Streamlined Arbitration Rules and Procedures of Judicial Arbitration and Mediation Services, Inc. ("JAMS") then in effect, by one commercial arbitrator with substantial experience in resolving intellectual property and commercial contract disputes, who shall be selected from the appropriate list of JAMS arbitrators in accordance with the Streamlined Arbitration Rules and Procedures of JAMS. Judgment upon the award so rendered may be entered in a court having jurisdiction, or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. Notwithstanding the foregoing, each party shall have the right to institute an action in a court of proper jurisdiction for injunctive or other equitable relief pending a final decision by the arbitrator. For all purposes of this Agreement, the parties consent to exclusive jurisdiction and venue in the United States Federal Courts located in the Northern District of California. Both parties agree that, except as otherwise provided herein, (a) this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement and (b) that all modifications must be in a writing signed by both parties. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Merchant does not have any authority of any kind to bind Yiftee in any respect whatsoever.

Last updated: September 23, 2016