

**PLEASE NOTE THAT YOUR USE OF AND ACCESS TO OUR SERVICES (DEFINED BELOW) ARE SUBJECT TO THE FOLLOWING TERMS; IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING, YOU MAY NOT USE OR ACCESS THE SERVICES IN ANY MANNER.**

### **Terms of Use**

Effective date: November 7, 2018

Welcome to Yiftee. Please read on to learn the rules and restrictions that govern your use of our website(s), products, services and applications (the “Services”). If you have any questions, comments, or concerns regarding these terms or the Services, please contact us at [support@yiftee.com](mailto:support@yiftee.com), (650) 564-4438 or 325 Sharon Park Drive #215, Menlo Park, CA 94025.

These Terms of Use (the “Terms”) are a binding contract between you and Yiftee, Inc. (“Yiftee,” “we” and “us”). You must agree to and accept all of the Terms, or you don’t have the right to use the Services. Your using the Services in any way means that you agree to all of these Terms, and these Terms will remain in effect while you use the Services. These Terms include the provisions in this document, as well as those in the [SMS Terms and Conditions](#), [Privacy Policy](#) and [Copyright Dispute Policy](#).

#### **Will these Terms ever change?**

We are constantly trying to improve our Services, so these Terms may need to change along with the Services. We reserve the right to change the Terms at any time, but if we do, we will bring it to your attention by placing a notice on the [www.yiftee.com](http://www.yiftee.com) website, by sending you an email, and/or by some other means.

If you don’t agree with the new Terms, you are free to reject them; unfortunately, that means you will no longer be able to use the Services. If you use the Services in any way after a change to the Terms is effective, that means you agree to all of the changes.

Except for changes by us as described here, no other amendment or modification of these Terms will be effective unless in writing and signed by both you and us.

#### **What about my privacy?**

Yiftee takes the privacy of its users very seriously. For the current Yiftee Privacy Policy, please click [here](#).

The Children’s Online Privacy Protection Act (“COPPA”) requires that online service providers obtain parental consent before they knowingly collect personally identifiable information online from children who are under 13. We do not knowingly collect or solicit personally identifiable information from children under 13; if you are a child under 13, please do not attempt to register for the Services or send any personal information about yourself to us. If we learn we have collected personal information from a child under 13, we will delete that information as quickly as possible. If you believe that a child under 13 may have provided us personal information, please contact us at [support@yiftee.com](mailto:support@yiftee.com).

#### **What are the basics of using Yiftee?**

You may be required to sign up for an account when purchasing a gift, and select a password and user name (“Yiftee User ID”). You promise to provide us with accurate, complete, and updated registration information about yourself. You may not select as your Yiftee User ID a name that you don’t have the right to use, or another person’s name with the intent to impersonate that person. You may not transfer

your account to anyone else without our prior written permission. If you access the Service through a third party site or service, we may require your Yiftee User ID be the same as your user name on the third party site, and you consent to have your third party site account information transmitted into your Yiftee account.

You represent and warrant that you are an individual of legal age to form a binding contract (or if not, you've received your parent's or guardian's permission to use the Services and gotten your parent or guardian to agree to these Terms on your behalf). If you're agreeing to these Terms on behalf of an organization or 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 (in which case, the references to "you" and "your" in these Terms, except for in this sentence, refer to that organization or entity).

You will only use the Services for your own internal, personal use, and not on behalf of or for the benefit of any third party, and only in a manner that complies with all laws that apply to you. If your use of the Services is prohibited by applicable laws, then you aren't authorized to use the Services. We can't and won't be responsible for your using the Services in any way that breaks the law.

You will not share your account or password with anyone, and you must protect the security of your account and your password. You're responsible for any activity associated with your account.

**Your use of the Services is subject to the following additional restrictions:**

You represent, warrant, and agree that you will not contribute any Content or User Submission (each of those terms is defined below) or otherwise use the Services or interact with the Services in a manner that:

- (a) Infringes or violates the intellectual property rights or any other rights of anyone else (including Yiftee);
- (b) Violates any law or regulation, including any applicable export control laws;
- (c) Is harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable;
- (d) Jeopardizes the security of your Yiftee account or anyone else's (such as allowing someone else to log in to the Services as you);
- (e) Attempts, in any manner, to obtain the password, account, or other security information from any other user;
- (f) Violates the security of any computer network, or cracks any passwords or security encryption codes;
- (g) Runs Maillist, Listserv, any form of auto-responder or "spam" on the Services, or any processes that run or are activated while you are not logged into the Services, or that otherwise interfere with the proper working of the Services (including by placing an unreasonable load on the Services' infrastructure);
- (h) "Crawls," "scrapes," or "spiders" any page, data, or portion of or relating to the Services or Content (through use of manual or automated means);
- (i) Copies or stores any significant portion of the Content;
- (j) Decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Services.
- (k) Employs a payment method using stolen, fraudulently obtained, counterfeit, or otherwise illegitimately obtained financial means to finance a Yiftee transaction of any kind.

A violation of any of the foregoing is grounds for termination of your right to use or access the Services.

**What are my rights in Yiftee?**

The materials displayed or performed or available on or through the Services, including, but not limited to, text, graphics, data, articles, photos, images, illustrations, User Submissions, and so forth (all of the foregoing, the “Content”) are protected by copyright and/or other intellectual property laws. You promise to abide by all copyright notices, trademark rules, information, and restrictions contained in any Content you access through the Services, and you won’t use, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, display, license, sell or otherwise exploit for any purpose any Content not owned by you, (i) without the prior consent of the owner of that Content or (ii) in a way that violates someone else’s (including Yiftee’s) rights.

You understand that Yiftee owns the Services. You won’t modify, publish, transmit, participate in the transfer or sale of, reproduce (except as expressly provided in this Section), create derivative works based on, or otherwise exploit any of the Services.

The Services may allow you to copy or download certain Content; please remember that just because this functionality exists, doesn’t mean that all the restrictions above don’t apply – they do!

### **Do I have to grant any licenses to Yiftee or to other users?**

Anything you post, upload, share, store, or otherwise provide through the Services is your “User Submission.” Some User Submissions are viewable by other users. In order to display your User Submissions on the Services, and to allow other users to enjoy them (where applicable), you grant us certain rights in those User Submissions. Please note that all of the following licenses are subject to our [Privacy Policy](#) to the extent they relate to User Submissions that are also your personally-identifiable information.

You hereby grant Yiftee a license to translate, modify (for technical purposes, for example making sure your content is viewable on an iPhone as well as a computer), edit (for example, to correct typographical errors or to delete material Yiftee, in its sole discretion, deems objectionable), and reproduce and otherwise act with respect to User Submissions, in each case to enable us to operate the Services. Yiftee is under no obligation to display or use any User Submission and will do so in its sole discretion.

You grant Yiftee a license to display, perform, and distribute your User Submissions for the purpose of making that User Submission accessible to any or all Yiftee users and providing the Services necessary to do so, as well as all other rights necessary to use and exercise all rights in that User Submission in connection with the Services and/or otherwise in connection with Yiftee’s business for any purpose. Also, you grant all other users of the Services a license to access that User Submission, and to use and exercise all rights in it, as permitted by the functionality of the Services.

You agree that the licenses you grant are royalty-free, perpetual, sublicenseable, irrevocable, and worldwide, provided that when you delete your Yiftee account, we will stop displaying your User Submissions to other users (if applicable), but you understand and agree that it may not be possible to completely delete that content from Yiftee’s records, and that your User Submissions may remain viewable elsewhere to the extent that they were copied or stored by other users or to the extent that Yiftee deems removing a User Submission to be impractical or harmful to the function of the Services.

Finally, you understand and agree that Yiftee, in performing the required technical steps to provide the Services to our users (including you), may need to make changes to your User Submissions to conform and adapt those User Submissions to the technical requirements of connection networks, devices, services, or media, and the foregoing licenses include the rights to do so.

### **What if I see something on the Services that infringes my copyright?**

You may have heard of the Digital Millennium Copyright Act (the “DMCA”), as it relates to online service providers, like Yiftee, being asked to remove material that allegedly violates someone’s copyright. We respect others’ intellectual property rights, and we reserve the right to delete or disable Content alleged to be infringing, and to terminate the accounts of repeat alleged infringers; to review our complete Copyright Dispute Policy and learn how to report potentially infringing content, click [here](#). To learn more about the DMCA, click [here](#).

### **Who is responsible for what I see and do on the Services?**

Any information or content publicly posted or privately transmitted through the Services is the sole responsibility of the person from whom such content originated, and you access all such information and content at your own risk, and we aren’t liable for any errors or omissions in that information or content or for any damages or loss you might suffer in connection with it. We cannot control and have no duty to take any action regarding how you may interpret and use the Content or what actions you may take as a result of having been exposed to the Content, and you hereby release us from all liability for you having acquired or not acquired Content through the Services. We can’t guarantee the identity of any users with whom you interact in using the Services and are not responsible for which users gain access to the Services.

You are responsible for all Content you contribute, in any manner, to the Services, and you represent and warrant you have all rights necessary to do so, in the manner in which you contribute it. You will keep all your registration information accurate and current. You are responsible for all your activity in connection with the Services. If the information you provide to Yiftee becomes obsolete, Yiftee may not be able to contact you (for example, to provide a refund pursuant to these Terms). You are solely responsible for any failure to maintain accurate registration information.

The Services may contain links or connections to third party websites or services that are not owned or controlled by Yiftee. When you access third party websites or use third party services, you accept that there are risks in doing so, and that Yiftee is not responsible for such risks. We encourage you to be aware when you leave the Services and to read the terms and conditions and privacy policy of each third party website or service that you visit or utilize.

Yiftee has no control over, and assumes no responsibility for, the content, accuracy, privacy policies, or practices of or opinions expressed in any third party websites or by any third party that you interact with through the Services. In addition, Yiftee will not and cannot monitor, verify, censor or edit the content of any third party site or service. By using the Services, you release and hold us harmless from any and all liability arising from your use of any third party website or service.

Your interactions with organizations and/or individuals found on or through the Services, including payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such organizations and/or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any of these third parties. You agree that Yiftee shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings.

If there is a dispute between participants on this site, or between users and any third party, you agree that Yiftee is under no obligation to become involved. In the event that you have a dispute with one or more other users, you release Yiftee, its officers, employees, agents, and successors from claims, demands, and damages of every kind or nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to such disputes and/or our Services. If you are a California resident, you shall and hereby do waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of

executing the release, which, if known by him or her must have materially affected his or her settlement with the debtor."

### **Will Yiftee ever change the Services?**

We're always trying to improve the Services, so they may change over time. We may suspend or discontinue any part of the Services, or we may introduce new features or impose limits on certain features or restrict access to parts or all of the Services. We'll try to give you notice when we make a material change to the Services that would adversely affect you, but this isn't always practical. Similarly, we reserve the right to remove any Content from the Services at any time, for any reason (including, but not limited to, if someone alleges you contributed that Content in violation of these Terms), in our sole discretion, and without notice.

### **Does Yiftee cost anything?**

Yiftee offers both Vouchers and zGifts (collectively, "Gifts"), each of which are described in more detail below. In addition, Merchants may list Bonus offerings ("Bonus Offerings").

### **Vouchers**

Yiftee offers virtual gift vouchers for purchase through the Service ("Vouchers") for use only at the Merchant or Merchants ("Merchants") who have physical ("brick and mortar") locations selected at time of purchase. Attempts to use a Voucher at Merchants not selected will be declined. Your Voucher is not intended for online use and online redemption may not be available at all Merchants. You do not have the right to stop payment on any purchase transaction originated by use your Voucher. Your Voucher cannot be used to obtain cash (unless as specified by applicable law) or to conduct illegal transactions. For security reasons, we may limit the amount or number of transactions you can make on your Voucher and we may refuse to process any transaction we believe may violate these Terms. Yiftee is under no obligation to honor all purchase requests and may also ask for supplemental information such as a phone number or other identifying information to complete a purchase. Further, the amount of time Yiftee needs to evaluate and complete or reject a purchase of a Gift is neither specified nor guaranteed.

Vouchers are prepaid instruments loaded with a specific amount of money. The Voucher is not a credit card or connected in any way to any account other than to the stored value account where funds are held. You will not receive any interest on funds associated with your Voucher.

In this section, we may refer to you as either a purchaser of a Voucher ("Purchaser") or as the receiver of a Voucher ("Recipient"), as applicable. In addition to an individual, Purchaser may be a Merchant or other business or entity making a Voucher available to a Recipient as an award or promotion. When purchasing a Voucher, the Purchaser will pay the value for which the Voucher may be redeemed ("Gift Value") plus applicable processing, support, delivery and transaction fees ("eDelivery Fees") less any non-refundable discount ("Excess Value") where applicable. For example, suppose a Voucher with Gift Value of \$120 has an Excess Value of \$20 and eDelivery Fees of \$10. The purchase price will be \$110. If a Voucher is refunded as described below, only the unused Gift Value less any Excess Value (if greater than zero) (Gift Refund Value) is potentially refundable. In this example, any unused portion of the Voucher up to \$100 may potentially be refunded; the Excess Value of \$20 and the eDelivery fees are non-refundable. Only certain specially-described Vouchers have an Excess Value component. In cases where the refundable value has a stated expiration that differs from the Gift expiration, the Excess Value will expire while the refundable value may continue to have validity. Unused Gift Value may be subject to Federal and State unclaimed property laws. Accordingly, please remember to use Gift Value in a timely manner. You release Yiftee from all liability in connection with its compliance with such laws.

Purchaser and Recipient are bound by these Terms. If either Purchaser or Recipient does not agree to the Terms, contact Yiftee at [support@yiftee.com](mailto:support@yiftee.com) for cancellation and refund. Recipient is responsible for knowing the exact remaining value on their Voucher (balance may be queried at [www.yiftee.com](http://www.yiftee.com)) and Merchant may not be able to query this balance. Recipient agrees to not attempt to charge any amount in excess of the remaining balance. If you attempt to use the Voucher when there are insufficient funds associated with it, the transaction will generally be declined. Nevertheless, if a transaction that exceeds the balance of the funds available on your Voucher occurs, you may be liable for the amount of the transaction that exceeds that balance. As this can potentially occur when adding a tip to a bill when that tip is processed later after you pay the bill, it is not allowed to add tips to a transaction unless those tips are pre-authorized by the merchant at the time of payment. If you do not have enough funds on your Voucher to cover the cost of the transaction, you should ask the Merchant to split the transaction (Split Tender) so that you pay the remaining portion of the transaction that exceeds the Voucher balance by another method such as a different credit card or cash. Yiftee is not responsible for Merchants who are unable to process Split Tender transactions and you may not be able to use a Voucher at a Merchant unable to process Split Tender transactions.

Vouchers may be presented (Redeemed) at Merchants' places of business for redemption in exchange for goods or services or, where applicable, for a gift certificate, in accordance with the terms of each Voucher. The Merchant, not Yiftee, is the seller of the goods and services for which a Voucher may be redeemed and is solely responsible for redeeming any Voucher you purchase or are given. As a Recipient, you may be informed that a Purchaser has shared a Voucher with you by text, by email, through Facebook or Twitter or other social media, and/or by presentation of a printed or other physical version of the Voucher. When you access your Voucher, it will be provided in the form of either a code from MasterCard or another payment processor, or as a prepaid gift card code. Unless otherwise noted, codes are multi-use until their Gift Value has been fully used or the Voucher has expired (if an expiration date is provided).

Once purchased, the Voucher is the property of the Purchaser (when more than one contributors towards the purchase of the Voucher are participating in a purchase, it is the responsibility of the Purchaser to manage the contributed funds for purchase or when a refund is made) who may make the Voucher available to a Recipient (who may also be the Purchaser) to whom these Terms also apply, via social networking websites (such as Facebook and Twitter), email and/or text message, or may be printed or issued on other physical media for hand-delivery or other means of delivery.

A Purchaser may upon request, at Yiftee's sole discretion, cancel a Voucher sent to a Recipient, typically if the Voucher was sent to an incorrect Recipient or contains other errors, or for any other valid reason. Once cancelled, any remaining Gift Refund Value is refunded to the Purchaser. Yiftee may, in its sole discretion cancel without notice and (if applicable) refund a Voucher if the Voucher was determined by Yiftee to have been purchased fraudulently or if the purchase of the Voucher was rescinded by the Purchaser in any way after the Voucher was issued, or if the Voucher was reported as lost or stolen, or for any reason subject to applicable law. Yiftee will not be liable for failed transactions by Recipient when Voucher has been cancelled, and when cancelled, a Voucher ceases to be redeemable by the Recipient.

A Recipient may request that a Voucher be made exchangeable (if not already so marked by Purchaser if Purchaser is presented an option for selecting the exchangeability of a Voucher) for a different Merchant than the one indicated on the Voucher if a valid reason (such as original Merchant being out of business) is presented. Recipient should contact [support@yiftee.com](mailto:support@yiftee.com) for any exchange request, which will be honored at Yiftee's sole discretion. At Yiftee's sole discretion, a refund by check or other means may be offered in cases where a Merchant is unable to redeem a Voucher. Yiftee cannot guarantee that a Merchant will always accept a valid Voucher for redemption. If a valid redemption is refused, contact Yiftee at [support@yiftee.com](mailto:support@yiftee.com) where we may offer you an exchange or refund at our sole discretion.

If the Voucher contains an expiration date, "use-by" date or validity duration as shown to both Purchaser and Recipient, any remaining Gift Refund Value for an expired Voucher (Expired Gift Refund Value) will be refunded to the Purchaser's Yiftee account within a reasonable time period subsequent to this date and the Voucher will immediately cease to be usable by Recipient. The Purchaser's Yiftee account value can be used to purchase other Vouchers; if you are a Purchaser of a Voucher and wish to retrieve Expired Gift Refund Value as cash via a check or by other means Yiftee may provide, please contact Yiftee at [support@yiftee.com](mailto:support@yiftee.com). Expired Gift Refund Value is never claimed by Yiftee nor by the Merchant. As long as Expired Gift Refund Value is unclaimed by the Purchaser (either to purchase other gifts or retrieved as cash), Yiftee may honor a request by Purchaser or Recipient to extend a Voucher expiration date if such extension is not disallowed by the Purchaser as established by product features made available to certain Purchasers (typically issuers of award or promotional Vouchers). To claim funds or request an extension, contact [support@yiftee.com](mailto:support@yiftee.com). If a Voucher has not been redeemed and has not been selected for viewing at all prior to the "use by" date (if one is present) (i.e., no portion of the Voucher has been Redeemed by Recipient), Recipient may be given the option of asking Yiftee to donate the Gift Refund Value to charity. If the Voucher does not contain an expiration date, it does not expire but if unused, may still be subject to State and or Federal unclaimed property laws. A Voucher may in some cases have an Excess Value that expires with a different expiration date than the Voucher (or the Voucher may have no expiration date). In these cases, the Excess Value may be deducted from the redeemable Gift Value when the Excess Value expiration date has passed. Yiftee may, in its sole discretion, remove or extend the Voucher expiration date on an issued Voucher.

Some Vouchers may carry an expiration date in addition to the Voucher expiration date (if present) which is an expiration date on the code associated with the Voucher (Voucher Validation Date). The Voucher will be valid until either the Voucher expiration date or the Voucher Validation Date has been reached, whichever is sooner (although for some non-award Vouchers, the Voucher Validation Date if later than the Voucher expiration date, may be honored). A Voucher with no expiration date may contain a 16 digit code (PAN), CVV code and expiration month/year (the Voucher Validation Date). Since the Voucher in this case does not expire, the Recipient may request a new Voucher with a new Voucher Validation Date from Yiftee. You may automatically retrieve a new Voucher where the Voucher Validation Date has been exceeded (only if the Voucher itself has no expiration date) at no cost to you by checking its balance at the Yiftee website, or you may contact Yiftee at [support@yiftee.com](mailto:support@yiftee.com) for a replacement. Voucher expiration dates and Voucher Validation Dates are to be interpreted in Greenwich Mean Time (GMT). For example, a date of 07/31/2018 means midnight on July 31, 2018 GMT.

If a Voucher has no Voucher Validation Date, the Voucher is considered redeemed (fully used) by Yiftee once the code on the Voucher has been shown to the Recipient and the Voucher is thus non-refundable, even though the Voucher may not yet have been exchanged for goods or services with the Merchant. That is, Yiftee has now 'sold' this code and is no longer involved in the redemption process for this code.

If you are entitled to a refund by a Merchant, the Merchant should credit your Voucher with a refund or voided transaction. These returns may not take place immediately and in some cases, may not be done properly and Yiftee has no control over when or how a Merchant credits a Voucher, and such credits may take a number of days to finalize. If you suspect a credit has not been properly applied to your Voucher, contact Yiftee at [support@yiftee.com](mailto:support@yiftee.com) and we will try to work with the Merchant to correct the problem, but the ultimate responsibility of processing a refund correctly lies with the Merchant.

### **zGifts**

Yiftee also offers virtual zGifts, which Merchants may provide to Recipients for use at these Merchants' establishments. zGifts are similar to Vouchers, but zGifts do not carry any Gift Value – instead, zGifts act

like coupons. For example, a Recipient may receive a zGift from a Merchant that entitles the Recipient to obtain a free good or service from that Merchant, or that entitles a Recipient to 50% off of his or her purchase from that Merchant. A Merchant may provide a Recipient with access to a zGift via social networking websites (such as Facebook and Twitter), email and/or text message. It may be required that the Recipient possess a cell phone capable of Internet access (Smart Phone) in order to use a zGift, and a zGift may also require a Merchant to interact with the Recipient's Smart Phone to confirm the validity of the zGift. In some cases, the zGift may be presented such that, once displayed, it is no longer usable for subsequent rewards. Recipient is responsible for ensuring that Merchant is interacting with the Smart Phone in these cases to ensure that Merchant is apprised of the validity of the zGift, else the zGift will be invalid. As described above with respect to Vouchers, the Merchant, not Yiftee, is the seller of the goods and services for which a zGift may be redeemed and is solely responsible for redeeming any zGift you purchase or are given. Please note that unlike Vouchers in some cases, if a zGift expires, no refund is due to the Recipient or the Purchaser whatsoever (via cash, credit, or otherwise). If a zGift has an expiration date, it ceases to be redeemable by Recipient after this date, which is to be interpreted in the Greenwich Mean Time (GMT) timezone.

### **Bonus Offerings**

A merchant may represent, list or advertise special offerings available to customers who may be either Purchasers, Recipients, or simply visitors to a web page or other communication that Yiftee may host. These offerings may require the customer to use a specific Voucher or zGift, or mention a code or take some other action in order to receive something of value from the Merchant. The Merchant is solely responsible for honoring the special offering and Yiftee assumes no responsibility for accuracy in any way of the offering, including its availability period, description, availability or suitability for any purpose.

### **All Gifts**

The terms of redemption for each Gift may vary from Merchant to Merchant and any restrictions that apply to the use of such Gift (which may include, without limitation, whether the Gift can be redeemed only for a specific product, whether the Gift can only be redeemed at a particular Merchant location, whether a Voucher can be redeemed incrementally or must be used all at once, and whether the Gift has an expiration date) will be noted at the time of purchase. Gifts are void where prohibited by law.

**Merchant is solely responsible for any and all damages, claims, losses, and costs suffered by you (as Purchaser or Recipient) in connection with the redemption of any Gift. In no event will Yiftee be liable for a lost or stolen Gift or a Gift mistakenly shared with an incorrect Recipient.** Any error in processing a Gift (such as failing to record a refund, failing to deliver goods or services, or overcharging a transaction) are the responsibility of the Merchant and must be settled between Recipient and Merchant. Merchant is responsible for the accuracy of their displayed information including location, availability, or what goods and services may or may not be purchased using a Yiftee product. Yiftee reserves the right to refuse to process the purchase of any Gift for any reason. Yiftee may be able to assist in some cases of lost or stolen cards, but Yiftee cannot guarantee that we will be able to assist you. Only these credit cards: Visa, Mastercard, Discover, American Express, issued by U.S. banks are honored by Yiftee.

Virtual gift delivery can be affected by many factors including spam filtering, text blocking, the Recipient simply not noticing electronic notifications, and other system failures. Although we make our best effort to deliver Gifts, Yiftee does not guarantee delivery of Gifts to Recipient. If you suspect your Gift has not been received, you may be able to edit Recipient information and resend your gift via the dashboard you can access by logging into your account at [www.yiftee.com](http://www.yiftee.com) or sending a request to [support@yiftee.com](mailto:support@yiftee.com) for assistance. If Purchaser requests that their Yiftee account be deleted, Yiftee may not be able to



provide assistance on or refunds for unreceived Gifts. If you provided incorrect address information (such as incorrect phone number or email address) of a Recipient, you may use the Yiftee services to correct and resend a Gift, but Yiftee will not be responsible for any use of the Gift by an unintended recipient. Yiftee is also not responsible for a gift that is mistakenly selected for a Merchant that was not the intended Merchant.

Some Gifts are admission tickets to one-time events and/or convey a reservation. For example, we may offer a Gift for a wine tasting event that will only run for two weeks or a concert for single night. These Gifts can only be redeemed on or during the applicable date or dates, and neither the Purchaser nor the Recipient will receive any cash refund, Yiftee credit or Merchant credit from a Merchant if Recipient does not redeem such a Gift on or during the appropriate date or dates. If a Gift is a one-time admission ticket, such term will be noted at the time of purchase.

You should retain receipts for all transactions with any Gift if you ever need to verify a transaction using a Gift.

### **What do I need to know about the use of text messages within the Services?**

For more information about how Yiftee and Merchants use text messaging to communicate with you, please see our [SMS Terms and Conditions](#).

### **What if I want to stop using Yiftee?**

You're free to do that at any time, by following the directions on the Services; please refer to our [Privacy Policy](#), as well as the licenses above, to understand how we treat information you provide to us after you have stopped using our Services.

Yiftee is also free to terminate (or suspend access to) your use of the Services or your account, for any reason in our discretion, including your breach of these Terms. Yiftee has the sole right to decide whether you are in violation of any of the restrictions set forth in these Terms.

Account termination may result in destruction of any Content associated with your account, so keep that in mind before you decide to terminate your account. If your account is terminated, you may lose the ability to access and/or use any Gifts or refunded credit in your Yiftee account.

Provisions that, by their nature, should survive termination of these Terms shall survive termination. By way of example, all of the following will survive termination: any obligation you have to pay us or indemnify us, any limitations on our liability, any terms regarding ownership or intellectual property rights, and terms regarding disputes between us.

These Terms apply to your use of all the Services, including any iPhone, iPod Touch, and iPad applications that may be available via the Apple, Inc. ("Apple") App Store (the "Application"), but the following additional terms also apply to the Application:

- (a) Both you and Yiftee acknowledge that the Terms are concluded between you and Yiftee only, and not with Apple, and that Apple is not responsible for the Application or the Content;
- (b) The Application is licensed to you on a limited, non-exclusive, non-transferrable, non-sublicensable basis, solely to be used in connection with the Services for your private,

personal, non-commercial use, subject to all the terms and conditions of these Terms as they are applicable to the Services;

- (c) You will only use the Application in connection with an Apple device that you own or control;
- (d) You acknowledge and agree that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application;
- (e) In the event of any failure of the Application to conform to any applicable warranty, including those implied by law, you may notify Apple of such failure; upon notification, Apple's sole warranty obligation to you will be to refund to you the purchase price, if any, of the Application;
- (f) You acknowledge and agree that Yiftee, and not Apple, is responsible for addressing any claims you or any third party may have in relation to the Application;
- (g) You acknowledge and agree that, in the event of any third party claim that the Application or your possession and use of the Application infringes that third party's intellectual property rights, Yiftee, and not Apple, will be responsible for the investigation, defense, settlement and discharge of any such infringement claim;
- (h) You represent and warrant that you are not located in a country subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, and that you are not listed on any U.S. Government list of prohibited or restricted parties;
- (i) Both you and Yiftee acknowledge and agree that, in your use of the Application, you will comply with any applicable third party terms of agreement which may affect or be affected by such use; and
- (j) Both you and Yiftee acknowledge and agree that Apple and Apple's subsidiaries are third party beneficiaries of these Terms, and that upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as the third party beneficiary hereof.

### **What else do I need to know?**

***Warranty Disclaimer.*** Yiftee has no special relationship with or fiduciary duty to you. Neither Yiftee nor its licensors or suppliers makes any representations or warranties concerning any content contained in or accessed through the Services, and we will not be responsible or liable for the accuracy, copyright compliance, legality, or decency of material contained in or accessed through the Services. We (and our licensors and suppliers) make no representations or warranties regarding suggestions or recommendations of services or products offered or purchased through the Services. Products and services purchased or offered (whether or not following such recommendations and suggestions) through the Services are provided "AS IS" and without any warranty of any kind from Yiftee or others (unless, with respect to such others only, provided expressly and unambiguously in writing by a designated third party for a specific product). THE SERVICES AND CONTENT ARE PROVIDED BY YIFTEE (AND ITS LICENSORS AND SUPPLIERS) ON AN "AS-IS" BASIS, WITHOUT WARRANTIES OR ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

Limitation of Liability. TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) SHALL YIFTEE (OR ITS LICENSORS OR SUPPLIERS) BE LIABLE TO YOU OR TO ANY OTHER PERSON FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, OR COMPUTER FAILURE OR MALFUNCTION, OR (B) ANY AMOUNT, IN THE AGGREGATE, IN EXCESS OF THE GREATER OF (I) \$100 OR (II) THE AMOUNTS PAID BY YOU TO YIFTEE IN CONNECTION WITH THE SERVICES IN THE TWELVE (12) MONTH PERIOD PRECEDING THIS APPLICABLE CLAIM, OR (III) ANY MATTER BEYOND OUR REASONABLE CONTROL. YOU ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL MASTERCARD OR OTHER PAYMENT PROCESSOR USED BY YIFTEE 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 SERVICE. TO THE EXTENT PERMITTED BY LAW, THE LIABILITY OF MASTERCARD OR OTHER PAYMENT PROCESSOR USED BY YIFTEE OR ITS OR THEIR SERVICE PROVIDERS, COLLECTIVELY, IN RELATION TO ANY TRANSACTION IS LIMITED IN THE AGGREGATE TO ZERO DOLLARS (\$0). SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU.

Indemnity. To the fullest extent allowed by applicable law, you agree to indemnify and hold Yiftee, MasterCard, and any other payment processor used by Yiftee, its and their affiliates, officers, agents, employees, and partners harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including attorneys' fees) arising from or in any way related to any third party claims relating to (a) your use of the Services (including any actions taken by a third party using your account), and (b) your violation of these Terms.

Assignment. You may not assign, delegate or transfer these Terms or your rights or obligations hereunder, or your Services account, in any way (by operation of law or otherwise) without Yiftee's prior written consent. We may transfer, assign, or delegate these Terms and our rights and obligations without consent.

Choice of Law; Arbitration. These Terms are governed by and will be construed under the laws of the State of California, without regard to the conflicts of laws provisions thereof. Any dispute arising from or relating to the subject matter of these Terms shall be finally settled in Santa Clara County, California, in English, 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 such Rules. Judgment upon the award rendered by such arbitrator may be entered in any court of competent jurisdiction. Notwithstanding the foregoing obligation to arbitrate disputes, each party shall have the right to pursue injunctive or other equitable relief at any time, from any court of competent jurisdiction. For all purposes of this Agreement, the parties consent to exclusive jurisdiction and venue in the state or federal courts located in, respectively, Santa Clara County, California, or the Northern District of California.

Miscellaneous. You will be responsible for paying, withholding, filing, and reporting all taxes, duties, and other governmental assessments associated with your activity in connection with the Services, provided that the Yiftee may, in its sole discretion, do any of the foregoing on your behalf or for itself as it sees fit. The failure of either you or us to exercise, in any way, any right herein shall not be deemed a waiver of any further rights hereunder. If any provision of these Terms is found to be unenforceable or invalid, that provision will be limited or eliminated, to the minimum extent necessary, so that these Terms

shall otherwise remain in full force and effect and enforceable. You and Yiftee agree that these Terms are the complete and exclusive statement of the mutual understanding between you and Yiftee, and that it supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of these Terms. You hereby acknowledge and agree that you are not an employee, agent, partner, or joint venture of Yiftee, and you do not have any authority of any kind to bind Yiftee in any respect whatsoever. Except as expressly set forth in the section above regarding the Apple Application, you and Yiftee agree there are no third party beneficiaries intended under these Terms.