



Giftet Terms of Service

1 YOUR RELATIONSHIP WITH GIFTET

- 1.1 Your use of Giftet's products, software, services and web sites (referred to collectively as the "Giftet Services" in this document and excluding any services provided to you by Giftet under a separate written agreement) is subject to the terms of a legal agreement between you and Giftet. "Giftet" means Giftet Inc., whose principal place of business is at **118 Heywood St. Apt. 3, Worcester, MA 01604, United States (or USA)**. This document explains how the agreement is made up, and sets out some of the terms of that agreement.
- 1.2 Unless otherwise agreed in writing with Giftet, your agreement with Giftet will always include, at a minimum, the terms and conditions set out in this document. These are referred to below as the "Giftet Universal Terms."
- 1.3 Your agreement with Giftet will also include the terms of any Legal Notices applicable to the Services, in addition to the Giftet Universal Terms. All of these are referred to below as the "Giftet Additional Terms." Where Giftet Additional Terms apply to a Service, these will be accessible for you to read either within, or through your use of, that Service.
- 1.4 Giftet Universal Terms, together with Giftet Additional Terms, form a legally binding agreement between you and Giftet in relation to your use of the Giftet Services. It is important that you take the time to read them carefully. Collectively, this legal agreement is referred to below as the "Giftet Terms."
- 1.5 If there is any contradiction between what Giftet Additional Terms say and what Giftet Universal Terms say, then Giftet Additional Terms shall take precedence in relation to that Service.

2 ACCEPTING THE TERMS

- 2.1 In order to use the Services, you must first agree to the Terms. You may not use Giftet Services if you do not accept Giftet Terms.
- 2.2 You can accept Giftet Terms by:
 - 2.3 clicking to accept or agree to Giftet Terms, where this option is made available to you by Giftet in the user interface for any Service; or
 - 2.4 by actually using the Services. In this case, you understand and agree that Giftet will treat your use of Giftet Services as acceptance of Giftet Terms from that point onwards.
- 2.5 You may not use Giftet Services and may not accept Giftet Terms if (2.3) you are not of legal age to form a binding contract with Giftet, or (2.4) you are a person barred from receiving Giftet Services under the laws of the United States or other countries



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including the country in which you are resident or from which you use Giftet Services.

- 2.6 Before you continue, you should print off or save a local copy of Giftet Universal Terms for your records.

3 LANGUAGE OF GIFTET TERMS

- 3.1 Where Giftet has provided you with a translation of the English language version of Giftet Terms, then you agree that the translation is provided for your convenience only and that the English language versions of Giftet Terms will govern your relationship with Giftet.
- 3.2 If there is any contradiction between what the English language version of Giftet Terms says and what a translation says, then the English language version shall take precedence.

4 PROVISION OF GIFTET SERVICES

- 4.1 Giftet has subsidiaries and affiliated legal entities around the world (“Giftet Subsidiaries and Affiliates”). Sometimes, these companies will be providing Giftet Services to you on behalf of Giftet itself. You acknowledge and agree that Giftet Subsidiaries and Affiliates will be entitled to provide Giftet Services to you.
- 4.2 Giftet is constantly innovating in order to provide the best possible experience for its users and clients. You acknowledge and agree that the form and nature of Giftet Services which Giftet provides may change from time to time without prior notice to you.
- 4.3 As part of this continuing innovation, you acknowledge and agree that Giftet may stop (permanently or temporarily) providing Giftet Services (or any features within Giftet Services) to you or to users generally at Giftet’s sole discretion, without prior notice to you. You may stop using Giftet Services at any time. You do not need to specifically inform Giftet when you stop using Giftet Services.
- 4.4 You acknowledge and agree that if Giftet disables access to your account, you may be prevented from accessing Giftet Services, your account details or any files or other content which is contained in your account.
- 4.5 You acknowledge and agree that while Giftet may not currently have set a fixed upper limit on the number of transmissions you may send or receive through Giftet Services or on the amount of storage space used for the provision of Giftet Service; such fixed upper limits may be set by Giftet at any time, at Giftet’s discretion.

5 USE OF GIFTET SERVICES BY YOU

- 5.1 In order to access certain Giftet Services, you may be required to provide information about yourself (such as identification or contact details) as part of the registration process for Giftet Service, or as part of your continued use of Giftet Services. You



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agree that any registration information you give to Giftet will always be accurate, correct and up to date.

5.2 You agree to use Giftet Services only for purposes that are permitted by (a) Giftet Terms and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United States or other relevant countries).

5.3 You agree not to access (or attempt to access) any of Giftet Services by any means other than through the interface that is provided by Giftet, unless you have been specifically allowed to do so in a separate agreement with Giftet. You specifically agree not to access (or attempt to access) any of Giftet Services through any automated means (including use of scripts or web crawlers).

5.4 You agree that you will not engage in any activity that interferes with or disrupts Giftet Services (or the servers and networks which are connected to Giftet Services).

5.5 Unless you have been specifically permitted to do so in a separate agreement with Giftet, you agree that you will not reproduce, duplicate, copy, sell, trade or resell Giftet Services for any purpose.

5.6 You agree that you are solely responsible for (and that Giftet has no responsibility to you or to any third party for) any breach of your obligations under Giftet Terms and for the consequences (including any loss or damage which Giftet may suffer) of any such breach.

6 YOUR PASSWORDS AND ACCOUNT SECURITY

6.1 You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access Giftet Services.

6.2 Accordingly, you agree that you will be solely responsible to Giftet for all activities that occur under your account.

6.3 If you become aware of any unauthorized use of your password or of your account, you agree to notify Giftet immediately at http://www.giftet.com/Giftet_Personnel.htm.

7 PRIVACY AND YOUR PERSONAL INFORMATION

7.1 For information about Giftet's data protection practices, please read Giftet's privacy policy at http://www.giftet.com/Giftet_Privacy.htm. This policy explains how Giftet treats your personal information, and protects your privacy, when you use Giftet Services.

7.2 You agree to the use of your data in accordance with Giftet's privacy policies.

8 PRIVACY AND YOUR PERSONAL INFORMATION

8.1 You understand that all information (such as data files, written text, computer software, music, audio files or other sounds, photographs, videos or other images)

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which you may have access to as part of, or through your use of, Giftet Services are the sole responsibility of the person from which such content originated. All such information is referred to below as “Giftet Content.”

- 8.2 You should be aware that Giftet Content presented to you as part of Giftet Services, including but not limited to advertisements in Giftet Services and sponsored Giftet Content within Giftet Services may be protected by intellectual property rights which are owned by the sponsors or advertisers who provide that Content to Giftet (or by other persons or companies on their behalf). You may not modify, rent, lease, loan, sell, distribute or create derivative works based on Giftet Content (either in whole or in part) unless you have been specifically told that you may do so by Giftet or by the owners of that Content, in a separate agreement.
- 8.3 Giftet reserves the right (but shall have no obligation) to pre-screen, review, flag, filter, modify, refuse or remove any or all Content from any Service. In addition, there are commercially available services and software to limit access to material that you may find objectionable.
- 8.4 You understand that by using Giftet Services you may be exposed to Content that you may find offensive, indecent or objectionable and that, in this respect, you use Giftet Services at your own risk.
- 8.5 You agree that you are solely responsible for (and that Giftet has no responsibility to you or to any third party for) any Content that you create, transmit or display while using Giftet Services and for the consequences of your actions (including any loss or damage which Giftet may suffer) by doing so.

9 PROPRIETARY RIGHTS

- 9.1 You acknowledge and agree that Giftet (or Giftet’s licensors) own all legal right, title and interest in and to Giftet Services, including any intellectual property rights which subsist in Giftet Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that Giftet Services may contain information which is designated confidential by Giftet and that you shall not disclose such information without Giftet’s prior written consent.
- 9.2 Unless you have agreed otherwise in writing with Giftet, nothing in Giftet Terms gives you a right to use any of Giftet’s trade names, trade marks, service marks, logos, domain names, and other distinctive brand features.
- 9.3 If you have been given an explicit right to use any of these brand features in a separate written agreement with Giftet, then you agree that your use of such features shall be in compliance with that agreement, any applicable provisions of the Terms, and Giftet’s brand feature use guidelines as updated from time to time.
- 9.4 Other than the limited license set forth in Section 11, Giftet acknowledges and agrees that it obtains no right, title or interest from you (or your licensors) under these Terms in or to any Content that you submit, post, transmit or display on, or through, the



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Services, including any intellectual property rights which subsist in that Content (whether those rights happen to be registered or not, and wherever in the world those rights may exist). Unless you have agreed otherwise in writing with Giftet, you agree that you are responsible for protecting and enforcing those rights and that Giftet has no obligation to do so on your behalf.

9.5 You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) which may be affixed to or contained within Giftet Services.

9.6 Unless you have been expressly authorized to do so in writing by Giftet, you agree that in using Giftet Services, you will not use any trade mark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names or logos.

10 LICENSE FROM GIFTET

10.1 Giftet gives you a personal, worldwide, royalty-free, non-assignable and non-exclusive license to use the software provided to you by Giftet as part of Giftet Services as provided to you by Giftet (referred to as the "Software" below). This license is for the sole purpose of enabling you to use and enjoy the benefit of the Giftet Services as provided by Giftet, in the manner permitted by Giftet Terms.

10.2 You may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof, unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by Giftet, in writing.

10.3 Unless Giftet has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.

11 CONTENT LICENSE FROM YOU

11.1 Unless Giftet has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.

11.2 You retain copyright and any other rights you already hold in Content which you submit, post or display on or through, the Services. By submitting, posting or displaying the content you give Giftet a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute any Content which you submit, post or display on or through, the Services. This license is for the sole purpose of enabling

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Giftet to display, distribute and promote Giftet Services and may be revoked for certain Services as defined in Giftet Additional Terms of those Services.

- 11.3 Unless Giftet has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.
- 11.4 You agree that this license includes a right for Giftet to make such Content available to other companies, organizations or individuals with whom Giftet has relationships for the provision of syndicated services, and to use such Content in connection with the provision of those services.
- 11.5 You understand that Giftet, in performing the required technical steps to provide Giftet Services to our users, may (a) transmit or distribute your Content over various public networks and in various media; and (b) make such changes to your Content as are necessary to conform and adapt that Content to the technical requirements of connecting networks, devices, services or media. You agree that this license shall permit Giftet to take these actions.
- 11.6 You confirm and warrant to Giftet that you have all the rights, power and authority necessary to grant the above license.

12 SOFTWARE UPDATES

- 12.1 Unless Giftet has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.

13 ENDING YOUR RELATIONSHIP WITH GIFTET

- 13.1 Giftet Terms will continue to apply until terminated by either you or Giftet as set out below.
- 13.2 If you want to terminate your legal agreement with Giftet, you may do so by (a) notifying Giftet at any time and (b) closing your accounts for all of Giftet Services which you use, where Giftet has made this option available to you. Your notice should be sent, in writing, to Giftet's address which is set out at the beginning of these Terms.
- 13.3 Giftet may at any time, terminate its legal agreement with you if:
 - (a) you have breached any provision of the Terms (or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Terms); or
 - (b) Giftet is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); or
 - (c) the partner with whom Giftet offered Giftet Services to you has terminated its relationship with Giftet or ceased to offer the Services to you; or

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- (d) Giftet is transitioning to no longer providing the Services to users in the country in which you are resident or from which you use the service; or
- (e) the provision of the Services to you by Giftet is, in Giftet's opinion, no longer commercially viable.

13.4 Nothing in this Section shall affect Giftet's rights regarding provision of Services under Section 4 of the Terms

13.5 When these Terms come to an end, all of the legal rights, obligations and liabilities that you and Giftet have benefited from, been subject to (or which have accrued over time whilst the Terms have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of paragraph 20.7 shall continue to apply to such rights, obligations and liabilities indefinitely.

14 EXCLUSION OF WARRANTIES

14.1 NOTHING IN THESE TERMS, INCLUDING SECTIONS 14 AND 15, SHALL EXCLUDE OR LIMIT GIFTET'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, ONLY THE LIMITATIONS WHICH ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU AND OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

14.2 YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE."

14.3 IN PARTICULAR, GIFTET, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO YOU THAT:

- (a) YOUR USE OF THE SERVICES WILL MEET YOUR REQUIREMENTS,
- (b) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR,
- (c) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, AND
- (d) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICES WILL BE CORRECTED.

14.4 ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR



COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL

14.5 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM GIFTET OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS.

14.6 GIFTET FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

15 LIMITATION OF LIABILITY

15.1 SUBJECT TO OVERALL PROVISION IN PARAGRAPH 14.1 ABOVE, YOU EXPRESSLY UNDERSTAND AND AGREE THAT GIFTET, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO YOU FOR:

- (a) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS;
- (b) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF:
 - i. ANY RELIANCE PLACED BY YOU ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN YOU AND ANY ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE SERVICES;
 - ii. ANY CHANGES WHICH GIFTET MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES);
 - iii. THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES;
 - iv. YOUR FAILURE TO PROVIDE GIFTET WITH ACCURATE ACCOUNT INFORMATION;
 - v. YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL;



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- 15.2 THE LIMITATIONS ON GIFTET'S LIABILITY TO YOU IN PARAGRAPH 15.1 ABOVE SHALL APPLY WHETHER OR NOT GIFTET HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

16 COPYRIGHT AND TRADE MARK POLICIES

- 16.1 It is Giftet's policy to respond to notices of alleged copyright infringement that comply with applicable international intellectual property law (including, in the United States, the Digital Millennium Copyright Act) and to terminating the accounts of repeat infringers.
- 16.2 Giftet operates a trade mark complaints procedure in respect of Giftet's advertising business.

17 ADVERTISEMENTS

- 17.1 Some of the Services are supported by advertising revenue and may display advertisements and promotions. These advertisements may be targeted to the content of information stored on the Services, queries made through the Services or other information.
- 17.2 The manner, mode and extent of advertising by Giftet on the Services are subject to change without specific notice to you.
- 17.3 In consideration for Giftet granting you access to and use of Giftet Services, you agree that Giftet may place such advertising on Giftet Services.

18 OTHER CONTENT

- 18.1 Giftet Services may include hyperlinks to other web sites or content or resources. Giftet may have no control over any web sites or resources which are provided by companies or persons other than Giftet.
- 18.2 You acknowledge and agree that Giftet is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources.
- 18.3 You acknowledge and agree that Giftet is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials on, or available from, such web sites or resources.

19 CHANGES TO GIFTET TERMS

- 19.1 Giftet may make changes to Giftet Universal Terms or Giftet Additional Terms from time to time. When these changes are made, Giftet will make a new copy of Giftet Universal Terms available and any new Giftet Additional Terms will be made available to you from within, or through, the affected Services.

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- 19.2 You understand and agree that if you use Giftet Services after the date on which Giftet Universal Terms or Additional Terms have changed, Giftet will treat your use as acceptance of the updated Universal Terms or Additional Terms.

20 GENERAL LEGAL TERMS

- 20.1 Sometimes when you use Giftet Services, you may (as a result of, or through your use of the Services) use a service or download a piece of software, or purchase goods, which are provided by another person or company. Your use of these other services, software or goods may be subject to separate terms between you and the company or person concerned. If so, Giftet Terms do not affect your legal relationship with these other companies or individuals.
- 20.2 Giftet Terms constitute the whole legal agreement between you and Giftet and govern your use of Giftet Services (but excluding any services which Giftet may provide to you under a separate written agreement), and completely replace any prior agreements between you and Giftet in relation to the Services.
- 20.3 You agree that Giftet may provide you with notices, including those regarding changes to Giftet Terms, by email, regular mail, or postings on Giftet Services.
- 20.4 You agree that if Giftet does not exercise or enforce any legal right or remedy which is contained in the Terms (or which Giftet has the benefit of under any applicable law), this will not be taken to be a formal waiver of Giftet's rights and that those rights or remedies will still be available to Giftet.
- 20.5 If any court of law, having the jurisdiction to decide on this matter, rules that any provision of these Terms is invalid, then that provision will be removed from Giftet Terms without affecting the rest of Giftet Terms. The remaining provisions of Giftet Terms will continue to be valid and enforceable.
- 20.6 You acknowledge and agree that each member of the group of companies of which Giftet is the parent shall be third party beneficiaries to Giftet Terms and that such other companies shall be entitled to directly enforce, and rely upon, any provision of Giftet Terms which confers a benefit on (or rights in favor of) them. Other than this, no other person or company shall be third party beneficiaries to Giftet Terms.
- 20.7 Giftet Terms, and your relationship with Giftet under Giftet Terms, shall be governed by the laws of the State of California without regard to its conflict of laws provisions. You and Giftet agree to submit to the exclusive jurisdiction of the courts located within **the County of Los Angeles, California before 2010** or **the Worcester County, Massachusetts after 2010** to resolve any legal matter arising from Giftet Terms. Notwithstanding this, you agree that Giftet shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

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