



# General Terms and Conditions for Affiliated Organizations with Gifty B.V.

Last Updated: 4th December 2023

## 1. Scope

- 1.1. Gifty B.V. ("Gifty") is a technical service provider (logistics and communication) located at Floridalaan 8, 3404 WV, IJsselstein.
- 1.2. These general terms and conditions apply to every agreement between Gifty and its customers, from now on referred to as "Participants". The term "Participants" and other relevant definitions are further elaborated and explained in the following section.

## 2. Definitions

The following terms are capitalised in these general terms and conditions:

- Participant:** An organisation affiliated with Gifty, possibly operating as an online store, with whom Gifty has agreed upon the acceptance and potential offering and selling of gift cards.
- Consumer:** Any natural or legal person who purchases a gift card via Gifty's software.
- Owner:** Any natural or legal person who has bought a gift card via Gifty's software or the person to whom this gift card is transferred according to these general terms and conditions.
- Membership:** An agreement between Gifty and the Participant for using Gifty's services.
- Balance:** The current credit on a gift card, i.e., a claim of the Owner on the Participant.
- Dashboard:** The online platform where the Participant can manage their gift card sales and administration.
- Order Module:** The online system through which consumers can purchase gift cards.
- Software:** The technological solution provided by Gifty that enables Participants to manage, distribute, and verify their gift cards. The Software includes all associated functionalities, dashboards, interfaces, and updates available to the Participant.
- Chargeback:** A credit card transaction dispute resulting in the amount refunded to the Consumer.

## 3. Establishment of the General Terms and Conditions and Agreement

- 3.1. These general terms and conditions apply to all offers, quotes, and agreements between Gifty and the Participant.
- 3.2. The Participant establishes an agreement by accepting an offer from Gifty, either in writing or electronically.
- 3.3. The Participant declares to have read and accepted the general terms and conditions before entering into the agreement.
- 3.4. Gifty always makes the most recent version of these general terms and conditions available on its website and will provide it in writing upon request.

## 4. Changes to General Terms and Conditions

- 4.1. Gifty reserves the right to modify these general terms and conditions. Any changes will be communicated to the Participant at least 30 days before their implementation, for example, via email or a notification in the Dashboard.
- 4.2. If the Participant disagrees with the modified terms, they have the right to terminate the agreement with Gifty before the new terms take effect. Failure to do so implies acceptance of the new terms.

### Gifty B.V.

Floridalaan 8 | 3404 WV IJsselstein  
085-0161620 | [gifty.nl](https://gifty.nl) | [info@gifty.nl](mailto:info@gifty.nl)

## **5. Membership Duration and Modifications**

- 5.1. On choosing a Membership, the Participant agrees for a minimum period of one month unless otherwise agreed. The specific services and features available depend on the selected type of Membership. In addition to the membership fee, additional costs may be associated with the Membership.
- 5.2. The costs Gifty charges to the Participant are always stated in the Dashboard and can be requested from Gifty.
- 5.3. The Membership is automatically renewed for a term equal to the original term unless agreed otherwise.
- 5.4. Membership cancellation is possible at any time by the Participant and becomes effective at the end of the current membership period. Cancellation can be communicated via the Dashboard.
- 5.5. In the event of changes in membership prices, the Participant will be informed in advance with a notice period of at least 30 days before the new price takes effect.

## **6. Payment Terms**

- 6.1. Charges for Gifty's services must be paid within 14 days of the invoice date.
- 6.2. The Participant can choose between two payment methods in the Dashboard: direct debit and bank transfer.
- 6.3. If payment is not received within the stipulated 14-day term, we are entitled to charge statutory interest and any collection costs.
- 6.4. Three reminders will be sent before initiating collection procedures in case of late payment. This process begins if the payment is still outstanding after the third reminder.
- 6.5. If there are inaccuracies or other issues with the billing, the Participant must report this to Gifty as soon as possible.

## **7. Use of Gifty Software**

- 7.1. The Software enables the Participant to manage, distribute, and verify gift cards. Its use is bound by the terms and conditions set in this agreement.
- 7.2. The Participant is responsible for the proper and secure access to and use of the Software, including using login credentials. Any damage resulting from unauthorised use or negligence in security is the responsibility of the Participant. All orders and transactions placed using these login credentials are binding for the Participant.
- 7.3. The Gifty Software may only be used for purposes consistent with this agreement and applicable laws and regulations.
- 7.4. Participants are not allowed to reverse-engineer, decompile, disassemble, or otherwise attempt to discover the Software's source code or underlying ideas or algorithms.
- 7.5. Gifty continuously develops improvements and changes to the Software. Only substantial changes that impact the Participant's business operations will be communicated in advance.
- 7.6. Gifty reserves the right to modify, remove, or add functionalities to the Software.
- 7.7. Gifty aims for high availability of the Software but cannot guarantee that the service will be available at all times. Maintenance work, security updates, and unforeseen circumstances may lead to temporary restrictions or outages of the service.
- 7.8. In case of malfunctions or irregularities in the Software's operation, the Participant must immediately report this to Gifty for appropriate measures.
- 7.9. Partners of Gifty may gain access to certain functionalities of the Software if agreed upon between the Participant and Gifty. It is the responsibility of the Participant to be aware of and agree to the terms of these third parties.

## **8. Imagery, Print Material, and Online Representation**

- 8.1. If the Participant opts to sell physical gift cards to Consumers, Gifty will take responsibility for printing the personalised gift cards and providing them to the Participant.
- 8.2. Participants can design the gift cards or upload their print files, including logos, brand elements, photographs, and print files.
- 8.3. If a Participant chooses to use an image or photograph sourced online, the risk associated with copyright infringement of trademarks, logos, or pictures lies with the Participant.
- 8.4. The Participant guarantees that all materials they provide do not infringe on third-party intellectual property rights. The Participant shall indemnify Gifty from all claims, damages, losses, and costs arising from such infringements.
- 8.5. The risk of loss or damage to (unactivated) gift cards and packaging transfers to the Participant once they are delivered to the location specified by the Participant.

## **9. Online Transactions and Payment Procedures**

- 9.1. When a Consumer opts for the online purchase of a gift card through Gifty's software, payment will be processed via a payment provider appointed by Gifty.
- 9.2. The payment provider selected by Gifty is authorised to manage third-party funds.
- 9.3. The amount paid by the Consumer for the gift card, minus any fees owed to Gifty, will be transferred directly to the Participant by the payment provider.
- 9.4. Amounts from gift cards sold in a given month will be paid out to the Participant at the end of the subsequent month. For instance, proceeds from a gift card sold in June will be paid out to the Participant at the end of July.
- 9.5. The payment processing services for sellers on Gifty.nl and through Gifty's software are provided by Stripe and are subject to the [Stripe Connected Account Agreement](#), which includes the [Stripe Terms of Service](#) (collectively, the "Stripe Services Agreement"). By agreeing to this agreement or continuing to operate as a Participant on/with Gifty, you agree to be bound by the Stripe Services Agreement, as the same may be modified by Stripe from time to time. As a condition of Gifty enabling payment processing services through Stripe, you agree to provide Gifty with accurate and complete information about you and your business, and you authorise Gifty to share it and transaction information related to your use of the payment processing services provided by Stripe.

## **10. Payment Options and Conditions for Online Transactions**

- 10.1. Participants acknowledge being aware of the transaction fees charged for online sales of gift cards through Gifty. More detailed information about this is available in the Dashboard.
- 10.2. Upon registration, all payment methods are activated by default for the Participant.
- 10.3. In the event of a Chargeback by the Consumer, Gifty handles the resolution on behalf of the Participant in line with general financial and payment guidelines. The Participant is responsible for the following costs:
  - a) Administrative costs: € 20,00;
  - b) The entire order amount includes but is not limited to shipping costs, packaging costs, personalisation costs, and the value of the gift card.
- 10.4. Gifty may, at its discretion, contest the Chargeback by the Consumer. If the objection is successful, the earlier costs for the Participant are waived except for the administrative costs.
- 10.5. These costs will be offset against the following payment to the Participant. If this balance is insufficient, the remaining amount must be transferred to Gifty within 14 days after written notification.
- 10.6. Gifty informs the Participant of handling each Chargeback and may request additional information as necessary.

## **11. VAT and Fiscal Handling for Online Transactions**

- 11.1. In the online sale of gift cards classified as 'multi-use vouchers', no VAT is levied to the consumer at the point of sale. This is due to the undetermined destination of the card at issuance. The VAT obligation arises at the moment the card is redeemed.
- 11.2. Participants must follow the applicable VAT legislation in their country, especially regarding handling gift cards. Gifty advises Participants to seek professional tax advice for their specific situation.

## **12. Transactions at Physical Points of Sale and Payment Procedures**

- 12.1. Once the technical integration between Gifty and the Participant has been established, the Participant is authorised to sell the gift card following these general terms and conditions.
- 12.2. For the sale and administration of gift cards, the Participant gets access to Gifty's Software. Gifty will also provide support in using this software.
- 12.3. The activation of the Balance on the gift card occurs exclusively through the software developed by Gifty and made available to the Participant, or through integrations with cash register systems and other systems approved by Gifty.
- 12.4. The consumer pays the gift card directly to the Participant. Gifty will charge a fixed amount per card for printing and managing the gift card in the Software, per the Membership.

## **13. External Sales Channels and Gifty.nl**

- 13.1. After completion of the registration and approval by Gifty, the Participant's gift card will be offered on Gifty.nl. However, Gifty has the discretion to decide whether to include a Participant. The Participant can opt out of being listed on Gifty.nl by sending an email to [info@gifty.nl](mailto:info@gifty.nl).
- 13.2. Gifty offers to sell the gift card through selected external sales partners. The conditions for cooperation with external sales partners are set out in separate agreements to be concluded through Gifty.
- 13.3. The Participant can choose through which channels the gift card is sold. Additional costs may be charged if the Participant opts for sale through external partners. Agreements on charging additional costs will be made in separate contracts with these partners.
- 13.4. The Participant indemnifies Gifty for claims resulting from infringements of third-party intellectual property rights, regardless of the chosen sales channel.
- 13.5. Gifty strives to keep the Gifty.nl website and other involved external sales platforms accessible. However, Gifty is not liable for any downtime or unavailability of these platforms for any reason.

## **14. Acceptance of the Gift Card**

- 14.1. The Participant is required to accept gift cards that meet the conditions such as validity period and acceptance points without discrimination.
- 14.2. Gift cards have a standard validity period of five years from the date of issuance. At the request of the Participant, Gifty can adjust this validity period as long as it complies with local laws and regulations.
- 14.3. The Participant is not obligated to pay out the Balance on the gift card in cash.
- 14.4. Gift cards may only be refused if they do not meet the stipulated conditions and if the Software gives notification of this, such as for counterfeit or expired gift cards.
- 14.5. It is not permitted for the Participant to accept the gift card for an amount lower than the Balance that is activated on the gift card.
- 14.6. The Participant is responsible for the correct administrative processing of accepted gift cards, including but not limited to the devaluation of the gift card.

## **15. Intellectual Property**

- 15.1. All data generated or collected in the course of service provision by Gifty, including but not limited to customer data and sales transactions, remain the property of Gifty. Gifty can only provide specific data to the Participant, considering privacy legislation.
- 15.2. Any modifications, changes, or upgrades made to Gifty's software, whether or not requested by the Participant, remain the exclusive property of Gifty.
- 15.3. For custom developments requested by the Participant, the intellectual property remains with Gifty unless otherwise agreed in writing.
- 15.4. Gifty reserves the right to take legal action in unauthorised use or infringement of its intellectual property rights.
- 15.5. Upon termination of the Membership, all granted licenses and access to specific data are revoked. The Participant is required to immediately cease using Gifty's properties and remove them from their systems.
- 15.6. The content and infrastructure of Gifty.nl and all other involved platforms and Software are the property of Gifty. The Participant is prohibited from modifying, copying, distributing, reselling, or creating derivative works of this content, software, products, and/or services unless explicitly agreed otherwise.
- 15.7. The Participant must maintain strict confidentiality of all confidential and/or business-sensitive information and intellectual property of Gifty.

## **16. Responsibilities and Obligations of the Participant**

- 16.1. The Participant is responsible for providing Gifty with accurate and up-to-date information regarding business details, payment details, and other relevant matters.
- 16.2. The Participant is responsible for complying with all relevant laws and regulations applicable to issuing and accepting gift cards.
- 16.3. The Participant is not allowed to change the Gifty software or access restricted areas of the software.
- 16.4. The Participant is prohibited from selling the gift card for an amount different from the activated Balance on the gift card.
- 16.5. The Participant enters an exclusivity agreement with Gifty for the online sale of their gift cards during the Membership unless agreed otherwise.
- 16.6. In case of bankruptcy or impending bankruptcy of the Participant, they must immediately notify Gifty to discuss any potential consequences for the gift card system.

## **17. Third Parties and Partners**

- 17.1. Gifty may collaborate with partners such as payment providers and marketing agencies. The Participant must be aware of and comply with the terms of these third parties.
- 17.2. Gifty is not responsible for the services or products of third parties and reserves the right to modify or terminate partnerships at its discretion.

## **18. Warranties and Limitations of Warranties**

- 18.1. Gifty strives to make the offered services available continuously and guarantees that the services will be performed with care and expertise. However, Gifty cannot ensure that the services will always be uninterrupted, delay-free, or error-free. Additionally, Gifty does not guarantee for:
  - a) The results achieved through the use of Gifty software (via the Gifty website or through sales on the Participant's website);
  - b) In this regard, Gifty rejects any representation, warranty, and condition, whether express or implied, regarding the operation of the website or the content, statements, or other information contained on the website.

## **19. Limits of Liability**

- 19.1. Gifty's total liability for damages due to a culpable failure to fulfil the agreement or from any other grounds is limited to the amounts the Participant has paid to Gifty for the use of the services in the 12 months preceding the event that caused the damage.
- 19.2. The Participant is obliged to report any direct or indirect damage caused by the execution of the services to Gifty as soon as possible, but no later than 30 days after its occurrence, in writing.
- 19.3. Should Gifty be liable for damages, this liability is limited to direct damages of the Participant.
- 19.4. Under no circumstances will Gifty be liable for:
  - a) Loss of revenue;
  - b) Loss of current or anticipated profits;
  - c) Loss of contracts;
  - d) Loss of anticipated savings;
  - e) Business loss;
  - f) Loss of opportunities;
  - g) Loss of goodwill;
  - h) Loss of reputation;
  - i) Loss or corruption of data; and
  - j) Indirect damages.

## **20. Applicable Law and Competent Court**

- 20.1. This agreement is governed by Dutch law.
- 20.2. Disputes between Gifty and the Participant that cannot be resolved amicably can only be submitted to the competent Dutch court.

## **21. Address and Contact**

- 21.1. For handling complaints, only Gifty is authorised. The customer service contact details are available on the Gifty website ([www.gifty.nl](http://www.gifty.nl)).
- 21.2. For other communications with Gifty, please send them in writing to the following address:  
Gifty B.V.  
Floridalaan 8  
3404 WV IJsselstein  
The Netherlands