

## TERMS OF USE

This website, software, or application is operated by GYFTT, LLC (“GYFTT,” “we,” or “us”). By accessing or using any part of our website at <https://letsjolly.com> (“Website”), the Jolly mobile application (“App”), software, or service, or by visiting and/or purchasing a third party’s product or service through the Website or App (collectively the “GYFTT Services”), you represent that you have read, understood, accept and agree to be bound by these terms, conditions, and policies set forth herein (“Terms of Use”). This is an agreement between GYFTT, LLC and the user (“you” or “your”). Your use of the GYFTT Services is governed by these Terms of Use, please review them carefully.

IF YOU DO NOT AGREE TO THESE TERMS OF USE, YOU MUST IMMEDIATELY STOP ACCESSING THE GYFTT SERVICES AND DISCONTINUE YOUR USE THEREOF.

These Terms of Use apply to all users of the GYFTT Services. A breach or violation of any of these Terms will result in termination of your rights under these Terms of Use.

By agreeing to these Terms of Use, you represent that you are at least eighteen (18) years of age. We reserve the right to refuse use of the GYFTT Services to anyone for any reason at any time.

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## **1. DESCRIPTION OF THE GYFTT SERVICES**

The GYFTT Services allow a user (the “Party Owner”) to establish a blind gift-exchange between other users (a “Party”). Each Party will consist of two (2) phases. During the first “joining” phase of the Party, users can join and be invited to participate in the Party (“Party Members”). At the end of the “joining” phase, each Party Member will be matched with another Party Member to purchase a gift for, as well as another Party Member who will purchase a gift for them. During the second “purchasing” phase of the Party, Party Members will select and purchase the gifts for their assigned Party Member through the GYFTT Services. At the end of the “purchasing” phase, all gifts will be shipped to the applicable Party Member. Each phase lasts until a pre-determined deadline, the Party Owner has the discretion to initiate the next phase early.

In the event that a Party Member does not select a gift for their assigned Party Member, they will be removed from the Party, and will not receive the gift that was intended for them. The affected Party Member will then have the option to either (a) receive the gift that was intended for the removed Party Member, or (b) receive a service credit for the GYFTT Services.

Alternatively, you may purchase gifts for other users without joining a Party through the GYFTT Services by selecting an item on the other user’s public-facing wishlist available on their profile page. If you do so, you will not receive a gift of your own in return. Purchasing a wishlist item for another user will not count as purchasing a gift for the purpose of your potential obligations as a Party Member.

PLEASE NOTE, available gifts may not be suitable for all audiences. It is your responsibility to communicate to other users any personal preferences or restrictions on gifts that you will accept. In no event will GYFTT be liable for, nor will it provide reimbursement or refunds for, the gift choices of users of the GYFTT Services.

## **2. ACCURACY OF INFORMATION**

We will use commercially reasonable efforts to make sure the content of the GYFTT Services is accurate, complete, reliable, and updated, but we cannot guarantee that such content is error-free. We may make improvements or changes to content, information, products, services, or programs described on the GYFTT Services at any time without notice. Your sole remedy in the event of an error is to cancel the service as described in Section 4 of these Terms of Use.

## **3. MODIFICATION**

GYFTT reserves the right to update, change, or modify these Terms of Use at any time in its sole discretion without prior notice to you by posting updates and/or changes to the Website, App, or software. Any such modifications are effective as soon as they are posted to the Website, App, or software. It is your responsibility to check for modifications to these Terms of Use. Your continued use of, or access to, the GYFTT Services following the posting of any such changes constitutes acceptance of these changes.

## **4. PAYMENTS**

You agree to pay any fees applicable to your use of the GYFTT Services. We may suspend or terminate your account or your access to the GYFTT Services if your payment is late or your

offered payment method cannot be processed. By providing a payment method, you expressly authorize us to charge the applicable fees on that payment method, as well as taxes and other charges incurred, at regular intervals and as purchases are made, all of which depend on your utilized services. Payments are processed via your linked account with Stripe, Inc. (“Stripe”). Your use of Stripe is subject to any applicable Stripe terms of use.

We understand that you might cancel your account, but please know that we will not provide any refunds for purchases made and that you will be responsible for paying any balance due on the account. To make things less complicated, you agree that we may charge any unpaid fees to your provided payment method or send you a bill for unpaid fees.

In the event an item ordered is out of stock or no longer available at the time of fulfillment, GYFTT will issue a service credit to the intended gift recipient in the amount of the gift purchased, excluding all additional amounts paid (such as taxes, service fees, Jolly Payouts, etc.), which shall be retained by GYFTT. This service credit will be automatically applied the next time the user attempts to make a purchase using the GYFTT Services. CASH REFUNDS WILL NOT BE GIVEN UNDER ANY CIRCUMSTANCES.

#### **4.1 JOLLY PAYOUT (if applicable)**

During the creation of the Party, the Party Owner has the option to add an additional fee to your purchase through the GYFTT Services, which will be payable to them (the “Jolly Payout”). The amount of the Jolly Payout will be set by the Party Owner. The Jolly Payout will be processed once your party ends following the conclusion of the purchasing phase, via the Party Owner’s linked Stripe Account. It may take up to two (2) weeks for the funds to be deposited to the Party Owner’s linked Stripe account, following the end of the purchasing phase.

### **5. PRODUCTS OR SERVICES (if applicable)**

All orders placed through the GYFTT Services are subject to availability and acceptance by us. We reserve the right to discontinue any product or service, or refuse or cancel orders at any time, including in the event of a payment dispute or if you violate these Terms of Use. Any offer for any product or service made on the GYFTT Services is void where prohibited by law.

We reserve the right to limit sales of products or services to any person, geographic region, or jurisdiction. We reserve the right to limit quantities of any product or services offered, or to refuse any order placed with us for any reason whatsoever. We may in our sole discretion limit or cancel quantities purchased per person, per household, or per order. If we modify or cancel an order, we may attempt to notify you by contacting you through the email address, phone number or billing information provided.

The products or services you may purchase through the GYFTT Services are meant for personal use, and not for resale. By placing an order through the GYFTT Services, you represent that you are not buying the products for commercial purposes or any other commercial benefit. Any orders placed in violation of this provision shall be null and void.

### **6. ONLINE ACCOUNT**

In order to use the GYFTT Services, you will be required to register for an account with GYFTT by providing your name and email address. By creating an account you agree: (a) that you are at

least eighteen (18) years of age; (b) that you are able to and have the appropriate authority and authorization to create a binding agreement with GYFTT; (c) that you may only register one (1) account; (d) to provide current, complete and accurate billing and account information for all purchases made at or on the Website or App; and (e) to update your account and other information, including your postal address, email address, credit card numbers and expiration dates, in order to complete your transactions and contact you as needed.

You may also be asked to choose a password and a user name. Please select a password that would not be obvious to someone trying to guess your password, and change it regularly as an added precaution. You are responsible for the safety and security of your password and account login and for all activities that occur under your password or account identification. Unless you make us aware of unauthorized access to your account, we will assume that use of your account is authorized. We are not responsible for any consequences from unauthorized access to your account that come from your failure to protect your password and account login. We reserve the right to take reasonable steps to ensure the security of the GYFTT Services and your account. Those steps may include terminating your account, changing your password, or requesting additional information to authorize transactions on your account. You may not use anyone else's account at any time without their express permission.

By providing GYFTT with your email address, you consent to our using the email address to send you notices related to your use of the GYFTT Services, including any notices required by law, in lieu of communication by postal mail. We may also use your email address to send you other messages, such as special offers and notice of modifications to the GYFTT Services. If you do not want to receive such email messages, you may opt-out or change your preferences on the personal settings page of the App associated with your account. Opting out may prevent you from receiving email messages regarding updates, improvements or offers.

GYFTT reserves the right to reject or cancel your account and to terminate your access to the GYFTT Services or any portion thereof at any time, without notice, and in its sole discretion. You may terminate your use of the GYFTT Services by emailing us to cancel the account.

## **7. INTELLECTUAL PROPERTY**

All contents of the GYFTT Services including but not limited to text, design, graphics, interfaces, or code are protected by applicable intellectual property law. Copyright by GYFTT, LLC. All rights reserved.

All trademarks, service marks, logos and trade names are trademarks or registered trademarks and are proprietary to GYFTT™, or other respective owners that have granted GYFTT license to use such marks.

Users may not reproduce, copy, modify, alter, use, or otherwise exploit the trademarks and intellectual property of GYFTT or the respective owner without the express prior written authorization of GYFTT or the respective owner. No right, title, or interest in or to GYFTT Services or any content is transferred to you under these Terms of Use, and all rights not expressly granted herein are reserved. Any use of the GYFTT Services that is not expressly permitted by these Terms of Use may be a breach of these Terms of Use and may violate copyright, trademark, other laws.

## **8. LIMITED LICENSE**

GYFTT hereby grants you a limited, non-exclusive, non-assignable, and non-sublicensable license to access, and use the GYFTT Services solely for the purpose of purchasing, sending, receiving, or managing products or services, for personal or anonymous gift giving, subject to these Terms of Use. This includes the right to install and use a copy of the App obtained from an Authorized Store on a mobile device that, as applicable, either you own or control, or your employer owns or controls.

## **9. USER CONTENT**

GYFTT may (but is not obligated to) use any user content made available to GYFTT. Furthermore, GYFTT may (without restriction) edit, copy, publish, distribute, translate, and otherwise use any content provided in any medium.

You are solely responsible for all content you post, upload, transmit, distribute, store, create, or otherwise publish through the GYFTT Services. You represent that your content will not infringe or violate any right of any third party, including, but not limited to, intellectual property, privacy or publicity rights. You further agree that your content will not contain libelous or otherwise unlawful, misleading, fraudulent, abusive, or obscene material. Nor will your content contain any virus or other malware that could in any way interfere with or affect the operation of the GYFTT Services. If your account is disabled, you (or anyone acting under your direction) are strictly prohibited from creating another account with GYFTT.

## **10. PROHIBITED USES**

Except and solely to the extent that such a restriction is impermissible under applicable law, you agree that you shall not:

- (a) decompile, reverse engineer, disassemble, attempt to derive the source code of, or decrypt the GYFTT Services;
- (b) make any modification, adaptation, improvement, enhancement, translation or derivative work from the GYFTT Services;
- (c) violate any applicable laws, rules, or regulations in connection with your access or use of the GYFTT Services;
- (d) remove, alter, or obscure any proprietary notice (including intellectual property) of GYFTT or its affiliates, partners, suppliers or licensors;
- (e) use the GYFTT Services for any revenue generating endeavor, commercial enterprise, or other purpose for which it is not designed or intended;
- (f) make the GYFTT Services available over a network or other environment permitting access or use by multiple Mobile Devices or users at the same time;
- (g) use the GYFTT Services for creating a product, service or software that is, directly or indirectly, competitive with or in any way a substitute for any services, products or software offered by GYFTT;

- (h) use the GYFTT Services to send automated queries to any website or to send any unsolicited commercial email;
- (i) use any proprietary information or interfaces of GYFTT or other intellectual property of GYFTT in the design, development, manufacture, licensing, or distribution of any applications, accessories, or devices for use with the GYFTT Services; or
- (j) access or collect data from GYFTT using automated means or attempt to hack or access data you do not have permission to access.

## **11. MOBILE SERVICE (if applicable)**

The following applies to users of the App. The use of the App requires use of a compatible mobile device. You are responsible for obtaining a compatible device, including all usage charges related thereto. Furthermore, the use of the App also requires wireless mobile data service and access to internet, which must be obtained from your wireless carrier and internet service provider, respectively. You are responsible for obtaining and paying for such additional services.

When you provide us with your mobile telephone number you agree that GYFTT may send you text messages to that mobile number and are responsible for the message and data rate charges from your mobile provider that apply.

We do not warrant that the App will be compatible with your network provider or device. You acknowledge and agree that we may release updates to the App and that you may be required to install any such update in order for the App to continue to function properly. You may not export the App except in compliance with all applicable laws.

### **11.1 iOS APP, ANDROID™ APP, and AUTHORIZED STORES (if applicable)**

The following applies if you obtain the GYFTT App through the Apple App Store, the iTunes App Store, the Android App Store, the PlayStore™ or any other store authorized by GYFTT (each, an “Authorized Store”): You acknowledge and agree that these Terms of Use are solely between you and GYFTT, LLC, and not with the Authorized Store, and that no Authorized Store has any responsibility for the App or the contents thereof. Your use of the App must comply with the applicable Authorized Store’s respective Terms of Use or other terms applicable to the use of the App. You acknowledge that the Authorized Store operator has no obligation whatsoever to furnish any maintenance or support services with respect to the App.

All claims by you or any third party relating to the App or your possession or use of the App are governed solely by these Terms of Use and any law applicable to GYFTT as the provider of the App. You acknowledge that in the event of a claim that the App and your possession and use thereof infringes a third party’s intellectual property rights, GYFTT (not the Authorized Store operator), will be solely responsible for the investigation, defense, settlement, and discharge of any such intellectual property infringement claim to the extent required by these Terms of Use. You and GYFTT acknowledge and agree that the Authorized Store operator (and their respective subsidiaries) are third-party beneficiaries of these Terms of Use as the same relate to your use of the App. Accordingly, both you and GYFTT acknowledge and agree that upon acceptance of these Terms of Use, the Authorized Store operators will have the right to enforce these Terms of Use as a third-party beneficiary thereof. Apple and the Apple logo are trademarks of Apple, Inc.,

registered in the U.S. and other countries. App Store is a service mark of Apple, Inc. Android™, GooglePlay™, and PlayStore™ are all trademarks of Google, Inc.

## **12. PRIVACY AND COMMUNICATIONS**

### **12.1 PRIVACY**

We respect your privacy. By accessing or using the GYFTT Services you acknowledge that your information, including personally identifiable information, will be processed in accordance with our [Privacy Policy](#).

### **12.2 CONSENT TO ELECTRONIC COMMUNICATION**

By using the GYFTT Services, you consent to receive communications from us, whether required by law or otherwise, either by e-mail if you have provided us with your e-mail address, or by notice posted on the Website as determined by us in our sole discretion. You agree that any requirement that a notice, disclosure, agreement, or other communication be sent to you by us in writing is satisfied by such electronic communication. We are not responsible for any automatic filtering you or your network provider may apply to communications we send to an e-mail address that you provide to us.

## **13. WARRANTY DISCLAIMER**

THE GYFTT SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE” WITH NO REPRESENTATION OR WARRANTY OR CONDITION OF ANY KIND AND YOUR USE OF THE GYFTT SERVICES IS ENTIRELY AT YOUR OWN RISK. GYFTT AND/OR ITS SUPPLIERS EXPRESSLY DISCLAIM ANY WARRANTY OR CONDITION, EXPRESS OR IMPLIED, REGARDING THE GYFTT SERVICES, INFORMATION, SOFTWARE, PRODUCTS, SERVICES, OR RELATED GRAPHICS, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY PURPOSE, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, TITLE, COMPATIBILITY, SECURITY, AND ACCURACY, AND ALL WARRANTIES THAT MAY ARISE FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. IN STATES AND JURISDICTIONS IN WHICH THE EXCLUSION OF WARRANTY IS PROHIBITED, SUCH EXCLUSIONS SHALL ONLY APPLY TO THE EXTENT PERMITTED.

GYFTT DOES NOT WARRANT, ENDORSE, GUARANTEE OR ASSUME RESPONSIBILITY FOR ANY INFORMATION, PRODUCT OR SERVICE PROVIDED, ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE GYFTT SERVICES OR ANY LINKED SITE AND GYFTT WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND ANY LINKED SITE. ANY SUCH LINKS ARE PROVIDED FOR YOUR CONVENIENCE ONLY. IF YOU CHOOSE TO CLICK ON ANY SUCH LINKS, YOU ACKNOWLEDGE AND AGREE THAT YOU, NOT GYFTT, ARE DISPLAYING ITS CONTENTS AND YOU ACCESS SUCH LINKED SITES AT YOUR OWN RISK. WE EXPRESSLY DISCLAIM ALL LIABILITY FOR PERSONALLY IDENTIFIABLE INFORMATION THAT MAY BE PROVIDED BY ANY SOCIAL MEDIA SERVICES IN VIOLATION OF THE PRIVACY SETTINGS THAT YOU HAVE SET IN SUCH SOCIAL MEDIA ACCOUNTS.

You acknowledge and agree that any reliance on the information and other materials included on the GYFTT Services shall be at your sole risk and responsibility. GYFTT reserves the right, in its sole and absolute discretion, to correct any errors or omissions in any part of the GYFTT Services and to modify or discontinue the GYFTT Services, materials, products, programs, and features included therein at any time with or without notice.

#### **14. FEEDBACK**

If you send or transmit any communications, comments, questions, suggestions, or related materials to us, whether by letter, email, telephone, or otherwise, suggesting or recommending changes to the GYFTT Services, including new features or functionality relating to the GYFTT Services (collectively “Feedback”), all such Feedback is and will be treated as non-confidential and non-proprietary. You assign all right, title, and interest in, and we are free to use, without any attribution or compensation to you, any ideas, know-how, concepts, techniques, or other intellectual property and proprietary rights contained in the Feedback, whether or not patentable, for any purpose whatsoever, including but not limited to, developing, manufacturing, having manufactured, licensing, marketing, and selling, directly or indirectly, products and services using the Feedback. Where the above assignment is prohibited by law, you grant us an exclusive, transferable, worldwide, royalty-free, fully paid-up license (including the right to sublicense) to use and exploit all Feedback as we may determine in our sole discretion. You understand and agree that we are not obligated to use, display, reproduce, or distribute any ideas, know-how, concepts, or techniques contained in the Feedback, and you have no right to compel our use, display, reproduction, or distribution.

#### **15. DIGITAL MILLENNIUM COPYRIGHT ACT NOTICE**

If you believe that any content appearing on the GYFTT Services, including content created and/or displayed by GYFTT or other material provided through a link, infringes your copyright, you should notify us in accordance with the procedure set forth below. ALL INQUIRIES NOT RELEVANT TO THE FOLLOWING PROCEDURE WILL RECEIVE NO RESPONSE.

A notification of claimed copyright infringement should be e-mailed to [support@letsjolly.com](mailto:support@letsjolly.com) with “DMCA Takedown Request” in the subject line. You may also contact us by mail at:

GYFTT, LLC  
400 North Cypress Dr., Suite 20  
Tequesta, FL 33469

To be effective, the notification must be in writing and contain the following information:

- an electronic or physical signature of the person authorized to act on behalf of the copyright owner;
- a description of the copyrighted work that you claim has been infringed;
- a description of where the material that you claim is infringing is located on the Website or App that is reasonably sufficient to enable us to identify and locate the material;



- how we can contact you, such as your address, telephone number and e-mail address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or by law; and
- a statement by you under penalty of perjury that the above information in your notice is accurate and that you are authorized to act on behalf of the copyright owner.

UNDER FEDERAL LAW, IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES.

Please note that this procedure is exclusively for notifying GYFTT and its affiliates that your copyrighted material has been infringed. The preceding requirements are intended to comply with the GYFTT's rights and obligations under the DMCA, including 17 U.S.C. §512(c), but do not constitute legal advice. It may be advisable to contact an attorney regarding your rights and obligations under the DMCA and other applicable laws.

## **16. INDEMNIFICATION**

You agree to indemnify, defend and hold harmless GYFTT, LLC and our parent, subsidiaries, affiliates, partners, officers, directors, agents, contractors, licensors, service providers, subcontractors, suppliers, interns, and employees, (collectively the "Indemnified Parties") from any demand, assertion, or legal proceeding brought by any third party (including, without limitation, another user of the GYFTT Services) and all resulting judgements, settlements, and expenses (including reasonable attorney's fees and costs) due to or arising out of your breach of these Terms of Service or the documents they incorporate by reference, your use of the GYFTT Services, or your violation of any law or the rights of a third party.

Without limiting anything set out above, you hereby release each of the Indemnified Parties from all damages, liabilities, claims, actions, demands and costs of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with these Terms of Use, the Privacy Policy, and/or any use by you of the GYFTT Services.

If you are a resident of California, you expressly waive CA Civil Code §1542, which states: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

## **17. LIMITATIONS ON LIABILITY**

THE PROVIDERS WHOSE THIRD-PARTY PRODUCTS AND SERVICES ARE AVAILABLE ON THE GYFTT SERVICES ARE INDEPENDENT CONTRACTORS AND NOT AGENTS OR EMPLOYEES OF GYFTT. GYFTT IS NOT LIABLE FOR THE ACTS, ERRORS, OMISSIONS, REPRESENTATIONS, WARRANTIES, BREACHES, OR NEGLIGENCE OF ANY SUCH PROVIDERS OR FOR ANY PERSONAL INJURIES, DEATH, PROPERTY DAMAGE, OR OTHER DAMAGE OR EXPENSES RESULTING, DIRECTLY OR

INDIRECTLY, FROM SUCH PRODUCTS AND/OR SERVICES.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL GYFTT AND/OR ITS AFFILIATES, LICENSORS, LICENSEES, SUCCESSORS, OR ASSIGNS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, OR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, DATA, GOODWILL, OR PROFITS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR PERFORMANCE OF THE GYFTT SERVICES, THE DELAY OR INABILITY TO USE THE GYFTT SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE SERVICES AND/OR FUNCTIONALITY OF THE GYFTT SERVICES, OR FOR ANY CONTENT, PRODUCTS OR SERVICES OBTAINED OR PURCHASED THROUGH THE GYFTT SERVICES, OR OTHERWISE ARISING OUT OF THE USE OF THE GYFTT SERVICES, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF GYFTT AND/OR ANY OF ITS AFFILIATES, LICENSORS, LICENSEES, SUCCESSORS, OR ASSIGNS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN STATES AND JURISDICTIONS IN WHICH LIMITATIONS OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES ARE PROHIBITED OR LIMITED, SUCH LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE GYFTT SERVICES OR WITH ANY OF THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE GYFTT SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL GYFTT'S TOTAL LIABILITY FOR ALL DAMAGES, LOSSES, OR CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE EXCEED THE AMOUNT PAID BY YOU TO GYFTT (I.E. THE VALUE OF THE GIFT PURCHASED) IF ANY, FOR ACCESSING OR PARTICIPATING IN ANY ACTIVITY RELATED TO USE OF THE GYFTT SERVICES FROM WHICH THE LIABILITY ARISES.

UNDER NO CIRCUMSTANCES WILL GYFTT AND/OR ANY OF ITS AFFILIATES, LICENSORS, LICENSEES, SUCCESSORS, OR ASSIGNS BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE GYFTT SERVICES, YOUR DATA OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN. GYFTT MAKES NO REPRESENTATION THAT THE GYFTT SERVICES ARE APPROPRIATE OR AVAILABLE FOR USE AT LOCATIONS OUTSIDE OF THE UNITED STATES. ACCESS TO THE GYFTT SERVICES FROM TERRITORIES WHERE SUCH SERVICES ARE ILLEGAL IS STRICTLY PROHIBITED. IF YOU ACCESS THE GYFTT SERVICES FROM A LOCATION OUTSIDE OF THE UNITED STATES, YOU ARE SOLELY RESPONSIBLE FOR COMPLIANCE WITH ALL LOCAL AND OTHER APPLICABLE LAWS.

## **18. LAW AND JURISDICTION**

These Terms of Use and any dispute that may arise between you and GYFTT shall be governed by and construed in accordance with the laws of the State of Florida, to the extent that such dispute

is not controlled by the Federal Arbitration Act and other federal law applicable to arbitration proceedings, without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction).

### **19. BINDING ARBITRATION AND CLASS ACTION WAIVER**

In the event of any dispute between you and us regarding these Terms of Use, the Privacy Policy, the GYFTT Services, or any products or services purchased from such, you and GYFTT agree to first send written notice of dispute to the other party and attempt to resolve any dispute through informal negotiation within thirty (30) days from the date the notice of dispute was sent.

YOU AND GYFTT AGREE THAT NEITHER OF YOU MAY BRING SUIT IN COURT TO ENJOIN INFRINGEMENT OR OTHER MISUSE OF INTELLECTUAL PROPERTY RIGHTS. ALL OTHER DISPUTES OR CAUSES OF ACTION ARISING FROM THESE TERMS OF USE AND YOUR USE OF THE GYFTT SERVICES SHALL BE RESOLVED BY BINDING ARBITRATION AS PROVIDED BELOW. BY AGREEING TO BINDING ARBITRATION, YOU ARE HEREBY WAIVING THE RIGHT TO BRING DISPUTES TO A COURT, INCLUDING THE RIGHT TO TRIAL BY JURY. IF FOR ANY REASON A CLAIM PROCEEDS IN COURT RATHER THAN IN ARBITRATION, YOU AND GYFTT EACH WAIVE ANY RIGHT TO A JURY TRIAL. ANY CAUSE OF ACTION YOU MAY HAVE WITH RESPECT TO YOUR USE OF THE GYFTT SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CLAIM OR CAUSE OF ACTION ARISES.

The arbitration will be conducted by the American Arbitration Association (“AAA”) under its rules, including the AAA’s Supplementary Procedures for Consumer-Related Disputes. The AAA’s rules are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879.

ALL CLAIMS MUST BE BROUGHT IN THE YOUR OR GYFTT’S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION.

All arbitrations shall be initiated in Palm Beach County, Florida.

### **20. LOCAL LAWS & EXPORT CONTROL**

We control and operate the GYFTT Services from our headquarters in the United States and the entirety of the Services may not be appropriate or available for use in other locations. If you use the GYFTT Services or any part of the GYFTT Services outside the United States, you are solely responsible for following applicable local law.

### **21. SEVERABILITY**

In the event that any provision of these Terms of Use is determined to be unlawful, void, or unenforceable, such provision shall nonetheless be enforceable to the fullest extent permitted by applicable law, and the unenforceable portion shall be deemed to be severed from these Terms of Use. Such determination shall not affect the validity and enforceability of any other remaining provisions.

## **22. TERMINATION**

You may terminate your use of the GYFTT Services at any time by contacting us using the information below. Upon termination of your account these Terms of Use shall also terminate, except as provided below. Without limiting GYFTT's right to change, suspend, remove, discontinue, or disable access to the GYFTT Services, GYFTT may also terminate these Terms of Use with you at any time without notice. Upon such termination, you must cease all use of the GYFTT Services. You will remain liable for all amounts due and payable to GYFTT up to and including the date of termination.

The following sections survive the termination of your access to the GYFTT Services and these Terms of Use: Section 4 (Payments), Section 7 (Intellectual Property), Section 12 (Privacy and Communications), Section 13 (Warranty Disclaimer), Section 14 (Feedback), Section 16 (Indemnification), Section 17 (Limitations on Liability), Section 18 (Law and Jurisdiction), Section 19 (Binding Arbitration and Class Action Waiver), Section 22 (Termination), Section 23 (Waiver), and Section 26 (Entire Agreement).

## **23. WAIVER**

Enforcement of the Terms of Use is solely in our discretion and our failure to enforce a provision in some instances does not constitute a waiver of our right to enforce such provision in other instances.

## **24. ASSIGNMENT**

GYFTT may assign these Terms of Use and its rights or delegate its obligations thereunder without your consent. All provisions contained in these Terms shall extend to and be binding upon your and GYFTT's successors and assigns. You may not assign these Terms of Use to another person or entity.

## **25. CONTACT US**

If you have any questions or concerns regarding these Terms of Use or the GYFTT Services, please contact us at [support@letsjolly.com](mailto:support@letsjolly.com) or at the following address:

GYFTT, LLC  
ATTN: CUSTOMER SUPPORT,  
400 North Cypress Drive, Suite 20,  
Tequesta, Florida 33469.

## **26. ENTIRE AGREEMENT**

These Terms of Use and any policies or operating rules we post on the GYFTT Services in respect to the use constitute the entire agreement and understanding between you and us and govern your use of the GYFTT Services, superseding any prior or contemporaneous agreements, communications and proposals, whether oral or written, between you and us (including, but not limited to, any prior versions of the Terms of Use).