

Terms and Conditions

Agreement between User and <https://www.wishtender.com/>

Welcome to <https://www.wishtender.com/>. The <https://www.wishtender.com/> website (the "Site") is comprised of various web pages operated by WISHTENDER LLC ("WishTender"). <https://www.wishtender.com/> is offered to you conditioned on your acceptance without modification of the terms, conditions, and notices contained herein (the "Terms"). Your use of <https://www.wishtender.com/> constitutes your agreement to all such Terms. Please read these terms carefully, and keep a copy of them for your reference.

<https://www.wishtender.com/> is an E-Commerce Site.

WishTender is the premier safe and private wish list website for internet personalities. "Wishers" post the items they would like to be purchased on their wish list and "Tenders" sponsor the purchase of the item through the WishTender website. **WishTender does not purchase any items on behalf of our users ("Wishers"). WishTender sends the funds for the item directly to the user, and the user may complete the purchase on their own behalf.**

This platform is available only to users 18 years and older. By using the Site you represent and warrant that you are of legal age to form a binding contract with WishTender. If you do not meet this requirement you must not access or use the Site.

Privacy

Your use of <https://www.wishtender.com/> is subject to WishTender's Privacy Policy. Please review our Privacy Policy, which also governs the Site and informs users of our data collection practices.

Electronic Communications

Visiting <https://www.wishtender.com/> or sending emails to WishTender constitutes electronic communications. You consent to receive electronic communications and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically, via email and on the Site, satisfy any legal requirement that such communications be in writing.

Your Account

If you use this site, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. You may not assign or otherwise transfer your account to any other person or entity. You acknowledge that WishTender is not responsible for third party access to your account that results from theft or misappropriation of your account. WishTender and its associates reserve the right to refuse or cancel service, terminate accounts, or remove or edit content in our sole discretion.

By using the site, you acknowledge that you will not post any nude or suggestive images as your profile picture or wish list banner. WishTender can at any time require you to change your profile picture and/or banner image on your wish list page. Non-compliance may result in suspension or termination of your WishTender account. Your account is not transferable.

Responsibility for Your Content. You understand that you are solely responsible for Your Content. You represent that you have all necessary rights to Your Content and that you're not infringing or violating any third party's rights by posting it.

Prohibited Activity

Users of WishTender agree not to use the Site to collect or send funds with the implicit or explicit purpose of facilitating potential illegal or prohibited activities. WishTender reserves the right to investigate use of the Platform, close the User's account or remove any Cart if a determination is made that use of the Site violates the terms or spirit of the Terms of Use. We do not allow our Site to be used to distribute obscene materials, including posting images of nudity or explicitly sexual acts. We do not allow the offer, sale, collection or receipt of funds for or provision of illegal adult content or sexually-related services such as prostitution and escorts.

Payment Processing

By using the site you acknowledge that WishTender uses a third-party payment processor. You acknowledge that to receive the funds for the items purchased off of your wishlist you must setup your bank details with our third-party payment processor. Our third party payment processor handles all transactions, and is responsible for sending the funds to you upon processing completion.

We utilize various third-party payment processors and gateways, and we reserve the right to contract with additional third-party payment processors and gateways in our sole discretion to process any and all payments associated with the Site and/or Services. Such third parties may impose additional terms and conditions governing payment processing. You are responsible for abiding by such terms. We further disclaim any liability associated with your violation of such terms.

Participation Disclaimer

WishTender does not and cannot review all communications and materials posted to or created by users accessing the site, and is not in any manner responsible for the content of these communications and materials. You acknowledge that by providing you with the ability to view and distribute user-generated content on the site, WishTender is merely acting as a passive conduit for such distribution and is not undertaking any obligation or liability relating to any contents or activities on the site. However, WishTender reserves the right to block or remove communications or materials that it determines to be (a) abusive, defamatory, or obscene, (b) fraudulent, deceptive, or misleading, (c) in violation of a copyright, trademark or; another intellectual property right of another or (d) offensive or otherwise unacceptable to WishTender in its sole discretion.

Pricing Policy

WishTender charges a surcharge/fee in addition to the price of the product which ranges from 5% to 10%. This surcharge/fee is charged to cover the cost of our payment merchant and all associated admin costs.

Refunds

You understand and agree that it is our standard policy that purchases and/or fees associated with you account are final and nonrefundable at this time. We reserve the right to address any refund request at our sole discretion.

Billing Errors.

If you believe that you have been erroneously billed, please notify our third-party billing agent (Stripe) immediately of such error. If you do not do so within thirty (30) days after such billing error first appears on any account statement, the fee in question will be deemed acceptable by you for all purposes, including resolution of inquiries made by or on behalf of your banking institution. You release us from all liabilities and claims of loss resulting from any error or discrepancy that is not reported within thirty (30) days of the bill being rendered to you. These terms shall supplement and be in addition to any terms required by third party billing entities we engage to provide billing services. You are responsible for review and compliance with such entity's terms in addition to those contained in this Agreement.

Sponsorship/Donors

By accessing the site and completing an order, you fully understand and acknowledge that WishTender does not and will not place an order for the selected product on behalf of our user. You understand that WishTender will be sending the funds for the product directly to the user, and it is at the users sole discretion as to what they will do with those funds. You acknowledge that you are merely SPONSORING a product to be purchased off of a users wish list, and that it is up to the user to determine what they will do with the funds you provided to them with donative intent.

All donations are at your own risk. When you make a donation through the Site, it is your responsibility to understand how your money will be used. WishTender is not responsible for any offers, promises, rewards or promotions made or offered by Users. We do not and cannot verify the information that Users supply, nor do we represent or guarantee that the sponsorships/donations will be used in accordance with the purpose prescribed by a User or in accordance with applicable laws.

Payment

We currently accept payment via all major credit cards, including Visa, American Express, Diners Club International, JCB through our third-party payment processor. We take reasonable care to make our site secure. All credit/debit card transactions are processed using a secure payment gateway. Some accounts and orders may be subject to further verification before the order can be processed. Furthermore, we take reasonable care, in so far as it is in our power to do so, to keep the details of your order secure, but in the absence of negligence on our part we cannot be held liable for any loss you may suffer if a third party procures unauthorized access to any data you provide when accessing or ordering from the Site.

Tax Compliance

By using the Site you acknowledge that you are solely responsible for all applicable local, state, federal or equivalent taxation required by your local laws and governance. WishTender is not responsible for providing any information to you, other than, upon request, a document displaying all funds transferred to you by our third-party payment processor. You acknowledge and accept that WishTender is not responsible for providing any taxation documentation and that WishTender is not liable for any issues which arise pertaining to taxation.

Children Under Thirteen

WishTender does not knowingly collect, either online or offline, personal information from persons under the age of thirteen. If you are under 18, you may use <https://www.wishtender.com/> only with permission of a parent or guardian.

Links to Third Party Sites/Third Party Services

<https://www.wishtender.com/> may contain links to other websites ("Linked Sites"). The Linked Sites are not under the control of WishTender and WishTender is not responsible for the contents of any Linked Site, including without limitation any link contained in a Linked Site, or any changes or updates to a Linked Site. WishTender is providing these links to you only as a convenience, and the inclusion of any link does not imply endorsement by WishTender of the site or any association with its operators. Certain services made available via <https://www.wishtender.com/> are delivered by third party sites and organizations. By using any product, service or functionality originating from the <https://www.wishtender.com/> domain, you hereby acknowledge and consent that WishTender may share such information and data with any third party with whom WishTender has a contractual relationship to provide the requested product, service or functionality on behalf of <https://www.wishtender.com/> users and customers.

No Unlawful or Prohibited Use/Intellectual Property

You are granted a non-exclusive, non-transferable, revocable license to access and use

<https://www.wishtender.com/> strictly in accordance with these terms of use. As a condition of your use of the Site, you warrant to WishTender that you will not use the Site for any purpose that is unlawful or prohibited by these Terms. You may not use the Site in any manner which could damage, disable, overburden, or impair the Site or interfere with any other party's use and enjoyment of the Site. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Site.

All content included as part of the Service, such as text, graphics, logos, images, as well as the compilation thereof, and any software used on the Site, is the property of WishTender or its suppliers and protected by copyright and other laws that protect intellectual property and proprietary rights. You agree to observe and abide by all copyright and other proprietary notices, legends or other restrictions contained in any such content and will not make any changes thereto.

You will not modify, publish, transmit, reverse engineer, participate in the transfer or sale, create derivative works, or in any way exploit any of the content, in whole or in part, found on the Site. WishTender content is not for resale. Your use of the Site does not entitle you to make any unauthorized use of any protected content, and in particular you will not delete or alter any proprietary rights or attribution notices in any content. You will use protected content solely for your personal use, and will make no other use of the content without the express written permission of WishTender and the copyright owner. You agree that you do not acquire any ownership rights in any protected content. We do not grant you any licenses, express or implied, to the intellectual property of WishTender or our licensors except as expressly authorized by these Terms.

Use of Communication Services

The Site may contain bulletin board services, chat areas, news groups, forums, communities, personal web pages, calendars, and/or other message or communication facilities designed to enable you to communicate with the public at large or with a group (collectively, "Communication Services"). You agree to use the Communication Services only to post, send and receive messages and material that are proper and related to the particular Communication Service.

By way of example, and not as a limitation, you agree that when using a Communication Service, you will not: defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others; publish, post, upload, distribute or disseminate any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful topic, name, material or information; upload files that contain software or other material protected by intellectual property laws (or by rights of privacy of publicity) unless you own or control the rights thereto or have received all necessary consents; upload files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of another's computer; advertise or offer to sell or buy any goods or services for any business purpose, unless such Communication Service specifically allows such messages; conduct or forward surveys, contests, pyramid schemes or chain letters; download any file posted by another user of a Communication Service that you know, or reasonably should know, cannot be legally distributed in such manner; falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded; restrict or inhibit any other user from using and enjoying the Communication Services; violate any code of conduct or other guidelines which may be applicable for any particular Communication Service; harvest or otherwise collect information about others, including e-mail addresses, without their consent; violate any applicable laws or regulations.

WishTender has no obligation to monitor the Communication Services. However, WishTender reserves the right to review materials posted to a Communication Service and to remove any materials in its sole discretion. WishTender reserves the right to terminate your access to any or all of the Communication Services at any time without notice for any reason whatsoever.

WishTender reserves the right at all times to disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in WishTender's sole discretion.

Always use caution when giving out any personally identifying information about yourself or your children in any Communication Service. WishTender does not control or endorse the content, messages or information found in any Communication Service and, therefore, WishTender specifically disclaims any liability with regard to the Communication Services and any actions resulting from your participation in any Communication Service. Managers and hosts are not authorized WishTender spokespersons, and their views do not necessarily reflect those of WishTender.

Materials uploaded to a Communication Service may be subject to posted limitations on usage, reproduction and/or dissemination. You are responsible for adhering to such limitations if you upload the materials.

Materials Provided to <https://www.wishtender.com/> or Posted on Any WishTender Web Page

WishTender does not claim ownership of the materials you provide to <https://www.wishtender.com/> (including feedback and suggestions) or post, upload, input or submit to any WishTender Site or our associated services (collectively "Submissions"). However, by posting, uploading, inputting, providing or submitting your Submission you are granting WishTender, our affiliated companies and necessary sublicensees permission to use your Submission in connection with the operation of their Internet businesses including, without limitation, the rights to: copy, distribute, transmit, publicly display, publicly perform, reproduce, edit, translate and reformat your Submission; and to publish your name in connection with your Submission. No compensation will be paid with respect to the use of your Submission, as provided herein. WishTender is under no obligation to post or use any Submission you may provide and may remove any Submission at any time in WishTender's sole discretion. By posting, uploading, inputting, providing or submitting your Submission you warrant and represent that you own or otherwise control all of the rights to your Submission as described in this section including, without limitation, all the rights necessary for you to provide, post, upload, input or submit the Submissions.

International Users

The Service is controlled, operated and administered by WishTender from our offices within the USA. If you access the Service from a location outside the USA, you are responsible for compliance with all local laws. You agree that you will not use the WishTender Content accessed through <https://www.wishtender.com/> in any country or in any manner prohibited by any applicable laws, restrictions or regulations.

Indemnification

You agree to indemnify, defend and hold harmless WishTender, its officers, directors, employees, agents and third parties, for any losses, costs, liabilities and expenses (including reasonable attorney's fees) relating to or arising out of your use of or inability to use the Site or services, any user postings made by you, your violation of any terms of this Agreement or your violation of any rights of a third party, or your violation of any applicable laws, rules or regulations. WishTender reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with WishTender in asserting any available defenses.

Arbitration

In the event the parties are not able to resolve any dispute between them arising out of or concerning these Terms and Conditions, or any provisions hereof, whether in contract, tort, or otherwise at law or in equity for damages or any other relief, then such dispute shall be resolved only by final and binding arbitration pursuant to the Federal Arbitration Act, conducted by a single neutral arbitrator and administered by the American Arbitration Association, or a similar arbitration service selected by the parties, in a location mutually agreed upon by the parties. The arbitrator's award shall be final, and judgment may be entered upon it in any court having jurisdiction. In the event that any legal or equitable action, proceeding or arbitration arises out of or concerns these Terms and Conditions, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees. The parties agree to arbitrate all disputes and claims in regards to these Terms and Conditions or any disputes arising as a result of these Terms and Conditions, whether directly or indirectly, including Tort claims that are a result of these Terms and Conditions. The parties agree that the Federal Arbitration Act governs the interpretation and enforcement of this provision. The entire dispute, including the scope and enforceability of this arbitration provision shall be determined by the Arbitrator. This arbitration provision shall survive the termination of these Terms and Conditions.

Inappropriate, False, or Misleading Content. There are certain types of content we don't want posted on WishTender's Platform. You agree that you will not post any content that is abusive, threatening, defamatory, obscene, vulgar, pornographic, or otherwise offensive or in violation of our Prohibited Activity Policy, Community Policy, or any part of our Terms. You also agree not to post any content that is false and misleading or uses the Platform in a manner that is fraudulent or deceptive.

Class Action Waiver

Any arbitration under these Terms and Conditions will take place on an individual basis; class arbitrations and class/representative/collective actions are not permitted. THE PARTIES AGREE THAT A PARTY MAY BRING CLAIMS AGAINST THE OTHER ONLY IN EACH'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PUTATIVE CLASS, COLLECTIVE AND/ OR REPRESENTATIVE PROCEEDING, SUCH AS IN THE FORM OF A PRIVATE ATTORNEY GENERAL ACTION AGAINST THE OTHER. Further, unless both you and WishTender agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

Liability Disclaimer

THE INFORMATION, SOFTWARE, PRODUCTS, AND SERVICES INCLUDED IN OR AVAILABLE THROUGH THE SITE MAY INCLUDE INACCURACIES OR TYPOGRAPHICAL ERRORS. CHANGES ARE PERIODICALLY ADDED TO THE INFORMATION HEREIN. WISHTENDER LLC AND/OR ITS SUPPLIERS MAY MAKE IMPROVEMENTS AND/OR CHANGES IN THE SITE AT ANY TIME.

WISHTENDER LLC AND/OR ITS SUPPLIERS MAKE NO REPRESENTATIONS ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, AND ACCURACY OF THE INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS CONTAINED ON THE SITE FOR ANY PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL SUCH INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND. WISHTENDER LLC AND/OR ITS SUPPLIERS HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH REGARD TO THIS INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS, INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WISHTENDER LLC AND/OR ITS SUPPLIERS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, DATA OR PROFITS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR PERFORMANCE OF THE SITE, WITH THE DELAY OR INABILITY TO USE THE SITE OR RELATED SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE SERVICES, OR FOR ANY INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS OBTAINED THROUGH THE SITE, OR OTHERWISE ARISING OUT OF THE USE OF THE SITE, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF WISHTENDER LLC OR ANY OF ITS SUPPLIERS HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SITE, OR WITH ANY OF THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITE.

Termination/Access Restriction

WishTender reserves the right, in its sole discretion, to terminate your access to the Site and the related services or any portion thereof at any time, without notice. To the maximum extent permitted by law, this agreement is governed by the laws of the State of Illinois and you hereby consent to the exclusive jurisdiction and venue of courts in Illinois in all disputes arising out of or relating to the use of the Site. Use of the Site is unauthorized in any jurisdiction that does not give effect to all provisions of these Terms, including, without limitation, this section.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and WishTender as a result of this agreement or use of the Site. WishTender's performance of this agreement is subject to existing laws and legal process, and nothing contained in this agreement is in derogation of WishTender's right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Site or information provided to or gathered by WishTender with respect to such use. If any part of this agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect.

Unless otherwise specified herein, this agreement constitutes the entire agreement between the user and WishTender with respect to the Site and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between the user and WishTender with respect to the Site. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. It is the express wish of the parties that this agreement and all related documents be written in English.

Changes to Terms

WishTender reserves the right, in its sole discretion, to change the Terms under which <https://www.wishtender.com/> is offered. The most current version of the Terms will supersede all previous versions. WishTender encourages you to periodically review the Terms to stay informed of our updates.

Contact Us

WishTender welcomes your questions or comments regarding the Terms:

Email Address: support@wishtender.com

Effective as of October 01, 2020