



# Terms & Conditions

These Terms and Conditions govern your use of the Gift Card Warehouse website (the “**Website**”) owned and controlled by Fundstream Inc. (collectively in these Terms and Conditions, “**Gift Card Warehouse**”, “**GCW**” “**We**” or “**Us**”). Wherever used in these Terms and Conditions, “**you**”, “**your**” the “**Organization**” or similar terms mean a person or legal entity using or accessing the Services.

GCW reserves the right to change or modify any of the terms and conditions in these Terms and Conditions from time to time, any time, without notice and in its sole discretion. Any changes or modifications to these Terms and Conditions will be effective upon posting of the changes. Your continued use of the Website following the posting of any changes or modifications constitutes your acceptance of such changes or modifications and if you do not agree with these changes or modifications, you must immediately cease using the Website. You are responsible for regularly reviewing the most current Terms and Conditions which are available on the Website.

You signify your acceptance of these Terms and Conditions by accessing or using the Website, or any service available on the Website. If, at any time, you do not wish to accept these Terms and Conditions, you should not use the Website.

Our privacy policies are explained in our privacy notice (the “Privacy Notice”) which also governs your use of the Website. You signify your acceptance of the Privacy Notice by accessing or using the Website, or any service available on the Website. If, at any time, you do not wish to accept this Privacy Notice, you should not use the Website. You consent to the use of your information by GCW in accordance with the terms of and for the purposes set forth in our Privacy Notice, as same may be amended from time to time.

## 1. **Information:**

(a) **Information:** You agree to provide GCW with true, accurate, complete and current information regarding the Organization and its Administrator (as defined in section 2 below) failing which, GCW may terminate the Organization’s use of the Website.

(b) **Use of the Information:** GCW may use the information provided by the Organization under subsection 1(a) (such as the Organization’s name and location for promotional purposes), without compensation to the Organization. All of the information provided by the Organization will be treated in accordance with our Privacy Notice.

2. **Administrator:** The Organization shall appoint an individual to act as administrator (the “**Administrator**”). The Organization represents and agrees that: (a) the Administrator is an individual that has reached the age of majority according to the laws where he or she resides and has the full power and authority to bind the Organization; and (b) the Administrator is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

3. **Intellectual Property Rights:** All intellectual property rights in and to the Website, including the design of the Website and all material, content and information it contains or used in connection with it, including but not limited to, the domain name GiftCardWarehouse.ca, as well as all software, graphics, photographs, images, animations, videos, audio, texts and logos (collectively the “**IP**”) are owned by GCW, its affiliates or licensors, as applicable, and are protected by copyright, trademark, patent or other intellectual property rights and shall not be used other than for the lawful use of the Website in accordance with these Terms and Conditions or subject to the prior written consent of GCW. Any use of materials on the Website other than as permitted in this agreement including the reproduction, modification, distribution, or publication, without prior written consent of GCW is absolutely prohibited. “Gift Card Warehouse”, the Gift Card Warehouse logo and other trade and/or service marks are the exclusive property of GCW and may not be used for any of the aforementioned purposes. GCW may protect the Website by technological means intended to prevent unauthorized use of the Website. You undertake not to circumvent these means. Infringement of the rights in and to the Website will, in and on itself, result in the termination of all your rights under these Terms and Conditions.



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4. **GCW Emails, Notifications and Advertising:** All communications relating to the Website, such as system emails, Website-related notifications, and promotional communications will be sent to the Administrator.
5. **Returns and Refunds:** All gift cards and/or other prepaid products, whether plastic or electronic, purchased through the Website (collectively the “Cards”) are non-refundable, unless otherwise decided by GCW. Where applicable, returned Cards must be accompanied by a “Return Authorization Form”. All refunds are conditional to GCW’s determination that the returned Card is in its original (new) condition and has not been used. Refunds will be subject to a restocking fee. All costs associated with the return or refund of a Card shall be assumed by the party requesting the return or the refund. The amounts refunded (less any applicable fees) shall be credited or refunded in accordance with GCW’s policies as posted on its Website.
6. **Participating Retailers:**
  - (a) **Change in Participating Retailers:** The list of retailers participating in the Website (each a “Participating Retailer”) can change at any time. GCW does not guarantee that any Participating Retailer will remain a Participating Retailer. The Cards shall be subject to the limitations, terms, conditions and/or rules imposed by the issuing Participating Retailer. GCW will endeavour (but shall in no way be obligated) to post any applicable limitations, terms, conditions and/or rules of a Participating Retailer on the Website. It is your responsibility to consult the most recent terms and conditions/rules of any Participating Retailer.
  - (b) **Limitation of Liability re: Participating Retailers:** GCW is not an agent for any Participating Retailer. All Participating Retailers operate independently and are in no way under the control of GCW whether in connection with the Website or otherwise. GCW is not liable in any way: (i) for any Participating Retailer that is no longer in business, changes its place of business or for any action, product or content of thereof; and (ii) in connection with any offers or promotions of a Participating Retailer, or the cancellation or modification of any such offer or promotion.
7. **Fees:**
  - (a) **Participating Retailer Fees:** Participating Retailers may also charge fees in the description of their offers, which fees may be modified at their sole discretion.
  - (b) **GCW Fees:** A current list of fees and policies can be found on the GCW Website.
8. **Prohibited Acts:** The following acts are strictly prohibited:
  - (a) the sale, assignment or transfer of your rights and obligations under these Terms and Conditions without the prior written consent of GCW;
  - (b) the submission of any false, inaccurate, incorrect or misleading information;
  - (c) the unlawful access to, or interference with, GCW’s systems and/or communications including, without limitation, causing a breach of security with respect to the Website or any Organization account;
  - (d) the use of, or posting or dissemination on the Website of any language that is abusive, hateful, profane, obscene, or slanderous, or the impersonation of other Organizations or Administrators; anything of an advertising or promotional nature; hyperlinks; matters that infringe any intellectual property right of any third party; viruses or computer programs that could affect the function of external computers and spam;
  - (e) the financing of a terrorist or suspected terrorist organization;
  - (f) providing access to any unauthorized third party to the Website or any information, data, text, links, images, software, communications and other content which belongs to GCW;



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- (g) engagement in any activity that does not comply with Canadian and any applicable law or otherwise the engagement in any illegal, manipulative or misleading activity through the use of the Website, such as money laundering, or committing fraud; and
- (h) any activity that GCW may deem as being contrary to the purpose of the Website.

9. **Discontinuation of the Website or Termination of Use:** GCW may decide at any time to:

- (a) discontinue transmitting all or any part of the content related to the Website;
- (b) change, discontinue or limit access to the Website or any functionality, feature or other component thereof; or
- (c) suspend or terminate the Organization's use of the Website, for any breach or violation of this Agreement or any action that GCW may deem to be contrary to the business interests or reputation of GCW or the Website.

10. **Limitation of Liability:**

- (a) **Disclaimer of Warranty:** The Website and its content, materials, information, software, and products included therein, including separate services performed by third parties under contract are provided solely on an "AS IS", "WHERE IS" and "AS AVAILABLE" basis. To the maximum extent permitted by law, GCW disclaims any and all representations and warranties, whether express or implied, with respect to the operation of, or any material contained on the Website, any warranties of merchantability and fitness for a particular purpose, features, quality, non-infringement, title, performance, compatibility, security or accuracy. GCW does not warrant that the Website and/or the services (the "**Services**") it provides will be uninterrupted, timely or error-free, that defects will be corrected or that the Website, the Services, GCW's servers or electronic mailings sent on behalf of GCW will always be available or free from all harmful components, or that it is safe, secured from unauthorized access, immune from damages, free of malfunctions, bugs or failures, including, but not limited to hardware failures, originating either from GCW or its providers.

- (b) **DISCLAIMER OF LIABILITY:** GCW, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, SUPPLIERS, SUB-CONTRACTORS AND AGENTS WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR ANY OTHER DAMAGE OR LOSS (INCLUDING LOSS OF PROFIT AND LOSS OF DATA), COSTS, EXPENSES AND PAYMENTS, ARISING FROM OR IN CONNECTION WITH THE USE OF, OR THE INABILITY TO USE THE WEBSITE, OR FROM ANY FAULT, OR ERROR MADE BY OUR EMPLOYEES OR ANYONE ACTING ON OUR BEHALF, OR FROM YOUR RELIANCE ON THE CONTENT OF THE WEBSITE, OR FROM ANY DENIAL OR CANCELLATION OF YOUR ACCOUNT, OR FROM THE RETENTION, DELETION, DISCLOSURE AND ANY OTHER USE OR LOSS OF YOUR CONTENT ON THE WEBSITE. YOU UNDERSTAND AND AGREE THAT YOU OBTAIN OR OTHERWISE DOWNLOAD CONTENT, MATERIAL OR DATA THROUGH OR FOR THE USE OF THE WEBSITE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL OR DATA. IN ADDITION, GCW DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION ACCESSIBLE VIA THE WEBSITE OR THE SERVICES IS ACCURATE, COMPLETE OR UP TO DATE.

Your use of the Website may be subject to various local, provincial, state, national, or international laws, and you may have rights which vary from jurisdiction to jurisdiction. Because some jurisdictions do not allow limitations on warranties and/or the exclusion or limitation of damages, the limitations and/or exclusions found herein may not apply to you. Any provision found herein shall not be enforceable solely to the extent that it is prohibited by an applicable law.

11. **Indemnity:** You agree to release, defend, indemnify and hold harmless GCW and any affiliate, and their respective directors, officers, employees, shareholders, agents, third party service providers and representatives from and against all liabilities, actions, claims and expenses, including legal fees, resulting from, arising out of or relating to your use of the Website and any breach of these terms and conditions or any third party rights.

12. **Third Party Links:** The Website may contain links to websites that are neither owned, controlled or operated by GCW or its affiliates. They are provided for convenience purposes only and the use of these links will cause the user to leave the Website. You agree that GCW and its affiliates are not responsible in any way for any content, materials or information contained on any such third party websites. The use of any third party links is at your own risk.
13. **Claims:**
- (a) The Organization agrees that it shall be solely responsible for the distribution and loss of any Cards delivered to the Organization as of the date and time of delivery of the Cards.
  - (b) GCW validates and confirms each order prior to shipment of the Cards to ensure 100% accuracy. In the event of an apparent error or omission in the delivery of the Cards, the Organization will be fully responsible to report to GCW any such error or omission within twenty-four (24) hours following delivery of the Cards. Once the error or omission has been confirmed and if the Card delivered in error is in its original (new) condition and has not been used, and subject to GCW's prior consent, the Organization may return any such Card at GCW's sole cost and expense, and GCW shall ship the correct or missing Card, as applicable, as soon as is commercially feasible.
  - (a) The Organization must notify GCW in the event a shipment is not received by the delivery commitment date and by the shipment delivery time. Once notified, GCW shall use all commercially reasonable measures to locate the shipment and arrange for delivery.
  - (b) In the event the Organization fails to notify GCW pursuant to the terms of Subsection 13(b) or 13(c) above, GCW disclaims all liability for any loss in relation thereto.
14. **Notices/Complaints/Claims/Disputes:** All notices, complaints and claims shall be sent to GCW via the appropriate Customer Service form that can be found on the Website. Alternatively, all such notices, complaints and claims may also be submitted by email at support@GiftCardWarehouse.ca or by mail to GCW's offices as posted on its Website. All replies will be sent to the email address on record.
15. **Tax Matters:** You acknowledge that nothing contained either in this Agreement or on the Website shall constitute tax advice, and you further agree that GCW shall not be liable for any tax-related information whether contained on, or omitted from, the Website.
16. **Spam.** You must not upload, post, host, or transmit unsolicited email, SMSs, or "spam" messages. You must not transmit any worms or viruses or any code of a destructive nature.
17. **Choice of Law/Disputes:** These Terms and Conditions shall be governed exclusively by the laws of the Province of Quebec and the Organization agrees to the exclusive jurisdiction of the courts of the Province of Quebec, District of Montreal, as regards any legal action in connection with the Website and the Services.
18. **Interpretation:** Any reference in these Terms and Conditions to any gender shall include all genders and words used herein importing the singular number only shall include the plural and vice versa.
19. **Severability:** If any provision of these Terms and Conditions is held by a court of competent jurisdiction to be invalid, void or unenforceable for whatever reason, the remaining provisions not so declared shall continue in full force and effect without being impaired.
20. **Currency:** Any reference herein to "Dollars", "dollars" or "\$" shall be deemed to be a reference to lawful money of Canada.



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21. **Language.** The parties have expressly requested that these Terms and Conditions and any agreement, proceedings, documents or notices related thereto or referred to therein be drafted and executed in the English language. Les parties aux présentes ont expressément exigé que ces Conditions d'utilisation ainsi que tous contrats, procédures, documents ou avis s'y rapportant ou qui y sont mentionnés soient rédigés et signés dans la langue anglaise.

**Last updated on January 9<sup>th</sup>, 2017**