

RECREATIONAL EQUIPMENT, INC.

ONLINE GIFT CARD SALES AGREEMENT

This Online Gift Card Sales Agreement (the “Agreement”) is entered into as of _____, 2022, (the “Effective Date”) by and between REI CUSTOMER SERVICES, INC., a Virginia corporation (“REI”), and _____, a _____ corporation (“Reseller”).

1. **Gift Card Sales.** Subject to the terms of this Agreement, REI agrees to sell Recreational Equipment, Inc. branded gift cards (hard cards) and e-gift cards (“Gift Cards”) to Reseller for resale by Reseller to the general public. Reseller acknowledges and agrees that it may resell and distribute the Gift Cards only through www.XXX.com and Reseller’s authorized online channels approved in advance and in writing by REI for the Gift Card specified in Exhibit A, attached hereto and by this reference incorporated herein. Reseller may also receive discounts for volume purchases of Gift Cards as specified in Exhibit A. Reseller agrees to comply with applicable federal, state and local law in connection with the sale of Gift Cards under this Agreement.

Reseller will provide REI with quarterly sales reports (“Reports”) which Reports will include details describing each sales channel, names, addresses and quarterly sales figures for each distributor/reseller within the corresponding sales channel. All Reports must be provided to REI within thirty (30) days after the close of each calendar quarter. During the term of this Agreement and for three (3) years thereafter, Customer will retain copies of all books and records regarding Customer's sales and distribution/reseller channels for Gift Card sales made under this Agreement. REI may, at any time and on reasonable notice to Customer, review, audit (directly or indirectly via a third party selected by REI), examine and make copies of such books and records for purposes of auditing and verifying Reseller’s compliance with its obligations hereunder.

Gift Cards are not refundable for cash or returnable to REI unless required by law, and cannot be used as payment on credit or corporate business accounts with REI. Each Gift Card is subject to the then current terms and conditions that (i) are printed on the back of the card, (ii) contained in this Agreement (iii) located on the Web Sites, or (iv) that are otherwise published or provided by REI with respect to the Gift Cards.

2. **Purchase Orders.** Reseller will receive the Gift Cards within seven (7) business days of REI’s receipt of a valid and acceptable purchase order as determined by REI. Reseller will pay REI within sixty (60) days from the date of the invoice. Risk of loss of the Gift Cards shall be borne by Reseller upon delivery by REI of the Gift Cards to a common carrier. The terms of this Agreement will govern all of Reseller’s purchase orders for Gift Cards. Any purchase order terms that are ambiguous, in addition to or in conflict with the terms of this Agreement will have no force or effect.

(a) REI will suitably pack, mark and ship any Gift Cards purchased hereunder so as to secure the best transportation cost and to prevent damage to the Gift Cards while in transit, however, REI will not be liable for any increased shipping charges or damage to the Gift Cards due to its failure to comply therewith.

(b) If delivery or completion dates cannot be met, REI will inform Reseller immediately. Such notice shall constitute a change to the delivery or completion terms of the purchase order. Reseller’s sole remedy for a delay in delivery shall be an extension of time for REI’s performance equal to the duration of the delay.

(c) Reseller shall not alter (physically, electronically, or otherwise) any Gift Card.

3. **Activation of Gift Cards.** Gift Cards delivered may or may not be activated. Unless otherwise set forth in this Agreement, upon purchase of a Gift Card by a customer of Reseller, Reseller shall

promptly transmit to REI the necessary data to enable REI to activate the Gift Card. All customer service related to the Gift Cards will be performed by Reseller in accordance with its standard customer service policies. Once Gift Cards are activated, they are considered to be equivalent to cash, and Reseller is responsible for lost or stolen Gift Cards at the full-face amount.

4. **Delivery of Cards.**

(a) Digital Cards will be delivered to Reseller electronically after each order is approved and processed by REI. REI will be responsible for downloading and distributing the Digital Cards to Reseller in accordance with Reseller's standard delivery procedures.

(b) Physical Cards will be delivered to Reseller at the address indicated in the corresponding purchase order and in accordance with Reseller's selected delivery method. Standard delivery method is provided at no additional charge. A surcharge will be applied to all rush orders. If any Physical Cards purchased from REI become damaged during shipment from REI to Reseller, REI agrees to replace those Cards provided such Cards have not been used. Damaged Cards must first be returned to REI before replacement Cards will be issued to Reseller.

5. **Ordering Cards.** Cards will be ordered through the REI B2B Portal, powered by Egifter (the "**Portal**"), or such other means as REI designates from time to time. Any order placed is subject to approval by REI and REI may decline any order, in whole or in part, for any reason. The acknowledgement of an order does not constitute automatic acceptance of such order and REI may cancel an order prior to delivery.

6. **Nature of Relationship.** Reseller's relationship with REI will be that of an independent contractor, and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. Reseller is not the agent of REI and has no authority to and will not make any representation, contract or commitment that would bind, purport to bind, or create obligations on the part of REI without the prior written authorization of REI, other than as expressly stated in this Agreement.

7. **Advertising and Trademarks.**

(a) Reseller shall acquire no right to use, and shall not use, without REI's prior written consent, the terms or existence of this Agreement, the names, logos, characters, artwork, designs, trade names, copyrighted materials, trademarks or service marks of REI, its related or subsidiary companies, parent, employees, directors, shareholders, assigns, successors or licensees: (i) in any advertising, publicity, press release, client list, presentation or promotion; (ii) to express or to imply any endorsement of Reseller or Reseller's services; or (iii) in any manner other than expressly in accordance with this Agreement. Reseller acknowledges and agrees that REI has a "No Publicity" policy in place with its independent contractors, resellers and vendors. Reseller shall not make any false or misleading statements regarding REI or the Gift Cards or indicate that the Gift Cards are redeemable for cash.

(b) Reseller agrees that it will not reference REI as a "partner" or "affiliate" in any of its marketing or advertising of the Gift Cards hereunder. Reseller may refer to itself as an "authorized reseller" of REI Gift Cards.

(c) Reseller acknowledges and agrees that any advertising or marketing that Reseller creates for the Gift Cards or that reference the Gift Cards or Recreational Equipment, Inc. shall be subject to advance review and prior written approval by REI. REI reserves the right to reject, in its sole discretion, in whole or in part, any advertisement or marketing of Reseller related to the Gift Cards.

(d) Subject to the terms and conditions of this Agreement, REI hereby grants to Reseller a non-exclusive, non-transferable, revocable royalty-free license to “Recreational Equipment, Inc.” and to “REI” (“REI’s Marks”) for the sole purpose of promoting, selling, and distributing the Gift Cards pursuant to this Agreement, provided that, any usage by Reseller of REI’s Marks under this Agreement must comply with REI’s then-current brand standards, style guides and policies provided to Reseller. Upon expiration or termination of this Agreement, the license granted in this Section 7(d) shall terminate and Reseller shall immediately cease all use of REI’s Marks.

8. **Taxes and Records.** Reseller will be solely responsible for and will file, on a timely basis, all tax returns and payments required to be filed with or made to any federal, state or local tax authority with respect to Reseller’s sale of Gift Cards under this Agreement. Reseller is solely responsible for all taxes owed with respect to the sale and distribution of Gift Cards and any applicable tax filings, reports or other tax regulatory compliance related thereto. Reseller will maintain records of names, addresses, bank accounts and Gift Card Distributions for each seller for at least three (3) years after the distribution of the applicable Gift Cards.

9. **Insurance.** Reseller will maintain, at Reseller’s sole cost and expense, adequate insurance for Reseller’s business, and will provide proof of such insurance to REI upon request. Reseller’s insurance will include without limitation employer’s liability insurance, worker’s compensation, comprehensive automobile liability, professional liability and commercial general liability insurance.

10. **Non-Exclusive.** Reseller retains the right to contract for similar services with other businesses or persons, and REI retains the right to contract with others to perform similar services. Reseller represents and warrants that Reseller has no outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement or that would preclude Reseller from complying with the provisions hereof or performing the Services, and further represents and warrants that Reseller will not enter into any such conflicting agreement during the term of this Agreement.

11. **Confidential Information.** REI and Reseller are or may be engaged in business dealings with one another during the course of which each will have access to or will receive certain confidential and proprietary information belonging to the other. For purposes of this Agreement, the party receiving Confidential Information is a “Recipient” and the party disclosing the information is the “Disclosing Party.” Each party desires to protect the confidentiality of its information. Therefore, REI and Reseller hereby agree as follows:

(a) **Confidential Information.** As used in this Agreement, “Confidential Information” means all information of any kind and in any format disclosed by or relating to REI or Reseller that is marked as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, should, in the exercise of reasonable business judgment, be recognized as proprietary or be treated as confidential. Confidential Information may include, but is not limited to, trade secrets, computer code, data, designs, techniques, methodologies, marketing plans, and customer, supplier, and financial information. Confidential Information does not include any information that (i) is or becomes publicly available without breach of this Agreement, (ii) has been developed independently by the Recipient (as evidenced by the Recipient’s written records) before or after execution of this Agreement; or (iii) is furnished or made known on a non-confidential basis to Recipient by a third party who has a lawful right to disclose the information.

(b) **Use of Confidential Information.** Confidential Information may be used by the Recipient only in connection with evaluating, negotiating, or implementing a business relationship with the Disclosing Party or performing contractual duties owed to the Disclosing Party. Each party agrees that it will not disclose

Confidential Information to anyone except (i) its employees and agents who need to know the Confidential Information in connection with their performance of services for that party and who are bound by a confidentiality obligation or agreement at least as restrictive as this one, or (ii) as, and only to the extent, required by law or court order. In the case of a legal requirement for disclosure, the Recipient must give the Disclosing Party prompt notice of the legally required disclosure to enable the Disclosing Party to seek a protective order. Each party also agrees to take all reasonable measures to avoid unauthorized disclosure or use of Confidential Information, including, at a minimum, measures it takes to protect its own confidential information of a similar nature. Both parties acknowledge that Confidential Information may constitute material insider information under applicable securities laws and regulations.

(c) **Ownership of Confidential Information.** Each Recipient acknowledges and agrees that Confidential Information is proprietary to the Disclosing Party. Disclosure of Confidential Information by a Disclosing Party will not constitute an express or implied grant to the Recipient of any rights in or to any of the Disclosing Party's intellectual property. At the Disclosing Party's written request, the Recipient will promptly return all tangible materials that constitute or contain Confidential Information or certify that the materials have been destroyed.

12. **Term.** This Agreement will begin on the Effective Date and expire on the one (1) year anniversary thereof ("Initial Term") and will auto renew thereafter for consecutive one (1) year renewal terms (each a "Renewal Term").

13. **Termination.** REI may, for its convenience and without liability, terminate this Agreement in whole or in part by providing thirty (30) days advance written notice to Reseller stating the extent and effective date of such termination. In the event of a breach of this Agreement by Reseller, REI may terminate this Agreement, in whole or in part, if such breach is not cured within ten (10) business days of Reseller's receipt of REI's written notice of such breach. If this Agreement is terminated, Reseller will not be entitled to any additional fees or expenses, and expressly waives any claim for lost profits or future revenue, or for capital expenditures or hirings made in relation to Reseller entering into this Agreement.

14. **Gift Card Stock in the Event of Termination.** Upon termination or expiration of this Agreement, Reseller will, at REI's option, (i) promptly return to REI any existing stock of Gift Cards it has in its possession, or (ii) sell the remaining stock of Gift Cards until such stock is depleted. In the event that REI opts to have the remaining Gift Card stock returned by Reseller, REI will refund Reseller the amount that Reseller paid for such Gift Cards within thirty (30) days of receipt of the returned Gift Cards.

15. **Indemnification.**

(a) **Infringement Indemnity.** Reseller will defend, indemnify and hold harmless REI and its directors, employees and agents (collectively, the "Indemnitees") from and against any and all damages, liabilities, penalties, fines, losses, costs and expenses including reasonable attorneys' fees (collectively, "Losses") arising from or relating to any claim or allegation that the use, sale or distribution of such Gift Cards infringe any patent, copyright, trademark or other proprietary right, or misappropriate any trade secret, of any third party.

(b) **General Indemnity.** Reseller agrees to defend, indemnify, and hold harmless REI and its affiliates and their officers, directors, agents, and representatives (the "REI Parties") from all claims, damages, demands and liabilities, including costs and attorneys' fees, to which the REI Parties are subjected to by reason of any breach by Reseller of the terms of this Agreement, by any act or omission of Reseller by Reseller's infringement of any third party's rights, or arising out of any term of this Agreement. Further, Reseller acknowledges and agrees that it is responsible for any legal liability arising from or out of the storage of the Gift Cards on its premises or from its sale of the Gift Cards.

(c) **Tender of Claim(s).** REI will tender to Reseller any incident that could result in a claim. Reseller shall, within ten (10) business days of receipt of such claim, confirm in writing to REI that Reseller will accept REI's tender and Reseller will immediately assume the defense of such claim. If Reseller fails to respond to REI in writing within ten (10) business days, REI may assume the defense of such claim with attorneys of its own selection. Any and all Losses incurred by REI in the defense of such claim(s) shall be paid for by Reseller.

16. **Limitation of Liability.** EXCEPT FOR DAMAGES ARISING UNDER SECTION 7 (ADVERTISING OR TRADEMARKS), SECTION 11 (CONFIDENTIAL INFORMATION) OR SECTION 15 (INDEMNIFICATION), IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES FOR ANY CLAIM ARISING UNDER THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR DAMAGES ARISING FROM ANY BREACH OF SECTION 7 (ADVERTISING OR TRADEMARKS), SECTION 11 (CONFIDENTIAL INFORMATION) OR SECTION 15 (INDEMNIFICATION), NEITHER PARTY'S TOTAL LIABILITY TO THE OTHER PARTY FOR ANY CLAIM ARISING UNDER THIS AGREEMENT WILL EXCEED THREE (3) TIMES THE TOTAL AMOUNT PAID AND OWING BY RESELLER TO REI UNDER THIS AGREEMENT.

17. **Notices.** All notices, consents and other communications required by or permitted to be given under this Agreement shall be in writing and shall be effective (i) as of the date personally delivered; (ii) one (1) business day after the date delivered to a nationally recognized overnight courier service, delivery prepaid for next business day of delivery; (iii) at the time of being sent by facsimile with receipt acknowledged; or (iv) at the time of being sent by email with receipt acknowledged. All such notices, consents and communications will be sent to the person(s) set forth below, or to such other person(s) as may be designated by a party by giving notice under this Section.

For Reseller

For REI

Name:	Michelle Johnson
Address:	1700 45 th Street East
Address:	Sumner, WA 98390-0900
Tel:	Tel: 1.800.258.4567
Facsimile:	Facsimile: 1.253.891.2638
Email:	Email: mljohns@rei.com

18. **Governing Law and Venue.** The validity, interpretation and construction of the Agreement, and all other matters related to this Agreement, shall be governed by and interpreted in accordance with the laws of the State of Washington without giving effect to conflicts of law principles. Venue for any and all actions shall be in the state or federal courts located in King County, Washington.

19. **Dispute Resolution.** Reseller agrees to resolve any disputes arising from this contract by binding arbitration to be held in Seattle, King County, Washington, by a panel of three expert arbitrators in accordance with the rules then in effect of the American Arbitration Association. Judgment on the arbitration may be entered in any court having jurisdiction over the subject matter of the controversy.

20. **Attorney's Fees.** In the event that suit or action (including arbitration) is instituted to enforce any of the terms of this Agreement or to seek damages or injunctive relief for either party's default, the prevailing party shall be entitled to recover from the other party such sum as the court or arbitrator may adjudge reasonable as attorneys' fees in arbitration, at trial, and on appeal of such suit or action, in addition

to all other sums provided by law.

21. **Assignment.** Reseller may not assign this Agreement or delegate the rights or obligations under this Agreement, in whole or in part, without the prior written consent of REI. Any attempt to assign this Agreement, without such consent, will be null and void. REI may assign its rights and obligations under this Agreement to any REI affiliate, parent, or subsidiary, as it deems appropriate, upon written notice to Reseller. Subject to the foregoing, the rights and obligations of the parties will bind and inure to the benefit of the parties' respective successors and permitted assigns.

22. **Miscellaneous.** This Agreement and any attachments, addendums, and amendments constitute the entire agreement between the parties regarding its subject matter, and supersede any prior or contemporaneous representations, understandings and agreements, whether oral or written, regarding its subject matter. This Agreement may be modified or amended only by a writing signed by duly authorized representatives of both parties. Upon a party's breach or default hereunder, the other party's failure, whether single or repeated, to exercise a right hereunder shall not be deemed to be a waiver of that right as to any future breach or default. The following provisions will survive termination or expiration of this Agreement: 4 through 8, 9 through 11 and 13 through 22. The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of other provisions. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall be considered one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

_____:

REI:
REI CUSTOMER SERVICES, INC.

Signed: _____
Name: _____
Title: _____
Date: _____

Signed: _____
Name: Jean Becker
Title: Director, Sales & Customer Support
Date: _____

EXHIBIT A

**GIFT CARD DENOMINATIONS AND
VOLUME DISCOUNTS**

Aggregate Annual Sales Amounts	Volume Discounts
>+\$1,000	10% discount

Payment Discount. Additional discounting may be considered by REI and may be mutually agreed upon in writing by the parties. Reseller will pay REI for the face value of all Gift Cards ordered by Reseller, less the applicable discount in accordance with the discount schedule as set forth below ("**Discount**"), and using the REI-approved payment method, prior to delivery of the Gift Cards to Reseller.

Gift Card Denominations

Variable denominations from \$10 to \$1,000 are available.