



Updated on March 11, 2019

Yipit's ReadyPipe Agreement

This ReadyPipe Agreement (the "**Agreement**") is entered by and between Yipit, Inc., a Delaware corporation, having its principal place of business at 22 W 19th Street, 7th Floor, New York, NY 10011 ("**Yipit**") and the entity you represent ("**Customer**"). The terms and conditions of this Agreement govern Yipit's provision of and Customer's access to and use of the ReadyPipe subscription and any related services (collectively, "**ReadyPipe**"). This Agreement takes effect when Customer or the authorized users designated by Customer or Representative to Yipit via email (each an "**Authorized User**") clicks an "I Accept" button and/or check box presented with these terms (the "**Effective Date**").

1. Entire Agreement; Modification. This Agreement consists of this document and any additional pricing terms and/or subscription selection, separately agreed in writing by the parties (email suffices) (the "**Business Terms**"), and the Privacy Notice. If a term of this document conflicts with a term in the Business Terms, the term of this Agreement shall govern unless such Business Terms expressly states that its term supersedes the conflicting term of this Agreement, in which case the Business Terms' term controls solely with respect to the ReadyPipe subscription provided pursuant to such Business Terms. This Agreement, the Business Terms and the Privacy Notice is the entire agreement of the parties and replaces all other understandings or agreements (whether oral or written) regarding the subject matter of this Agreement. Yipit may modify this Agreement (including the Privacy Notice) at any time by posting a revised version on the ReadyPipe site or by otherwise notifying Customer or Customer's Representative in accordance with Section 17.

2. Access to ReadyPipe. Subject to the terms and conditions of this Agreement and the Business Terms, Yipit grants to Customer during the term, a non-exclusive, non-transferable right: (i) to permit Authorized Users to access ReadyPipe via the technical means of access provided by Yipit and to use ReadyPipe: (a) to evaluate the performance of ReadyPipe and (b) to generate data, reports and/or, other information ReadyPipe is designed to generate (collectively, "**Reports**"); and (ii) to use the Reports solely for the benefit of Authorized Users and not for the benefit of any third party, provided that Customer may use extracts from the Reports or summaries thereof in work product prepared by Customer for internal use or use with Customer's clients as long as such use does not imply any endorsement by Yipit of such extracts, summaries or work product or identify Yipit as the source of any such content.

3. Registration & Services. Yipit shall provide (i) its standard support for ReadyPipe during the term and (ii) any additional services requested by Customer or Customer's Authorized Users and approved by Yipit (together with (i) above, the "**Services**"). Only businesses (including sole proprietors) are eligible to use the Services described in this Agreement. To register to use the Services, the person signing up ("**Representative**") must provide Yipit with Customer's business or trade name and certain other information about the business that Yipit requires. Until Yipit has reviewed and approved all required information, the Services will be available on a preliminary basis only, and Yipit may terminate it at any time and for any reason. Customer and Representative individually affirm that (i) Representative is authorized to provide the information described in this Section on behalf of the Customer and to bind Customer to this Agreement and (ii) Representative is an executive officer, senior manager or otherwise has significant responsibility for the control, management or direction of Customer's business. Yipit may require Representative to provide additional information or documentation demonstrating Representative's authority. If Customer is a sole proprietor, Customer and Representative also affirm that Representative is personally responsible and liable for use of the Services and the terms of this Agreement.

4. Acknowledgement of Status. Customer acknowledges that ReadyPipe is currently undergoing development by Yipit, may contain material errors and deficiencies, and that Yipit has no obligation under this Agreement or otherwise to: (i) correct or otherwise remediate any bugs, defects



or errors in ReadyPipe or otherwise to support or maintain ReadyPipe; (ii) create, distribute or otherwise continue to offer ReadyPipe (a “**Continuation Product**”); or (iii) offer to Customer any Continuation Product that Yipit may create. In addition, Yipit may modify or remove any feature or functionality of ReadyPipe at any time without notice during the term or otherwise. Without limiting the foregoing, Customer acknowledges that any Continuation Product may contain features and functionalities that are significantly different from ReadyPipe and that any use of or access to a Continuation Product may be subject to significantly different legal, technical and other terms.

5. Restrictions. Neither Customer nor its Authorized Users shall, or permit a third party to, do any of the following: (i) sell, license, display, transmit, disclose or make available in any manner ReadyPipe or any Reports, in whole or in part, or any data contained therein, to any third party; (ii) use ReadyPipe or any Reports to build a database that may be accessed or made available to any third party, or otherwise use ReadyPipe or any Reports for the benefit of a third party; (iii) circumvent, disable or otherwise avoid any technical use restrictions implemented in ReadyPipe; (iv) publish or otherwise disclose the results of any analysis of ReadyPipe, including the results of any benchmarking or other comparative tests or any analysis or description of ReadyPipe’s features and uses; (v) interfere with or disrupt the integrity or performance of ReadyPipe or the systems or networks through which Yipit provides access to ReadyPipe; or (vi) use ReadyPipe or any Reports in a manner that violates any law, infringes, misappropriates or otherwise violates any proprietary rights of a third party, or violates any contractual or similar obligations. Yipit may, upon notice, suspend access to ReadyPipe and/or delete any Customer data and/or code stored by Yipit if Yipit believes in its reasonable discretion Customer is in violation of this Section 5. For the avoidance of doubt, the foregoing sentence does not impose any obligation on Yipit to affirmatively monitor Customer’s or Authorized Users’ compliance with this Section 5.

6. Proprietary Rights. Customer acknowledges that ReadyPipe and any improvements, enhancements and derivatives thereof are and shall remain the property of Yipit and that Customer has no rights in ReadyPipe except as expressly provided in this Agreement. Yipit reserves all rights in and to ReadyPipe not expressly granted to Customer under this Agreement. Customer agrees that Yipit may freely use and incorporate into its products, services, technologies, and other products, without liability or obligation to Customer, any suggestions, recommendation, requested features or functions, corrections or other feedback regarding ReadyPipe (collectively, “**Feedback**”). Customer hereby grants Yipit a non-exclusive, irrevocable, transferable, sublicensable license to use and otherwise exploit any intellectual property or other proprietary rights in such Feedback. By using ReadyPipe, Customer provides Yipit permission to use Customer’s company’s name, logo or other information identifiable to Customer on Yipit’s website and other marketing materials identifying Customer as one of Yipit’s customers. No endorsement or affiliation is implied and Customer’s trademarks and copyrights remain Customer’s property.

7. Payment Terms. Customer will pay all fees or charges pursuant to the Business Terms as agreed to by Customer, Representative or any of Customer’s Authorized Users. Fees incurred during the Term will be invoiced and due within 15 days of receipt of the invoice, unless otherwise agreed to by Customer or Customer’s Authorized Users in the Business Terms. All fees are quoted and payable in United States dollars and are non-cancelable and non-refundable. Past due accounts are subject to suspension by Yipit and may be levied a finance charge of the lesser of (a) 1.5% per month or (b) the maximum permitted by law. Customer will reimburse Yipit for all costs and expenses attributable to any collection effort. Customer is responsible for all taxes and surcharges imposed on the products and services provided pursuant to this Agreement, excluding taxes based on Yipit’s income. Upon termination of this Agreement and/or the Business Terms, Customer will pay in full any balance due on Customer’s account.

8. Confidentiality. Customer shall treat ReadyPipe and any information conveyed by Yipit in connection therewith, including but not limited to, all documentation, manuals and training materials, and the terms of this Agreement as Yipit’s confidential information and shall protect such information from unauthorized use or disclosure by exercising at least the same degree of care Customer uses to protect its own similar information but in no event less than a reasonable degree of care. Yipit



shall treat the Reports and any non-public information disclosed by Customer pursuant to this Agreement and clearly identified as confidential and any Customer information collected via ReadyPipe and stored on servers owned or controlled by Yipit as Customer's confidential information and shall protect it from unauthorized use or disclosure by exercising at least the same degree of care Yipit uses to protect its own similar information but in no event less than a reasonable degree of care. The foregoing obligations do not apply to any information that: (i) is in the public domain at the time of its communication; (ii) is independently developed or collected by the recipient; (iii) enters the public domain through no fault of the recipient after disclosure to recipient by the other party; (iv) is in a party's possession free of any obligation of confidence when disclosed by the other party; or (v) is communicated by the disclosing party to a third party without any obligation of confidence. This provision does not prohibit either party from disclosing the other party's confidential information (a) in response to a court order or otherwise as required by law, provided that the party first provides other party with reasonable prior notice and obtains, or provides the other party with an opportunity to obtain, a protective order or confidential treatment of the confidential information; (b) for purposes of consultation with its attorneys and financial advisors; and (c) to enforce its rights in court. For the avoidance of doubt, Yipit and Customer and its Authorized Users agree that neither party owes any type of fiduciary duty to the other party.

9. Indemnification.

a. Customer shall defend, at its expense, Yipit (including its officers, directors, employees, agents, assignees, and representatives), against any claims by third parties arising from or related to Yipit's provision of the Services to Customer, Customer's, Customer's breach of this Agreement or Customer's use of ReadyPipe or the Reports and shall pay any damages awarded or agreed to in a settlement with respect to such claims and Yipit's reasonable legal costs and expenses incurred in connection with such claims.

b. Yipit shall defend, at its expense, Customer (including its officers, directors, employees, agents, assignees, and representatives), against any claims by third parties that the software used by Yipit to provide ReadyPipe infringes or misappropriates a third party's patent, copyright or trade secret rights, and shall pay any damages awarded or agreed to in a settlement with respect to such claims and Customer's reasonable legal costs and expenses incurred in connection with such claims.

c. The party seeking indemnification (the "**Indemnitee**") shall promptly notify the other party (the "**Indemnitor**") of any such claim, tender control of the defense or settlement of such claim to the Indemnitor, and provide reasonable cooperation at Indemnitor's expense in the defense or settlement thereof. Indemnitor shall not agree to any settlement of such claim that imposes any liability or obligation on Indemnitee or that admits or implies any wrongdoing by or on behalf of Indemnitee.

10. Investments. Customer acknowledges that Yipit is not registered as an investment advisor in any jurisdiction and that any communications by Yipit or its employees to Customer relating to ReadyPipe, or Yipit's provision of the Services pursuant to this Agreement, is not investment advice or a recommendation or solicitation to buy or sell any securities. Customer agrees to do its own research and due diligence before making any investment decisions. Customer further agrees that it will not disclose any information to Yipit, collect any information via ReadyPipe or otherwise use ReadyPipe in violation of any applicable law or regulation, including confidential or material non-public information with respect to any company or entity. Customer also agrees that it will use the information provided in the Reports only for purposes and in ways that are consistent with all applicable legal requirements.

11. Disclaimer of Warranty/Indemnification. EXCEPT AS OTHERWISE PROVIDED HEREIN, READYPIPE AND THE SERVICES ARE PROVIDED ON AN 'AS IS' AND 'AS AVAILABLE' BASIS. YIPIT EXPRESSLY DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR



IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO ANY READYPIPE OR SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY OF DATA, OR ANY IMPLIED WARRANTY ARISING FROM THE COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE.

12. Limitation of Liability.

a. Liability Limit. THE ENTIRE LIABILITY OF YIPIT (INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ASSIGNEES, AND REPRESENTATIVES) IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING UNDER TORT LAW, CONTRACT LAW, OR OTHERWISE, SHALL NOT EXCEED THE AMOUNTS ACTUALLY PAID BY CUSTOMER TO YIPIT DURING THE SIX (6) MONTH PERIOD PRECEDING THE INITIAL CLAIM GIVING TO RISE TO LIABILITY.

b. No Consequential Damages. EXCEPT IN CONNECTION WITH A CUSTOMER'S BREACH OF SECTION 5 (RESTRICTIONS) OR SECTION 8 (CONFIDENTIALITY), OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE, WHETHER UNDER TORT LAW, CONTRACT LAW, OR OTHERWISE, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS.

c. Reasonable Allocation of Risk. Customer acknowledges that the limitations of liability and disclaimer of warranties and indemnification obligations are a fundamental part of this Agreement, and Yipit would not enter into this Agreement absent such limitations.

13. Term and Termination. This term of this Agreement is effective as of the Effective Date and will remain in effect until terminated under this Section 13. Customer may terminate this Agreement for any reason by providing Yipit notice and closing Customer's account for ReadyPipe and all Services for which Yipit provides an account closing mechanism at least 7 days' prior to the end of the then current term as defined in the Business Terms. Yipit may terminate this Agreement for any reason by providing Customer at least 7 days' advance written notice prior to the end of the then current term as defined in the Business Terms. Either such termination will be effective as of the end date of the then current term. Yipit may terminate this Agreement immediately upon notice if Yipit reasonably believes that Customer's continued use of ReadyPipe could give rise to liability or otherwise adversely affect Yipit. In addition, either party may terminate this Agreement, at any time upon notice for material breach by the other party, including failure to pay amounts owed. Customer is not entitled to refunds, credits or prorated prices for partial periods, provided if Customer terminates for Yipit's material breach, Yipit shall promptly refund Customer, on a pro-rated basis, for any unused portion of any fees prepaid by Customer. Upon any termination or expiration of this Agreement (1) Customer's rights to use ReadyPipe shall cease, (2) Sections 1 and 4 through 19 shall survive such termination or expiration, and (3) Customer's rights to Reports in Customer's possession that were previously downloaded prior to termination or expiration of this Agreement shall continue indefinitely subject to Customer's compliance with the surviving terms of this Agreement.

14. Governing Law. This Agreement is governed by the laws of the State of Delaware, not including its conflict of law principles. Neither the United Nations Convention on Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act will apply to this Agreement.

15. Dispute Resolution and Arbitration.

a. **Generally.** In the interest of resolving disputes between Customer and Yipit in the most expedient and cost effective manner, Customer and Yipit agree that every dispute out of or in any way related to this Agreement, the Business Terms and the Privacy Notice will be resolved



by binding arbitration. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or in any way related to this Agreement, the Business Terms or the Privacy Notice, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of this Agreement. CUSTOMER UNDERSTANDS AND AGREES THAT, BY ENTERING INTO THIS AGREEMENT, CUSTOMER AND YIPIT ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, AND THAT THIS AGREEMENT WILL BE SUBJECT TO AND GOVERNED BY THE FEDERAL ARBITRATION ACT.

b. **Exceptions.** Despite the provisions of Section 15.a above, nothing in this Agreement will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in aid of arbitration from a court of competent jurisdiction; or (d) to file suit in a court of law to address an intellectual property infringement claim.

c. **Arbitrator.** Any arbitration between Customer and Yipit will be settled under the Federal Arbitration Act, and governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, “**AAA Rules**”) of the American Arbitration Association (“**AAA**”), as modified by this Agreement, and will be administered by the AAA. The AAA Rules and filing forms are available online at www.adr.org, by calling the AAA at 1-800-778-7879, or by contacting Yipit. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.

d. **Notice; Process.** A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or email (“**Notice**”). Yipit’s address for Notice is: Yipit, Inc., 22 West 19th Street, 7th Floor, New York, NY 10011 or support@readypipe.io. The Notice must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (“**Demand**”). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice is received, Customer or Yipit may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by Customer or Yipit must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the dispute is finally resolved through arbitration in Customer’s favor with a monetary award that exceeds the last written settlement amount offered by Yipit prior to selection of an arbitrator, then Yipit will pay Customer the highest of the following: (i) the amount awarded by the arbitrator, if any; (ii) the last written settlement amount offered by Yipit in settlement of the dispute prior to the arbitrator’s award; or (iii) \$15,000.

e. **Fees.** If Customer commences arbitration in accordance with this Agreement, Yipit will reimburse Customer for its payment of the filing fee, unless Customer’s claim is for more than \$15,000 or as set forth below, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in New York County, New York, but if the claim is for \$15,000 or less, Customer may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the AAA Rules in the county (or parish) of Customer’s billing address. If the arbitrator finds that either the substance of Customer’s claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, Customer agree to reimburse Yipit for all monies previously disbursed by it that are otherwise Customer’s



obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. Each party agrees that such written decision, and information exchanged during arbitration, will be kept confidential except to the extent necessary to enforce or permit limited judicial review of the award. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

f. **No Class Actions.** CUSTOMER AND YIPIT AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN CUSTOMER'S OR YIPIT'S INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both Customer and Yipit 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.

g. **Modifications to this Arbitration Provision.** Except as otherwise provided in this Agreement, if Yipit makes any future change to this arbitration provision, other than a change to Yipit's address for Notice, then Customer may reject the change by sending Yipit written notice within 30 days of the change to Yipit's address for Notice, in which case Customer's account with Yipit will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes Customer rejected will continue to govern any disputes between Customer and Yipit.

h. **Enforceability.** If Section 15 above is found to be unenforceable or if the entirety of this Section 15 is found to be unenforceable, then the entirety of this Section 15 will be null and void.

16. **Force Majeure.** ReadyPipe, and Yipit's ability to provide the ReadyPipe, may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications. Yipit is not responsible for any delays, delivery failures, or other damage resulting from such problems or for any other event outside the reasonable control of Yipit, including without limitation acts of God, acts of third parties, government regulations, shortage of supplies, act of war, act of terrorism, earthquake, flood, wind damage, or electrical, internet or telecommunications outage.

17. **Notices.** Yipit may provide notice to Customer under this Agreement by: (i) posting a notice on ReadyPipe's website; or (ii) sending a message to the email address then associated with Customer's, Representative's or Customer's Authorized Users ReadyPipe account. Notices by Customer to Yipit under this Agreement must be in writing and will be considered given when delivered personally, or by e-mail (with confirmation of receipt) or by courier or by conventional mail (registered or certified, postage prepaid with return receipt requested).

18. **Miscellaneous.** Nothing in this Agreement shall be construed as constituting a partnership, joint venture, agency or employment relation or creating fiduciary duties between the parties, and neither party shall have any right whatsoever to incur any liability or obligation on behalf of the other party. Yipit may assign this Agreement or any rights or obligations under this Agreement (i) to one or more financial institutions, lenders, and creditors as collateral security for any financing, and (ii) to any purchaser of all or substantially all of the assets or the majority of the stock of Yipit by merger, consolidation or otherwise, and Yipit may subcontract its duties to third parties in the ordinary course of providing ReadyPipe, including to hosting and other ancillary service providers. Headings in this Agreement are for convenient reference only and have no effect in limiting or extending the language of the Agreement. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary to be enforceable. This Agreement will otherwise remain in full force and effect. This Agreement may be amended, or compliance with any term or condition may be waived, only if agreed to in writing by the parties, or in



the case of a waiver, by the party waiving compliance. No waiver by any party of any provision of this Agreement will be deemed a waiver of any other provision or a waiver of the same provision at a later time.

19. Privacy Notice. Customer acknowledges that the privacy notice (“Privacy Notice”) available here, <http://agreements.readypipe.io/privacy.pdf>, applies to Customer and its Authorized Users. Customer further acknowledges that the Privacy Notice explains how Yipit collects, uses, and shares information from Customer and its Authorized Users’ use of ReadyPipe and the ReadyPipe website. Customer also agrees to the form, content, and scope of the Privacy Notice.