

Terms and Conditions

Zest Flowers Ltd

B8-B14 New Covent Garden Flower Market, Nine Elms Lane, London. SW8 5BH

These Conditions shall be deemed to be incorporated into every contract entered into by Zest Flowers Ltd ("the Company") to sell goods and shall, notwithstanding any statement to the contrary contained in any communications by the person firm or company with whom any contract to sell goods is made by the Company ("the Customer"), prevail over any conflicting or inconsistent terms and Conditions contained in any order, email, fax, letter, or form of contract sent by the Customer to the Company or any other communication between the Customer and the Company whatsoever and whatever their respective dates unless or to the extent that any variation of these Conditions shall be expressly agreed in writing and signed by one of the Company's directors.

1. Price

1.1 The price quoted excludes VAT (unless otherwise stated.) VAT will be charged at the rate applying at the time of delivery.

1.2 The price quoted excludes delivery (unless otherwise stated).

1.3 Unless otherwise stated, the price quoted is an illustrative estimate only and the price charged will be our price current at the time of delivery.

1.4 Rates of tax and duties on the goods will be those applying at the time of delivery.

1.5 At any time before delivery we may adjust the price to reflect any increase in our costs of supplying the goods.

2. Delivery

2.1 Other than next day courier deliveries of any goods which are not fresh flowers ("Sundry Goods") all delivery times quoted are estimates only. Time shall not be the essence for delivery.

2.2 If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the order however:

2.2.1 you may not cancel if we receive your notice after the goods have been dispatched: and

2.2.2 if you cancel the order you can have no further claim against us under that contract.

2.3 If you accept delivery of the goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including indirect or consequential loss, or increase in the price of the goods).

2.4 We may deliver goods in instalments. Each instalment is treated as a separate contract.

3. Delivery and Safety

3.1 We may decline to deliver if:

3.1.1 we believe that it would be unsafe, unlawful or unreasonably difficult to do so; or

3.1.2 the premises (or the access to them) are unsuitable for our vehicle.

4. Risk

4.1 The goods are at your risk from the time of delivery.

4.2 Delivery takes place either:

4.2.1 at our premises (if you are collecting them or arranging carriage); or

4.2.2 at your premises (if we are arranging carriage).

4.3 You must inspect the goods on delivery. Any claims must be notified to us within 24 hours of delivery and confirm your claim in writing within 7 days. You must give us (and any carrier) a fair chance to inspect the damaged goods.

4.4 If by prior agreement, we deliver the goods outside your normal business hours, you must inspect the goods as soon after delivery as possible. If you do not notify us of any damaged or undelivered goods within 24 hours of delivery, we may treat you as having accepted that the goods were delivered in the quantities stated on the delivery note and at the time recorded by our driver.

5. Payment terms

5.1 You are to pay us in cash or otherwise in cleared funds immediately upon order for all goods, unless you have an approved credit account.

5.2 If you have an approved credit account, payment is due no later than 14 days after the date of our invoice unless otherwise agreed in writing.

5.3 If you fail to pay us in full on the due date:

5.3.1 we may suspend or cancel future deliveries:

5.3.2 you must pay us interest at the rate set under s.6 of the Late Payment of Commercial Debts (Interest) Act 1998:-

(a) calculated (on a daily basis) from the date of our invoice until payment;

(b) compounded on the first day of each month; and

(c) before and after any judgment (unless a court orders otherwise);

5.3.3 we may claim fixed sum compensation from you under s.5A of that Act to cover our credit control overhead costs; and

5.3.4 we may recover (under clause 5.7) the cost of taking legal action to make you pay.

5.4 If you have an approved credit account, we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may do any of those at any time without notice.

5.5 You do not have the right to off set any money you may claim from us against anything you may owe us.

5.6 While you owe money to us, we have a lien on any of your property in our possession.

5.7 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly including financing costs and including legal costs in a full indemnity basis) following any breach by you of any of your obligations under these terms

6. Title

6.1 Under these Conditions, until you pay all debts you may owe us:

- 6.1.1 all goods supplied by us remain our property;
- 6.1.2 you must store them so that they are clearly identifiable as our property;
- 6.1.3 you must insure them (against the risks for which a prudent owner would insure them) and hold the policy on trust for us:
- 6.1.4 you may use those goods and sell them in the ordinary course of your business, but not if:
- (a) we revoke that right (by informing you in writing); or
 - (b) you become insolvent.
- 6.2 You must inform us (in writing) immediately if you become insolvent.
- 6.3 If your right to use and sell the goods ends you must allow us to remove the goods.
- 6.4 We have your permission to enter any premises where the goods may be stored:
- 6.4.1 at any time, to inspect them; and
 - 6.4.2 after your right to use and sell them has ended, to remove them, using reasonable force if necessary.
- 6.5 Despite our retention of title to the goods we have the right to take legal proceedings to recover the price of goods supplied should you not pay us by the due date.
- 6.6 You are not our agent. You have no authority to make any contract on our behalf or in our name.

7. DISCLAIMER AND LIMITATION OF LIABILITY

- 7.1 Whilst we agree to use our reasonable endeavours to ensure that the Company web site is fully operational and error-free, we cannot guarantee this and therefore accept no responsibility for any defects and/or interruption of the Company site and/or the Company service and shall be released from our obligations under these Terms and Conditions in the event of any cause beyond our reasonable control which renders the provision of the Company site and/or the Company service impossible or impractical.
- 7.2 The information on this web site may contain technical inaccuracies or typographical errors. Information may be changed or updated without notice by the Company and the Company may also make improvements and/or changes to this information at any time without notice.
- 7.3 All goods and products shown on this web site are representations only of the designs that will be delivered by the Company.
- 7.4 As 'wholesale' florists and in order to achieve maximum longevity for our customers fresh flowers are dispatched in the condition in which they are received from our suppliers which may be in 'bud' or 'unopened' condition customers who require flowers to be in an 'open' condition should take account of prevailing temperatures and place their orders accordingly as such we cannot guarantee when the flowers will be in the condition required for use
- 7.5 All goods and products shown on this web site are representations of the goods and designs that will be delivered by the Company on a bespoke basis to comply with your particular order and as such we cannot guarantee that your goods or product will look exactly like the design shown on the

web site including the pictures shown on this site which are for guidance only and in particular no liability is accepted for any variation in hue or colour of goods or products to be delivered.

7.6 We accept liability for death or personal injury arising from our negligence.

7.7 Subject to clause 7.6, our liability in contract, tort (including negligence and breach of statutory duty) or otherwise arising by reason of or in connection with your order with us shall be limited to the price you have paid for the Company products.

7.8 Subject to clauses 7.6 we exclude all liability for any claims, losses, demands and damages, including without limitation, any costs, loss of profits, loss of contracts or business opportunity, loss of data and any other consequential, incidental, special or punitive damages, even if we have been advised of the possibility of such damages, arising directly or indirectly out of or in any way connected with your use or inability to access the Company site and/or the Company service, whether arising in contract, tort (including negligence), under statute or otherwise PROVIDED THAT nothing contained in these Terms and Conditions affects or will affect your or the recipient's statutory rights in relation to the quality, fitness or description of the Company products supplied.

7.9 Subject to clauses 7.6 above, we shall not be liable for any delay or inability to perform our obligations to you if such delay is due to any cause whatsoever beyond our reasonable control.

8. Cancellation

8.1 If the order is cancelled (for any reason and at any time) you are then to pay us for all man hours , fuel, stock (finished or unfinished) that we may then hold (or to which we are committed) and any other costs incurred for the work and preparation involved of your order.

8.2 We may suspend or cancel the order, by written notice if:

8.2.1 you fail to pay us any money when due (under the order or otherwise)

8.2.2 you become insolvent or the Company believes on reasonable grounds that any payment will not be met by the Customer when due;

8.2.3 you fail to honour your obligations under these terms.

8.3 You may not cancel the order unless we agree in writing (and clauses 2.2.2 and 8.1 then apply)

9. Waiver and variations

9.1 Any waiver or variation of these terms is binding in honour only unless:

9.1.1 made (or recorded) in writing;

9.1.2 signed on behalf of each party; and

9.1.3 expressly stating an intention to vary these terms.

9.2 All orders that you place with us will be on these terms (or any that we may issue to replace them). By placing an order with us, you are expressly waiving any printed terms you may have to extent that they are inconsistent with our terms.

10. Force majeure

10.1 The Company shall not be liable for any default due to any circumstance beyond the reasonable control of the Company including, but not limited to, Acts of God, war, civil unrest, riot, strike, lock-out, acts of civil or military authorities, fire, flood, earthquake or shortage of supply.

11. General

11.1 English law is applicable to any contract made under these terms. The English and Welsh courts have non-exclusive jurisdiction.

11.2 In these Conditions, references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

11.3 Any reference in these Conditions to any provisions of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

11.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.

11.5 If you any more than one persons, each of you has joint and several obligations under these terms.

11.6 If any of these terms are unenforceable as drafted:

11.6.1 it will not affect the enforceability of any other of these terms; and

11.6.2 if it would be enforceable if amended, it will be treated as so amended.

11.7 We may treat you as insolvent if:

11.7.1 you are unable to pay your debts as they fall due; or

11.7.2 you (or any item of your property) become the subject of:

(a) any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);

(b) any application or proposal for any formal insolvency procedure;

11.8 All brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any contract between us and you should not rely on them in entering into any contract with us.

11.9 Any notice by either of us which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post or by fax) the others registered office or principal place of business. All such notices must be signed.

11.10 No contract will create any right enforceable (by virtue of the Contracts (Rights of Third Parties) Act 1999) by any person not identified as the buyer or seller.

12. Entire agreement

12.1 Each of the parties agrees that save in respect of statements made fraudulently it shall have no remedy in respect of any untrue statement upon which it relied in entering this Agreement and that its only remedies shall be for breach of contract.