



## Terms of Use

Please read these terms and conditions before using this Site. By continuing to use this Site, you agree to the Terms of Use.

### **1. INTRODUCTION**

Welcome to [www.flowerbuyer.com](http://www.flowerbuyer.com) (the "Site"). Flowerbuyer.com ("we", "us" or "our") provides the Site and the information, products, and services offered on the Site to you, subject to the following Terms of Use ("TOU"). By using the Site, you agree to be bound by these TOU. We may, in our sole discretion, modify these TOU with or without notice to you. Please continue to periodically review these TOU when using the Site. By continuing to access and use the Site after these TOU have been modified, you are agreeing to such modifications. In addition, when using particular services or features on the Site, you shall be subject to any posted guidelines or rules applicable to such services or features that may be posted from time to time, including, without limitation, any new features or functionality (including, without limitation, video and related projects) that augment or enhance the services or features. All such guidelines or rules are hereby incorporated by reference into these TOU.

### **2. DESCRIPTION OF SERVICE**

The Site and the information, features and services available through the Site may be referred to herein collectively as the "Service". Unless explicitly stated otherwise, any new features or services that augment or enhance the Service in the future shall be considered part of the Service and subject to these TOU.

### **3. INFORMATION ACCURACY & RELIABILITY**

We attempt to provide as much accurate product information as possible. However, the Site does not warrant that product descriptions, prices, or other content on this site is accurate, complete, reliable, current, or error-free. We reserve the right to change prices and limit product availability.

We shall not be responsible or liable for the accuracy, completeness, usefulness or availability of any information or other content, data, text, URLs, graphics, audio and video clips, advertising or any other materials (collectively, the "Content") transmitted or made available via this Site. We shall not be responsible or liable for any decisions made in reliance on such information.

### **4. REGISTRATION**

From time to time, we will register and create an account on the Site for a customer and assign a password to such account. Customers may change their passwords for their accounts at any time.

If you do not already have an account with the Site, you will be required to register for and create an account with the Site in order to access certain information and features offered through the Site. As part of the registration and account creation process, you will select a password and provide us with certain registration information. You are solely responsible for maintaining the confidentiality of your password(s) and for all usage or activity on your account, including the use of your account by any person using your password(s). If you choose to provide personal or payment information on the Site, you agree to (a) provide true, accurate, current and complete information about yourself as prompted by the Site's order form or other areas of the Site, and (b) maintain and promptly update such information to keep it true, accurate, current and complete. If you provide any information to us that is untrue, inaccurate, not current or incomplete, or if we have reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, we have the right to suspend or terminate your account and refuse any and all current or future use of the Site (or any portion thereof).

As a condition of using the Site, you agree to the terms of the Flowerbuyer.com Privacy Policy, which may be updated from time to time. Any personal or other information you provide to us is subject to our Privacy Policy. A current version of the privacy policy may be viewed at [www.flowerbuyer.com](http://www.flowerbuyer.com).

## **5. THIRD-PARTY WEBSITES**

The Site may provide links to websites or resources outside of the Site. Because we have no control over external sites and resources, you acknowledge and agree that we are not responsible for the availability of such sites or resources, and do not endorse and are not responsible or liable for any Content, advertising, goods, services or other materials on, available through or provided by such sites or resources. Your correspondence or business dealings with, or participation in promotions of, any websites that you find or link to through the Site, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such websites. You agree that we shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of links to such websites on the Site.

## **6. SUBMISSIONS**

We are always happy to hear from you and we invite you to submit creative materials, images, original artwork, ideas, or suggestions to us for consideration. Please note that any communication or material you do transmit to the Site by email or otherwise will be treated as non-confidential and non-proprietary.

You shall be solely responsible for your own submissions, the posting of any content including, without limitations, images, photographs, illustrations, audio and video clips and the consequences thereof. You or a third-party licensor, as appropriate, shall retain all patent,

trademark and copyright to any content you submit, post or display on or through the Site and you are responsible for protecting those rights and obtaining the required consents and authorizations, as appropriate. By posting any submission and content, you hereby grant us or our affiliates the worldwide, non-exclusive, royalty free and perpetual license use or publish such content for any purpose, including, without limitations, reproduction, modification, disclosure, transmission, publication, distribution, creation of derivative works, broadcast and posting in any media throughout the world and in perpetuity without restriction or compensation to you. We are free to use any ideas, concepts, know-how, or techniques contained in any communication you send to the Site for any purpose whatsoever including, but not limited to, developing, manufacturing and marketing products using such information.

You agree that you will use the Site in compliance with all applicable laws, rules and regulations. In addition, you represent and warrant that you own or otherwise control all of the rights to the content that you submit or post; that the content is accurate; that use of the content you supply does not violate this policy and will not cause injury to any person or entity; and that you will indemnify us and our affiliates for all claims resulting from your actions or content you supply, and hold us and our affiliates harmless from and against all damages, losses and expenses of any kind (including reasonable legal fees and costs) related to such claims.

Furthermore, we reserve the right to refuse, accept, post, display or transmit any content in our sole discretion.

## **7. MODIFICATIONS TO SERVICE**

We reserve the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Site (or any part thereof) with or without notice. You agree that we shall not be liable to you or to any third-party for any modification, suspension or discontinuance of the Site.

## **8. TERMINATION**

We reserve the right, in our sole discretion, immediately and without notice to suspend or terminate these TOU, your account and/or your ability to access the Site, for any reason including any breach by you of these TOU or conduct by you that we determine to be inappropriate. Without limiting the foregoing, if you post any images or content to the Site that infringe the copyright of any third-party, such conduct shall be grounds for immediate termination of your account.

## **9. OUR PROPRIETARY RIGHTS**

You acknowledge and agree that the Site and any necessary software used in connection with the Site (the “Software”) contain proprietary and/or confidential information, Content and other materials that are protected by applicable intellectual property and other laws (including, without limitation, copyrights, trademarks, service marks and patents). Except as expressly authorized by us, you agree not to modify, rent, lease, loan, sell, distribute, create derivative works based on, or otherwise use the Software, the Site or any Content contained thereon, in whole or in part.

Flowerbuyer.com is our registered trademark. We will enforce our intellectual property rights to the fullest extent of the law.

## **10. DISCLAIMER OF WARRANTIES**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

a. YOUR USE OF THE SITE IS AT YOUR SOLE RISK. THE SITE, THE SERVICE AND ALL INFORMATION OR CONTENT AVAILABLE ON THE SITE ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE SITE, THE SERVICE OR THE INFORMATION OR CONTENT INCLUDED OR OFFERED ON OR THROUGH THE SITE, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

b. WE MAKE NO WARRANTY THAT (i) THE SITE, THE SERVICE OR ANY INFORMATION OR CONTENT OBTAINED THROUGH THE SITE WILL MEET YOUR REQUIREMENTS, (ii) THE SITE OR THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SITE, THE SERVICE OR ANY INFORMATION OR CONTENT WILL BE ACCURATE OR RELIABLE, (iv) THE QUALITY OF ANY INFORMATION OR CONTENT OBTAINED BY YOU THROUGH THE SITE WILL MEET YOUR EXPECTATIONS, AND (v) ANY ERRORS IN THE SITE WILL BE CORRECTED.

c. ANY MATERIAL OBTAINED FROM THROUGH THE USE OF THE SITE OR THE SERVICE IS OBTAINED AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM OBTAINING ANY SUCH MATERIAL.

d. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR FROM OR THROUGH THE SITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS OF USE.

## **11. LIMITATION OF LIABILITY**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT WE SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SITE, THE SERVICE OR ANY PRODUCT OBTAINED THROUGH THE SITE; (ii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iii) STATEMENTS OR CONDUCT OF ANY THIRD-PARTY ON THE SITE; OR (iv) ANY OTHER MATTER RELATING TO THE SITE OR THE SERVICE.

## **12. EXCLUSIONS AND LIMITATIONS**

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

## **13. NOTICE**

The Site may provide notices to you including, without limitation, notices of changes to these TOU or other matters by displaying such notices or links to such notices to you generally on the Site.

## **14. DIGITAL MILLENNIUM COPYRIGHT ACT**

We are under no obligation to, and do not, scan content used in connection with the Service for the inclusion of illegal or impermissible content. However, we respect the copyright interests of others. It is our policy not to permit materials known by us to infringe another party's copyright to remain on the Site.

If you believe that your work has been copied in a way that constitutes copyright infringement, you should provide us with written notice that contains the following information required by the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. 512: (a) a physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (b) identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of such works; (c) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit us to locate the material; (d) information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number and, if available, an e-mail address at which the complaining party may be contacted; (e) a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent or the law; and (f) a statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed. All DMCA notices should be sent to:

Flowerbuyer.com  
11444 West Olympic Boulevard, 10<sup>th</sup> Floor  
Los Angeles, CA 90064  
Attn: Chief Legal Officer  
Fax: (310) 966-5758  
Email: [legalinfo@flowerbuyer.com](mailto:legalinfo@flowerbuyer.com)

## **15. DISPUTE RESOLUTION**

### *Binding Arbitration*

The sole and exclusive jurisdiction and venue for resolving any controversy or claim arising out of or relating to the TOU, the Site or the Service, including, without limitation, any dispute with respect to this arbitration provision, any claim in tort, or any claim for violation of any federal, state or local statute, or ordinance or regulation (collectively, “Disputes”), shall be through confidential binding arbitration in Los Angeles County, California. The arbitration shall be conducted by JAMS/Endispute (“JAMS”), whose rules applicable to such disputes shall be in force, and judgment or the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. There shall be one arbitrator to be mutually selected by the parties, and if the parties cannot so select, the arbitrator shall be appointed by JAMS. The fees of the arbitrator, administrative fees, and the other fees and costs of the arbitration, including, but not limited to, the cost of any record or transcripts of the arbitration, shall be advanced by the parties to the arbitration in equal portions, and, in addition thereto, each such party shall advance the fees of its own attorneys, the expenses of its witnesses and all other expenses connected with presenting its case. **THE PARTIES HERETO WAIVE THE RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY ARBITRABLE CONTROVERSY OR CLAIM.**

### *Waiver of Class Arbitration*

To the fullest extent permissible under applicable law, all Disputes shall be resolved by confidential binding arbitration on an individual basis. You expressly agree that no other Disputes shall be consolidated or joined with your Dispute, whether through class arbitration proceedings or otherwise (“Class Arbitration”). You further acknowledge and agree that any arbitrator assigned to a Dispute lacks the authority to conduct Class Arbitration and that such arbitrator shall only hear individual Disputes. By using the Site and the Service, you acknowledge that you are voluntarily and knowingly waiving any right to participate as a representative or member of any class of claimants pertaining to any Dispute subject to arbitration under this TOU, such that you shall not be entitled to arbitrate any Dispute as a representative, a class action or in a private attorney general capacity.

## **16 . GENERAL INFORMATION**

These TOU constitute the entire agreement between you and the Site and govern your use of the Site and the Service, superseding any prior agreements between you and us. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content or third-party software. These TOU and the relationship between you and the Site shall be governed by the laws of the State of California without regard to its conflict of law provisions. Unless otherwise provided herein, you agree to submit to the personal and exclusive jurisdiction and venue of the courts located within the State of California. Any failure on our part to exercise or enforce any right or provision of these TOU shall not constitute a waiver of such right or provision. If any provision of these TOU is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties’ intentions as reflected in the provision, and the other provisions of these TOU remain in full force and effect. You agree that regardless of any statute or law to the

contrary, any claim or cause of action arising out of or related to use of the Site or these TOU must be filed within one (1) year after such claim or cause of action arose or be forever barred.

## **17. CONTACTING US**

If you have any questions or comments about these terms, please contact us at the address listed below. Please report any violations of the TOU to [legalinfo@flowerbuyer.com](mailto:legalinfo@flowerbuyer.com).

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Los Angeles, CA 90064  
Attn: Chief Legal Officer  
Fax: (310) 966-5758

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