

Tom Brown Wholesale Florists Limited - Terms and Conditions

We are:	Tom Brown Wholesale Florists Ltd (registered no. 06677253).
Our address is:	Unit 30, Chiltonian Industrial Estate, Manor Lane Lee, London, SE12 0TX.
We can be contacted on:	+44 (0) 208 852 2200
Email:	enquiries@tombrownwholesale.co.uk
You are:	A customer who has opened an account with us to purchase Goods either via our Website or our cash and carry premises.
Website:	www.tombrownwholesale.co.uk

Please read the terms and conditions ("Terms and Conditions") set out below carefully before ordering any Goods from us. By ordering any Goods from us you agree to be bound by these Terms and Conditions.

1. Definitions

- "Agreement" is a reference to these Terms and Conditions, the Privacy Policy, any order form and payment instructions provided to you;
- "Goods" is a reference to the flowers and any other floral and plant related products such as artificial flowers and flower display products which we may offer for sale from time to time;
- "Privacy Policy" means the policy displayed on our Website which details how we collect and store your personal data.

2. Before Ordering

- 2.1. Prior to placing your order with us you will need to register to open an account with us. A form is available on our Website for you to complete. Only customers who have an approved credit account with us may purchase through our website.
- 2.2. If you are a cash and carry customer it will also be necessary for you to open an account with us to purchase through the cash and carry outlet.
- 2.3. Due to the nature of the Goods we cannot guarantee that the exact flowers you wish to purchase will be available at the time the flowers are due to be delivered. We will agree with you in advance a substitution policy to cater for these eventualities.

3. Ordering

- 3.1. You may place an order either online via our Website, in person in our showroom or by telephone on 0208 852 2200.
- 3.2. When ordering from this Website you may be required to provide a username and password. You must ensure that you keep these details secure and do not provide this information to a third party.
- 3.3. We will take all reasonable care, in so far as it is in our power to do so, to keep the details of your order and payment secure, but in the absence of negligence on our part we cannot be held liable for any loss you may suffer if a third party procures unauthorised access to any data you provide when accessing or ordering from the Website.
- 3.4. Any order that you place with us is subject to product availability and acceptance by us. When you place your order online we will send you an email to confirm that we have received it. This email confirmation will be produced automatically so that you have confirmation of your order details. The fact that you receive an automatic confirmation does not necessarily mean that we will be able to meet your order. Once we have sent the confirmation email we will then check availability and contact you with a further email. If the Goods are available and the details of the order are correct, this email will be deemed an acceptance and will specify delivery details and confirm the price of the Goods purchased. If the Goods are not available we will also let you know by email.

Due to the nature of the Goods and the way in which the wholesale flower market operates the flowers which you ordered may not be available on the day of delivery despite our acceptance of your order. In these cases we will substitute the flowers you have ordered with suitable alternatives. The scope of allowable substitutions is limited to:

- 3.4.1. variability in the length of stems of ordered flowers/plants; and
- 3.4.2. variations in the colour of ordered flowers/plants.
- 3.5. We will use our judgement to source and deliver the closest possible match between the stem lengths and colour of Goods ordered by you and those which are available in the wholesale market. Our substitution policy does not extend to plants or flowers of different types or species (e.g. roses for daffodils).
- 3.6. If you do not wish for us to substitute Goods in the manner described above, you must inform us in advance of placing an order with us. You may also opt out of the substitution policy at the time of placing their order by leaving a clearly-worded comment in the 'Remarks' area on-screen during the ordering process.
- 3.7. The prices and Goods available to purchase through the Website are updated on a regular basis.
- 3.8. The contract for the Goods will be accepted at the time of despatch of your order. We will confirm this to you in writing. You must inform us immediately if any details are incorrect. If your order has not been accepted you will be notified of this in writing together with the reasons.
- 3.9. Any contract for the supply of Goods from this Website is between you and us. You agree to take particular care when providing us with your details and warrant that these details are accurate and complete at the time of ordering. You also warrant that the credit or debit card details that you provide is your own credit or debit card and that you have sufficient funds to make the payment.

4. Prices and Payment

- 4.1. The price for the Goods ordered will be the price stated either (i) at the online checkout via the Website, (ii) the price quoted to you on the telephone for telephone orders or (iii) on the invoice given to you if you are purchasing from the showroom. VAT is payable on all purchases. Delivery charges will also be added to your order in accordance with our current delivery charges which are detailed on our website.
- 4.2. Please note that prices for Goods change frequently due to the nature of the wholesale flower market.
- 4.3. Payment must be made in line with the credit terms that we have agreed with you. Time is of the essence for all payments made under these Terms and Conditions.
- 4.4. To open a trade account with us please contact us separately.
- 4.5. You must pay for your order by major debit or credit card, bank transfer, cash or cheque.

5. Delivery (for online orders or where delivery requested by you)

- 5.1. Delivery periods quoted at the time of ordering are approximate only and may vary. Please refer to our Website for further information regarding delivery times.
- 5.2. For online orders or orders where we have agreed to deliver the Goods to you, Goods will be delivered to the address nominated by you at the time of ordering.
- 5.3. Where we arrange delivery, orders are delivered by a reputable courier. We will make every effort to deliver within the time stated however we will not be liable for any loss caused to you by late delivery. If the Goods are not delivered within the estimated delivery time which we quote, please contact us by telephone or email and we will try to ensure that you receive your order as quickly as possible.
- 5.4. No refunds of the delivery charge are made for late deliveries.
- 5.5. Incomplete orders must be notified to us as soon as possible following delivery and within 3 days of delivery. We will either arrange for the missing items to be delivered to you at no extra cost or refund you the original cost of the missing items.
- 5.6. All risk in the Goods shall pass to you upon delivery.
- 5.7. If you fail to accept delivery of the Goods at the time they are ready for delivery, or we are unable to deliver the Goods at the nominated time due to your failure to provide appropriate instructions, documentation, licences, consents or authorisations, then the Goods shall be deemed to have been delivered to you and all risk and responsibility in relation to such Goods shall pass to you. Any storage, insurance and other costs which we incur as a result of the inability to deliver the Goods shall be your responsibility and you shall indemnify us in full for such cost.

- 5.8. You must ensure that at the time of delivery of the Goods adequate arrangements, including labour and access where necessary, are in place for the safe delivery of the Goods. We cannot be held liable for any damage, cost or expense incurred to the Goods or premises where this arises as a result of a failure to provide adequate access or arrangements for delivery.

6. Title

- 6.1. Full title in all Goods supplied by us shall remain fully vested in us until we receive payment in full for all monies owed to us. We shall be entitled to re-take possession of the Goods in the event of non-payment and you hereby grant us a non-revocable licence to enter your premises for the purposes of recovering the Goods.
- 6.2. Until such time as the property in the Goods passes to you, you shall hold all Goods supplied to you as our fiduciary agent and bailee, and shall keep all of the Goods properly stored, protected and insured (against the risks for which a prudent owner would insure them and hold the policy on trust for us) and clearly identified as our property. You hereby grant us permission to enter any premises where the Goods may be stored at any time to inspect them.
- 6.3. Until such time as the property in the Goods passes to you, we shall be entitled at any time to require you to return the Goods to us at your cost, and if you fail to do so forthwith, to enter upon any of your premises or any third party premises where the Goods are stored and repossess the Goods using reasonable force if necessary.
- 6.4. You shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain our property, but if you do so all moneys owing by you to us shall (without prejudice to any other right or remedy we may have) forthwith become due and payable.
- 6.5. Until such time as you have paid us all monies owing to us, if you become bankrupt or insolvent, enter into any arrangement with your creditors, or being a company, go into liquidation or are wound-up, or being a partnership, are dissolved or if, in our reasonable opinion, one of the aforementioned events is likely to occur and we notify you of such belief in writing you will no longer be entitled to use and sell any of our Goods and these must be returned to us immediately at your cost or we shall be entitled to re-take possession in accordance with Clause 6.3.

7. Damage in Transit

- 7.1. You must notify us immediately if Goods are found to be damaged upon delivery. You must keep the Goods within the original packing and make these available for inspection.
- 7.2. In the case of Goods damaged in transit our total liability to you is limited to providing replacement Goods within a reasonable period.

8. Your Information

In order to provide our services and Goods to you we require information from you such as your name and contact details. All of the information that we obtain from you is collected, stored and processed in accordance with Data Protection Legislation and our Privacy Policy.

9. Complaints

We take complaints very seriously and aim to respond to your complaints within 5 business days. All complaints should be addressed to enquiries@tombrownwholesale.co.uk.

10. LIMITATION OF LIABILITY

- 10.1. GREAT CARE HAS BEEN TAKEN TO ENSURE THAT THE INFORMATION AVAILABLE ON THIS WEBSITE IS CORRECT AND ERROR FREE. WE APOLOGISE FOR ANY ERRORS OR OMISSIONS THAT MAY HAVE OCCURRED. WE CANNOT WARRANT THAT USE OF THE WEBSITE WILL BE ERROR FREE OR FIT FOR PURPOSE, TIMELY, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR BUGS OR REPRESENTS THE FULL FUNCTIONALITY, ACCURACY, RELIABILITY OF THE WEBSITE AND WE DO NOT MAKE ANY WARRANTY WHATSOEVER, WHETHER EXPRESS OR IMPLIED, RELATING TO FITNESS FOR PURPOSE, OR ACCURACY.

- 10.2. IF WE ARE FOUND LIABLE FOR ANY LOSS OR DAMAGE TO YOU AS A RESULT OF SUPPLYING YOU WITH THE GOODS SUCH LIABILITY IS LIMITED TO THE AMOUNT YOU HAVE PAID FOR THE RELEVANT GOODS. WE EXCLUDE LIABILITY FOR LOSSES THAT WERE NOT FORESEEABLE TO BOTH PARTIES WHEN THE CONTRACT WAS FORMED AND LOSSES THAT WERE NOT CAUSED BY ANY BREACH ON OUR PART. THIS LIMITATION OF LIABILITY DOES NOT APPLY TO PERSONAL INJURY OR DEATH ARISING AS A DIRECT RESULT OF OUR NEGLIGENCE.
- 10.3. WE DO NOT ACCEPT ANY LIABILITY FOR ANY DELAYS, FAILURES, ERRORS OR OMISSIONS OR LOSS OF TRANSMITTED INFORMATION, VIRUSES OR OTHER CONTAMINATION OR DESTRUCTIVE PROPERTIES TRANSMITTED TO YOU OR YOUR COMPUTER SYSTEM VIA OUR WEBSITE EXCEPT WHERE THIS HAS BEEN CAUSED BY OUR NEGLIGENCE.
- 10.4. WE SHALL NOT BE HELD LIABLE FOR ANY FAILURE OR DELAY IN DELIVERING GOODS WHERE SUCH FAILURE ARISES AS A RESULT OF ANY ACT OR OMISSION WHICH IS OUTSIDE OUR REASONABLE CONTROL SUCH AS AN ACT OF GOD OR THOSE OF THIRD PARTIES.
- 10.5. WE DO NOT ACCEPT LIABILITY FOR ANY LOSS OF DATA, LOSS OF INCOME OR PROFIT, LOSS OF DAMAGE TO PROPERTY AND/OR LOSS FROM CLAIMS OF THIRD PARTIES ARISING OUT OF THE USE OF THE WEBSITE OR FOR ANY GOODS PURCHASED FROM US.
- 10.6. WE HAVE TAKEN ALL REASONABLE STEPS TO PREVENT INTERNET FRAUD AND ENSURE ANY DATA COLLECTED FROM YOU IS STORED AS SECURELY AND SAFELY AS POSSIBLE. HOWEVER, WE CANNOT BE HELD LIABLE IN THE EXTREMELY UNLIKELY EVENT OF A BREACH IN OUR SECURE COMPUTER SERVERS OR THOSE OF THIRD PARTIES EXCEPT WHERE THIS HAS BEEN CAUSED BY OUR NEGLIGENCE.

11. Intellectual Property Rights

Ownership in, and all rights created in relation to the contents of this Website vest in us absolutely unless otherwise indicated. You must not modify, copy, reproduce, upload, post, transmit or distribute by any means or in any manner whatsoever, any material or information or download from our Website except where expressly invited to do so or indicated on our Website.

12. General

- 12.1. We may subcontract any part or parts of the Goods that we provide to you from time to time and we may assign or novate any part or parts of our rights under these Terms and Conditions by giving you written notice.
- 12.2. We may alter or vary the Terms and Conditions at any time. Any variation will not affect existing orders placed with us. Variations or updates to our Terms and Conditions will be published on our Website. Any error or omission in any information, or document issued by us shall be subject to correction provided that the correction does not materially affect the contract.
- 12.3. The Terms and Conditions together with the Privacy Policy, any order form and payment instructions form the basis of our contract. In the event of any conflict between these Terms and Conditions and any other term or provision on the Website, these Terms and Conditions shall prevail.
- 12.4. If any term or condition of our Agreement shall be deemed invalid, illegal or unenforceable, the parties hereby agree that such term or condition shall be deemed to be deleted and the remainder of the Agreement shall continue in force without such term or condition.
- 12.5. These Terms and Conditions and our Agreement shall be governed by relevant United Kingdom law and the relevant courts of the United Kingdom will have exclusive jurisdiction in relation to the Agreement.
- 12.6. No delay or failure on our part to enforce our rights or remedies under the Agreement shall constitute a waiver on our part of such rights or remedies unless such waiver is confirmed in writing.
- 12.7. It is not intended that the undertakings and obligations of the parties set out in this Agreement shall be for the benefit of and capable of being enforced by any other person by virtue of the Contracts (Rights of Third Parties) Act 1999.

October 2018.