



# **Cherry Tree Card Company**

[www.cherrytreecardcompany.com](http://www.cherrytreecardcompany.com)

**TERMS & CONDITIONS OF SALE**

**VERSION 2**

**EFFECTIVE FROM 2<sup>ND</sup> JULY 2020**

## Terms and Conditions of Sale

### 1. Introduction

- 1.1 These terms and conditions shall govern the sale and purchase of products through:
- (a) our company website, ([www.cherrytreecardcompany.com](http://www.cherrytreecardcompany.com));
  - (b) our online e-commerce store, ([etsy.com](http://etsy.com));
  - (c) our social media pages; or
  - (d) contact with us by email, SMS text message or telephone communications.
- 1.2 You will be asked to give your express agreement to these terms and conditions before you place an order using any of the contact methods in Clause 1.1 above. For orders placed via our online e-commerce store, you will be asked by the e-commerce store service provider ([etsy.com](http://etsy.com)) to give your express agreement to a separate set of terms and conditions specified by that service provider.
- 1.3 This document does not affect any statutory rights you may have as a consumer (such as rights under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 or the Consumer Rights Act 2015).

### 2. Interpretation

- 2.1 In these terms and conditions:
- (a) "we" means **LYNNE TODD WATSON T/A CHERRY TREE CARD COMPANY** and
  - (b) "you" means our customer or prospective customer and "us", "our" and "your" should be construed accordingly;
  - (c) "content" means any colours, styles, textures, decorations, character fonts, graphics, photographs, images, layouts, artwork, accessories, names of persons, names of places or locations, times and dates as they may relate to products offered for sale by us and to such personalisation, customisation or modification as may be instructed by you during the order process; and
  - (d) "social media message" means any written communication, including images, sent between us via any social media platform on which we have an established account.

### 3. Order process

- 3.1 The advertising of products on our website, on our online e-commerce store or on our social media pages constitutes an "invitation to treat" rather than a contractual offer.
- 3.2 No contract will come into force between you and us unless and until we accept your order in accordance with the procedure set out in this Section 3.
- 3.3 You accept that we offer products that require an amount of personalisation, customisation or modification in order for us to fulfil our contractual obligation to you to supply a finished article to you that satisfies your specifications accurately and completely.
- 3.4 You accept that images, descriptions and representations of the products we offer as displayed or advertised on our website, our online e-commerce store or our social media pages represent only examples of possible finished articles and do not represent exactly how such articles will appear if you enter a contract to purchase our products.
- 3.5 You accept that if you enter into a contract with us you will be required to provide us with sufficient and detailed information as regards the content to allow us to effect such personalisation, customisation or modification of our products as is required to satisfy your specifications accurately and completely.

- 3.4 To enter into a contract through our website or by contact with us via our social media pages or by contact with us by email, SMS text message or telephone to purchase products from us, the following steps must be taken:
- i. you must confirm to us, in writing by email or social media message, which product or products you wish to purchase and the number of units of each product type you wish to purchase;
  - ii. you must confirm to us, in writing by email or social media message the exact details of the personalisation, customisation or modification of each product type you require, including the specific content of each product type;
  - iii. based on your written confirmation, we will confirm the details of the personalisation, customisation or modification of each product type you require and the specific content of each product type back to you to facilitate a dialogue with you so that you may alter the details of the personalisation, customisation, modification or the specific content of a product or products in your order; you must confirm the details of any such alterations to us in writing;
  - iv. in order to facilitate such dialogue as is necessary to allow us to satisfy your specifications accurately and completely, we may produce either physical prototypes of each product type and send images of each prototype to you for approval or we may send you a combination of digital images and written confirmation of the content of each product to you for approval;
  - v. you must confirm to us in writing that the details of the personalisation, customisation or modification of each product type you require and the specific content of each product type you require are finalised and sufficient for the production of your order to commence;
  - vi. you will have the opportunity to identify and correct input errors prior to us making your order;
  - vii. where it is practicable to do so, we will supply you with a single, finalised proof copy of each product type in your order for the purposes of final confirmation by you that the personalisation, customisation, modification and specific content of each product type are accepted by you as satisfying your specifications: we will be the sole arbiter of the practicality of supplying you with proof copies of our products;
  - viii. you must confirm to us, in writing, if you require an enhanced delivery service for your order, above and beyond the standard delivery service we offer as detailed in our Delivery Policy; we will include the cost of any enhanced delivery service you request in your order invoice as a separate item;
  - ix. we will supply you with two copies of an order contract document either by email or by post; a copy of these terms and conditions, a copy of our Delivery Policy, a copy of our Returns Policy and our invoice to you for the cost of the order (including delivery) will be attached to that document;
  - x. when you are satisfied that the proof copies of each product type and/or images of products supplied by us accurately represent the products you wish to purchase, you must sign or print off and sign the two copies of the order contract document we send you and return one copy, duly signed, to us by post or by digital scanning and email;
  - xi. once we receive a signed copy of the order contract document and payment of the order invoice in full your order will become a binding contract;
  - xii. we will acknowledge receipt of the order contract document and your payment and confirm to you an estimate of when your order is likely to be delivered.
- 3.4 You may order samples of our products. Such samples will be typical examples of products we make but may not be personalised, customised or modified nor contain specific content based on your specifications. To enter into a contract for supply of sample products through our website or by contact with us via our social media pages or by contact with us by email, SMS text message or telephone, the following steps must be taken:
- i. you must confirm to us, in writing by email or social media message, which product sample or samples you wish to purchase;

- ii. we will confirm to you the cost of supplying each product sample or samples in accordance with our Delivery Policy; if we cannot supply some or all of your sample order for some reason, we will confirm this to you;
- iii. you must confirm to us, in writing, if you require an enhanced delivery service for your sample order, above and beyond the standard delivery service we offer as detailed in our Delivery Policy; we will include the cost of any enhanced delivery service you request in your order invoice as a separate item;
- iv. we will issue you an invoice based on the cost of the product samples we can supply plus any enhanced delivery service you have requested;
- v. when we have received payment of our invoice in full, we will dispatch your order and let you know when delivery of your order should be expected.

#### **4. Products**

4.1 The following types of products are or may be available on our website from time to time:

Wedding stationery;

Wedding accessories.

4.2 We may periodically change the products available on our website, and we do not undertake to continue to supply any particular product or type of product.

#### **5. Prices**

5.1 Our prices are quoted on our online e-commerce store ([etsy.com/uk/shop/CherryTreeCardCo](https://etsy.com/uk/shop/CherryTreeCardCo)).

5.2 We will from time to time change the prices quoted on our online e-commerce store, but this will not affect contracts that have previously come into force.

5.3 All amounts stated in these terms and conditions or on our online e-commerce store are stated exclusive of VAT. We are not registered for VAT in accordance with HMRC regulations.

5.4 It is possible that prices on the website may be incorrectly quoted; accordingly, we will verify prices as part of our sale procedures so that the correct price will be notified to you before the contract comes into force.

5.5 In addition to the price of the products, you may have to pay a delivery charge, which will be notified to you before the contract of sale comes into force.

#### **6. Payments**

6.1 You must pay the prices of the products you order.

6.2 Payments may be made by any of the permitted methods specified on our website or our online e-commerce store from time to time.

6.3 If you fail to pay to us any amount due under these terms and conditions in accordance with the provisions of these terms and conditions, then we may withhold the products ordered and/or by written notice to you at any time cancel the contract of sale for the products.

6.4 If you make an unjustified credit card, debit card or other charge-back then you will be liable to pay us, within 30 days following the date of our written request:

- (a) an amount equal to the amount of the charge-back;
- (b) all third-party expenses incurred by us in relation to the charge-back (including charges made by our or your bank or payment processor or card issuer);
- (c) an administration fee of GBP 25.00; and

- (d) all our reasonable costs, losses and expenses incurred in recovering the amounts referred to in this Section 6.4 (including, without limitation, legal fees and debt collection fees),

and for the avoidance of doubt, if you fail to recognise or fail to remember the source of an entry on your card statement or other financial statement, and make a charge-back as a result, this will constitute an unjustified charge-back for the purposes of this Section 6.4.

## **7. Deliveries**

- 7.1 Our policies and procedures relating to the delivery of products are set out in our Delivery Policy document.
- 7.2 We will arrange for the products you purchase to be delivered to the delivery address you specify at the time your order is received.
- 7.3 We will use reasonable endeavours to deliver your products on or before the date for delivery set out in the order confirmation or, if no date is set out in the order confirmation, within 10 days following the date of the order confirmation; however, we do not guarantee delivery by this date.
- 7.4 We do guarantee that unless there are exceptional circumstances all deliveries of products will be dispatched within 30 days following the later of receipt of payment and the date of the order confirmation.

## **8. Distance contracts: cancellation right**

- 8.1 This Section 8 applies if and only if you offer to contract with us, or contract with us, as a consumer - that is, as an individual acting wholly or mainly outside your trade, business, craft or profession.
- 8.2 You may withdraw an offer to enter into a contract with us through our website or our social media pages or by contact with us by email, SMS text message or telephone or cancel a contract entered into with us through our website or our social media pages or by contact with us by email, SMS text message or telephone (without giving any reason for your withdrawal or cancellation) at any time within the period:
  - (a) beginning upon the submission of your offer; and
  - (b) ending at the end of 14 days after the day on which the products come into your physical possession or the physical possession of a person identified by you to take possession of them (or, if the contract is for delivery of multiple products, lots or pieces of something, 14 days after the day on which the last of those products, lots or pieces comes into your physical possession or the physical possession of a person identified by you to take possession of them).
- 8.3 In order to withdraw an offer to contract or cancel a contract on the basis described in this Section 8, you must inform us of your decision to withdraw or cancel (as the case may be). You may inform us by means of any clear statement setting out the decision. In the case of cancellation, you may inform us using the cancellation form that we will make available to you. To meet the cancellation deadline, it is sufficient for you to send your communication concerning the exercise of the right to cancel before the cancellation period has expired.
- 8.4 If you cancel a contract on the basis described in this Section 8, you must send the products back to us at the address displayed on our website or hand them over to us or a person authorised by us to receive them. You must comply with your obligations referred to in this Section 8 without undue delay and in any event not later than 14 days after the day on which you inform us of your decision to cancel the contract. You must pay the direct cost of returning the products.
- 8.5 If you cancel an order in accordance with this Section 8, you will receive a full refund of the amount you paid to us in respect of the order including the costs of delivery to you, except:
  - (a) if you chose a kind of delivery costing more than the standard delivery that we offer according to our Delivery Policy, we reserve the right to retain the difference in cost between the kind of delivery you chose and the standard delivery that we offer; and

- (b) as otherwise provided in this Section 8.
- 8.6 If the value of the products returned by you is diminished by any amount as a result of the handling of those products by you beyond what is necessary to establish the nature, characteristics and functioning of the products, we may recover that amount from you up to the contract price. We may recover that amount by deducting it from any refund due to you or require you to pay that amount direct to us. Handling which goes beyond the sort of handling that might reasonably be allowed in a shop will be "beyond what is necessary to establish the nature, characteristics and functioning of the products" for these purposes.
- 8.7 We will refund money using the same method used to make the payment, unless you have expressly agreed otherwise. In any case, you will not incur any fees as a result of the refund.
- 8.8 Unless we have offered to collect the products, we will process a refund due to you as a result of a cancellation on the basis described in this Section 8 within the period of 14 days after the day on which we receive the returned products or (if earlier) after the day on which you supply to us evidence of having sent the products back. If we have not sent the products to you at the time of withdrawal or cancellation or have offered to collect the products, we will process a refund due to you without undue delay and, in any case, within the period of 14 days after the day on which we are informed of the withdrawal or cancellation.
- 8.9 You will not have any right to cancel a contract as described in this Section 8 insofar as the contract relates to:
- (a) the supply of any sealed audio recordings, sealed video recordings or sealed computer software which have been unsealed by you;
  - (b) the supply of products the price of which is dependent upon fluctuations in financial markets which we cannot control and which may occur during the cancellation period;
  - (c) the supply of newspapers, periodicals or magazines, with the exception of subscription contracts for the supply of such publications;
  - (d) the supply of goods which are liable to deteriorate or expire rapidly;
  - (e) the supply of non-prefabricated goods that are made on the basis of an individual choice of or decision by you, or goods that are clearly personalised, customised or modified to your specifications;
  - (f) the supply of sealed goods which are not suitable for return due to health protection or hygiene reasons, where such goods have been unsealed by you; or
  - (g) the supply of goods which are, according to their nature, inseparably mixed with other items after delivery.

## **9. Warranties and representations**

- 9.1 You warrant and represent to us that:
- (a) you are legally capable of entering into binding contracts;
  - (b) you have full authority, power and capacity to agree to these terms and conditions;
  - (c) all the information that you provide to us in connection with your order is true, accurate, complete and non-misleading; and
  - (d) you will be able to take delivery of the products in accordance with these terms and conditions and our Delivery Policy.
- 9.2 We warrant to you that:
- (a) we have the right to sell the products that you buy;
  - (b) the products we sell to you are sold free from any charge or encumbrance, except as specified in these terms and conditions;

- (c) you shall enjoy quiet possession of the products you buy, except as specified in these terms and conditions;
- (d) the products you buy will correspond to any description published on our website, our online e-commerce store or our social media pages; and
- (e) the products you buy will be of satisfactory quality.

9.3 All of our warranties and representations relating to the supply of products are set out in these terms and conditions. To the maximum extent permitted by applicable law and subject to Section 10.1, all other warranties and representations are expressly excluded.

## **10. Limitations and exclusions of liability**

10.1 Nothing in these terms and conditions will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law,

and, if you are a consumer, your statutory rights will not be excluded or limited by these terms and conditions, except to the extent permitted by law.

10.2 The limitations and exclusions of liability set out in this Section 10 and elsewhere in these terms and conditions:

- (a) are subject to Section 10.1; and
- (b) govern all liabilities arising under these terms and conditions or relating to the subject matter of these terms and conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these terms and conditions.

10.3 We will not be liable to you in respect of any losses arising out of any event or events beyond our reasonable control.

10.4 We will not be liable to you in respect of any business losses, including (without limitation) loss of or damage to profits, income, revenue, use, production, anticipated savings, business, contracts, commercial opportunities or goodwill.

10.5 You accept that we have an interest in limiting the personal liability of our officers and employees and, having regard to that interest, you acknowledge that we are a limited liability entity; you agree that you will not bring any claim personally against our officers or employees in respect of any losses you suffer in connection with the website, our online e-commerce store, our social media pages or these terms and conditions (this will not, of course, limit or exclude the liability of the limited liability entity itself for the acts and omissions of our officers and employees).

## **11. Order cancellation**

11.1 We may cancel a contract under these terms and conditions immediately, by giving you written notice of termination, if:

- (a) you fail to pay, on time and in full, any amount due to us under that contract; or
- (b) you commit any breach of that contract.

11.2 You may cancel a contract under these terms and conditions immediately, by giving us written notice of termination, if we commit any material breach of that contract.

11.3 We may cancel a contract under these terms and conditions by written notice to you if we are prevented from fulfilling that contract by any event beyond our reasonable control, including

without limitation any unavailability of raw materials, components or products, or any power failure, industrial dispute affecting any third party, governmental regulations, fire, flood, disaster, riot, terrorist attack or war.

**12. Consequences of order cancellation**

- 12.1 If a contract under these terms and conditions is cancelled in accordance with Section 11:
- (a) we will cease to have any obligation to deliver products which are undelivered at the date of cancellation;
  - (b) you will continue to have an obligation where applicable to pay for products which have been delivered to you or manufactured according to your specifications at the date of cancellation (without prejudice to any right we may have to recover the products); and
  - (c) all the other provisions of these terms and conditions will cease to have effect, except that Sections 1.3, 6.4, 10, 15, 16, 17, 18, 19 and 20 will survive termination and continue in effect indefinitely.

**13. Scope**

- 13.1 These terms and conditions shall not constitute or effect any assignment or licence of any intellectual property rights.
- 13.2 These terms and conditions shall not govern the licensing of works (including software and literary works) comprised or stored in products.
- 13.3 These terms and conditions shall not govern the provision of any services by us or any third party in relation to the products (other than delivery services).

**14. Variation**

- 14.1 We may revise these terms and conditions from time to time by publishing a new version on our website.
- 14.2 A revision of these terms and conditions will apply to contracts entered into at any time following the time of the revision but will not affect contracts made before the time of the revision.

**15. Assignment**

- 15.1 You hereby agree that we may assign, transfer, sub-contract or otherwise deal with our rights and/or obligations under these terms and conditions - providing, if you are a consumer, that such action does not serve to reduce the guarantees benefiting you under these terms and conditions.
- 15.2 You may not without our prior written consent assign, transfer, sub-contract or otherwise deal with any of your rights and/or obligations under these terms and conditions.

**16. No waivers**

- 16.1 No breach of any provision of a contract under these terms and conditions will be waived except with the express written consent of the party not in breach.
- 16.2 No waiver of any breach of any provision of a contract under these terms and conditions shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of that contract.

**17. Severability**

- 17.1 If a provision of these terms and conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.
- 17.2 If any unlawful and/or unenforceable provision of these terms and conditions would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.



**18. Third party rights**

- 18.1 A contract under these terms and conditions is for our benefit and your benefit and is not intended to benefit or be enforceable by any third party.
- 18.2 The exercise of the parties' rights under a contract under these terms and conditions is not subject to the consent of any third party.

**19. Entire agreement**

- 19.1 Subject to Section 10.1, these terms and conditions, together with our Delivery Policy and our Returns Policy, shall constitute the entire agreement between you and us in relation to the sale and purchase of our products and shall supersede all previous agreements between you and us in relation to the sale and purchase of our products.

**20. Law and jurisdiction**

- 20.1 These terms and conditions shall be governed by and construed in accordance with Scots law.
- 20.2 Any disputes relating to these terms and conditions shall be subject to the non-exclusive jurisdiction of the courts of Scotland.

**21. Statutory and regulatory disclosures**

- 21.1 We will not file a copy of these terms and conditions specifically in relation to each user or customer and, if we update these terms and conditions, the version to which you originally agreed will no longer be available on our website. We recommend that you consider saving a copy of these terms and conditions for future reference.
- 21.2 These terms and conditions are available in [the English language only].
- 21.3 We are not registered for VAT, as permitted under HMRC regulations.
- 21.4 The website of the European Union's online dispute resolution platform is available at <http://ec.europa.eu/odr>. The online dispute resolution platform may be used for resolving disputes.

**22. Our details**

- 22.1 Our website is owned and operated by **LYNNE TODD WATSON T/A CHERRY TREE CARD COMPANY**.
- 22.2 Our principal place of business is at **43 Morar Avenue, Clydebank, West Dunbartonshire G81 2YE**.
- 22.4 You can contact us:
- (a) by post, to the postal address given above;
  - (b) using our website contact form;
  - (c) by telephone, on the contact number published on our website; or
  - (d) by email, using the email address published on our website.