

Account Application

Cheryl&Co.[®]

Business Gift Services

646 McCorkle Blvd
Westerville, OH 43082
Fax: 614.891.8799

To place an order,
call 800.433.1787

Account Manager:

Phone #:

Email:

For Internal Use Only

Acct #:

Credit Limit: \$

Partner Code:

Date:

Client Business Information

Name of Buyer's Business:

Address:

Billing Address:

City:

State:

Zip Code:

(+4)

Telephone #:

Fax #:

Description Of Business

Type of Business:

Credit Card #:

Expiration Date:

Number of Employees:

In Business Since:

Tax ID #:

Billing Method:

Credit Card (Single):

Credit Card (Multiple):

Monthly Billing:

Parent Company:

Contact Information

Main Contact:

Title:

Statement Option:

Fax #:

Email:

Authorized User Name #1:

Authorized User Title:

Authorized User Telephone:

Authorized User Name #2:

Authorized User Title:

Authorized User Telephone:

Authorized User Name #3:

Authorized User Title:

Authorized User Telephone:

Bank Reference (for monthly billing accounts only)

Name of Bank:

Contact Name:

Name of Branch:

Checking Account #:

Address:

City:

State:

Zip Code:

Telephone #:

Fax #:

Trade References (for monthly billing accounts only)

Company Name

Contact Person

Telephone Number

Confirmation of Information Accuracy & Release of Authority

I hereby certify that the information in this account application is correct. The information included in the account application is for use by 1-800-FLOWERS.COM[®]. I understand 1-800-FLOWERS.COM[®] may also utilize other credit references it considers necessary in making this determination. Further, I hereby authorize the bank & trade references listed in this account application to release the information necessary to assist 1-800-FLOWERS.COM[®] in establishing a line of credit. By executing this application, Buyer agrees to be bound by the 1-800-FLOWERS.COM[®] Standard Terms & Conditions. The current Standard Terms & Conditions are set forth on the back hereof may be amended from time to time.

Signature:

Print:

Title:

Date:

1-800-flowers.com

Cheryl&Co.

THE POPCORN FACTORY

the winetasting network

Plow & Hearth

Standard Terms and Conditions

1. **SCOPE OF SERVICES:** Buyer agrees that during the Term, it shall purchase from 1-800-FLOWERS.COM® (“FLOWERS”) floral and gift products (collectively “Products”) and FLOWERS agrees to sell to BUYER said Products at the then current prevailing prices and fees for such Products less the agreed upon discount off the Merchandise Value of any such Products. BUYER agrees to offer to its employees, members, affiliates or associates, as applicable, the opportunity to purchase from FLOWERS Products and FLOWERS agrees to sell during the Term, said Products to them at the then current prevailing prices and fees for such Products less the agreed upon discount off the Merchandise Value. BUYER, and its respective employees, members, affiliates or associates, as applicable, expressly acknowledge and agree that any and all discounts off the Merchandise Value of the Products may be subject to restrictions, limitations and blackout periods and cannot be combined with any other offers, discounts, gift certificates, or other promotions which may be offered by FLOWERS from time to time. “Merchandise Value” is defined as the gross sales price for the Products purchased less any and all applicable taxes, service, relay, shipping and handling charges.
2. **TERM:** This agreement will become effective upon FLOWERS acceptance of your Account Application and shall remain in effect until ten (10) days after either party gives written notice to the other of its intent to terminate this Agreement.
3. **THE OPERATION OF THE FLOWERS’ WEBSITE AND CALL CENTERS ARE PROVIDED ON AN “AS IS” AND ON AN “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND.** FLOWERS MAKES NO WARRANTIES AND HEREBY EXPRESSLY DISCLAIMS, ALL REPRESENTATIONS OR WARRANTIES, REGARDING THE FLOWERS WEBSITE AND CALL CENTERS, ANY PORTION THEREOF, OR OTHERWISE WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. FLOWERS SPECIFICALLY DISCLAIMS ANY WARRANTY REGARDING THE FEASIBILITY, FUNCTIONALITY, AND AVAILABILITY OF FLOWERS WEBSITE AND CALL CENTERS.
4. **PAYMENT:** BUYER agrees to pay FLOWERS in full for the Products ordered by BUYER. With respect to corporate purchases, BUYER shall permit only authorized employees to use valid corporate credit/debit cards. With respect to personal (employee, member, affiliate or associate) purchases (“Preferred Customer Club”), BUYER’S employees, members, affiliates or associates, as applicable, shall use their own valid credit/debit cards. All credit/debit cards shall be charged at the time of purchase. In the event that FLOWERS and BUYER subsequently agree in writing to permit corporate purchases to be charged to a specified corporate account, all charges to such corporate account shall be paid within thirty (30) days from the date of the invoice. Any amounts past due shall be charged interest at a rate of one and one-half (1.5%) percent per month until paid in full. In the event that FLOWERS resorts to collection of said past due amounts, BUYER agrees to pay all collection costs and expenses including, without limitation, reasonable attorney’s fees. BUYER represents that any and all employees or agents of BUYER that purchase Products on behalf of BUYER are authorized to do so.
5. **LIABILITY:** NEITHER PARTY SHALL HAVE ANY LIABILITY HEREUNDER FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, BUSINESS OPPORTUNITY OR GOODWILL, WHETHER OR NOT THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGE MIGHT BE INCURRED. IN ALL EVENTS, THE SOLE LIABILITY OF FLOWERS IS LIMITED TO REPLACEMENT OF THE PRODUCT PURCHASED OR REFUND OF THE PURCHASE PRICE PAID FOR ANY SUCH PRODUCT AS DETERMINED IN FLOWERS’ SOLE DISCRETION.
6. **INDEPENDENT PARTIES:** Nothing contained herein shall imply any partnership, joint venture or agency relationship between the Parties and neither Party shall have the power to obligate or bind the other in any manner whatsoever, except to the extent herein provided.
7. **BINDING EFFECT; BENEFIT:** This agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective permitted successors and assigns. Nothing in this Agreement, expressed or implied, is intended to confer on any person other than the Parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities pursuant to this Agreement. BUYER shall not assign or transfer this agreement or any of its rights and obligations hereunder without the prior written consent of FLOWERS. Notwithstanding the foregoing, FLOWERS shall have the right to assign, subcontract or otherwise transfer any of its rights, remedies, obligations or liabilities under this Agreement.
8. **NOTICES:** All notices, requests, demands, payments and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally, telecopied with proof of transmittal, or sent by nationally recognized overnight carrier, or mailed by certified mail, postage prepaid, return receipt requested, as follows: If to FLOWERS: 1-800-FLOWERS.COM INC., 1600 Stewart Avenue, Westbury, NY 11590, ATTN: Director of Corporate Services, Telecopier: 516.237.6060; With a copy to: 1-800-FLOWERS.COM INC., 1600 Stewart Avenue, Westbury, NY 11590, Attn: Gerard M. Gallagher, Esq., Telecopier: 516.237.6101; If to BUYER: To the address or fax number listed on the Account Application.
9. **FORCE MAJEURE:** Except for any payment obligations hereunder, neither Party shall be liable for any breach of this agreement for any delay or failure of performance resulting from any cause beyond such Party’s reasonable control, including without limitation, the weather, strikes, labor disputes, war, terrorist acts, riots, civil disturbances, government regulations, acts of civil or military authorities, or acts of God.
10. **ENTIRE AGREEMENT:** These Standard Terms and Conditions, the Account Application and any writing signed by the parties confirming the discount offered constitutes (a) the binding agreement between the Parties; (b) represents the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements; and, (c) may not be modified or amended except in writing signed by the Parties.
11. **GOVERNING LAW:** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without regard to conflicts of laws principles. Venue for purposes of any action or proceeding brought in connection with or arising out of this Agreement shall be conclusively presumed to be in the State of New York, County of Nassau and the Parties hereby irrevocably consent to the exclusive personal jurisdiction and venue in the Supreme Court of the State of New York, County of Nassau County.
12. **SURVIVABILITY:** The provisions of Sections 3, 4, 5, 8, 10, 11, and 12 shall survive the termination of this Agreement.

Signature:

Print:

Title:

Date: