

# Terms & Conditions

These terms and conditions apply to the use of this Website and by accessing this Website and/or placing an order you agree to be bound by the terms and conditions set out below. If you do not agree to be bound by these terms and conditions you may not use or access this Website.

Before you place an order, if you have any questions relating to these terms and conditions please contact us.

## Definitions

"Conditions" means these terms and conditions and the Special Conditions;

"Product" means a product displayed for sale on the Website;

"Product Description" means that part of the Website where certain terms and conditions in respect of the individual Product are provided;

"Users" means the users of the Website collectively;

"Personal Information" means the details provided by you on registration;

"We/us/Birthgay" means Murton-Moore LLP, a Limited Liability Partnership, registration number OC316246.

"Website" means the website located at [www.birthgay.com](http://www.birthgay.com), [www.birthgay.co.uk](http://www.birthgay.co.uk) or any subsequent URL which may replace it;

"Cookies" means small text files which our Website places on your computer's hard drive to store information about your shopping session and to identify your computer;

"Primary Payment Processor" means Nochex Limited, who are certified as a Small Electronic Money Issuer by the Financial Services Authority and as a Money Service Business by HM Revenue & Customs;.

"Secondary Payment Processor" means PayPal (Europe) Limited, who are authorised and regulated by the Financial Services Authority in the United Kingdom as an electronic money institution;.

"You" means a user of this Website.

## Use of the Website

### Access

You are provided with access to this Website in accordance with these Conditions and any orders placed by you must be placed strictly in accordance with these Conditions.

### Registration

You warrant that:

- The Personal Information which you are required to provide when you register as a customer or attempt to place an order is true, accurate, current and complete in all respects; and
- You will notify us immediately of any changes to the Personal Information by contacting us by e-mail, or updating the information yourself on our Website.

You agree not to impersonate any other person or entity or to use a false name or a name that you are not authorised to use.

## Privacy policy

We will treat all your Personal Information as confidential but reserve our right to disclose this information in the circumstances set out below. We will keep your Personal Information on a secure server and we will fully comply with applicable data protection legislation in place.

When you shop on this Website, we will ask you to input and will collect Personal Information from you such as your name, e-mail address, billing address, delivery address, telephone number, product selections, credit card or other payment information and a password. We may also collect, and our third party providers of advertisements and content may collect, information about where you are on the internet, including but not limited to the URL you came from, IP address, your browser type, operating system version, the country and area code where your computer is located, the pages of our Website that were viewed during your visit, the advertisements you clicked on, and any search terms that you entered on our Website ("User Information"). We may collect this information even if you do not register with us.

You should be aware that this Website is being monitored and may capture information about your visit that will help us improve the quality of our service. We use your information only for the following purposes:

- Processing your orders;
- For statistical or survey purposes to improve this Website and its services to you;
- To serve Website content and advertisements to you;
- To administer this Website;
- If you consent, to notify you of products or special offers that may be of interest to you.

You agree that you do not object to us contacting you for any of the above purposes whether by telephone, e-mail or in writing and you confirm that you do not and will not consider any of the above as being a breach of any of your rights under the Privacy and Electronic Communications (EC Directive) Regulations 2003.

When you create a shopping account while ordering online you will be given the option to receive information from us by post, e-mail or telephone, about products, promotions or special offers which we feel may be of interest to you. In the event that you do not wish to be contacted for such purposes, ensure that you tick the appropriate box as you go through the registration process. In any event, you may unsubscribe from our contact list at any time by replying to a promotional e-mail with the word "unsubscribe" in the subject line.

Your Personal Information may be disclosed to other business that we have an interest in, and to reputable third parties who will help process your order and payment. We require all such third parties to treat your personal information as fully confidential and to fully comply with applicable data protection legislation in place. We will not release your Personal Information to any third party organisation for mailing or marketing purposes. We will release your Personal Information to the police or other government authority/agency where we are required to do so by law.

We use Cookies to keep track of your current shopping session to personalise your experience and so that you may retrieve your shopping basket at any time - if you configure your web browser not to accept Cookies you will be unable to use this Website.

Please check back frequently to see any updates or changes to our privacy policy.

## **Indemnity**

You agree fully to indemnify, defend and hold us, and our officers, partners, employees, agents and suppliers, harmless immediately on demand, from and against all claims, liability, damages, losses, costs and expenses, including reasonable legal fees, arising out of any breach of the Conditions by you or any other liabilities arising out of your use of this Website, or the use by any other person accessing the Website using your shopping account and/or your Personal Information.

## **Our rights**

We reserve the right to:

- modify or withdraw, temporarily or permanently, this Website (or any part thereof) with or without notice to you and you confirm that we shall not be liable to you or any third party for any modification to or withdrawal of the Website; and/or
- change the Conditions from time to time, and your continued use of the Website (or any part thereof) following such change shall be deemed to be your acceptance of such change. It is your responsibility to check regularly to determine whether the Conditions have been changed. If you do not agree to any change to the Conditions then you must immediately stop using the Website.

## **Third party links**

To provide increased value to our Users, we may provide links to other Websites or resources for you to access at your sole discretion. You acknowledge and agree that, as you have chosen to enter the linked Website we are not responsible for the availability of such external sites or resources, and do not review or endorse and are not responsible or liable, directly or indirectly, for:

- the privacy practices of such Websites
- the content of such Websites, including (without limitation) any advertising, content, products, goods or other materials or services on or available from such Websites or resources
- the use to which others make of these Websites or resources, nor for any damage, loss or offence caused or alleged to be caused by, or in connection with, the use of or reliance on any such advertising, content, products, goods or other materials or services available on such external Websites or resources.

## **Purchase of products**

### **Orders**

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.

#### Contract creation and electronic contracting

The technical steps required to create the contract between you and us are as follows:

- You place the order for your products on the Website by pressing the confirm order button at the end of the checkout process. You will be guided through the process of placing an order by a series of simple instructions on the Website.
- We will send to you an order acknowledgement email detailing the products you have ordered. This is not an order confirmation or order acceptance.
- As your product is shipped we may send you a despatch confirmation email if you requested this when placing the order.
- Order acceptance and the completion of the contract between you and us will take place on the despatch to you of the Products ordered unless we have notified you that we do not accept your order.

Non-acceptance of an order may be a result of one of the following:

- The product you ordered being unavailable from stock.
- Our inability or the inability of our Primary Payment Processor or our Secondary Payment Processor to obtain authorisation for your payment.
- The identification of a pricing or product description error.
- You not meeting the eligibility to order criteria set out in the main Terms & Conditions.

The contract will be concluded in English.

### **Contract cancellation**

Please note that you are entitled to cancel this contract if you so wish provided that you exercise your right no longer than eight working days after the day on which you receive the Products. Your right to return Products does not apply to Products which are made or customised to your specification.

### **Description of products**

Each Product purchased is sold subject to its Product Description which may set out additional specific conditions related to that Product. We will take all reasonable care to ensure that all details, descriptions and prices of Products appearing on the Website are correct at the time when the relevant information was entered onto the system. Although we aim to keep the Website as up to date as possible, the information including Product Descriptions appearing on this Website at a particular time may not always reflect the position exactly at the moment you place an order. We cannot confirm the price of a Product until your order is accepted in accordance with our Order acceptance policy.

## **Payment**

All prices are correct at the time of entering the information onto the system. The total cost of your order is the price of the Products ordered plus delivery charges applicable which will be displayed during the order process. Payment can be made by any of the methods specified during the order process.

You confirm that the credit, debit or store card that is being used is yours. If the issuer of your payment card refuses to or does not, for any reason, authorise payment to us, we will not be liable for any delay or non-delivery.

All card payments are processed for you by our Primary Payment Processor or our Secondary Payment Processor.

## **Refusal of transaction**

We reserve the right to withdraw any Products from this Website at any time and/or remove or edit any materials or content on this Website. We may refuse to process a transaction for any reason or refuse service to anyone at any time at our sole discretion. We will not be liable to you or any third party by reason of our withdrawing any Product from this Website whether or not that Product has been sold; removing or editing any materials or content on the Website; refusing to process a transaction or unwinding or suspending any transaction after processing has begun.

To be eligible to purchase Products on this Website and lawfully enter into and form contracts on this Website under English law you must:

- Register by providing your real name, phone number, e-mail address, payment details and other requested information
- Be over 18 years of age
- Possess a valid credit or debit card issued by a bank acceptable to us and our Primary Payment Processor or our Secondary Payment Processor

By making an offer to buy a Product, you specifically authorise us to transmit information (including any updated information) or to obtain information about you from third parties from time to time, including but not limited to your debit or credit card number or credit reports, to authenticate your identity, to validate your credit card, to obtain an initial credit card authorisation and to authorise individual purchase transactions.

## **Returns**

Returns should be made in the original, undamaged packaging, and we reserve the right to withhold a percentage of the refund value of returned goods if the product or packaging is in such a condition that the item needs to be reduced in price for resale.

## **General**

### **Intellectual property and right to use**

You acknowledge and agree that all copyright, trademarks and all other intellectual property rights in all material or content supplied as part of the Website shall remain at all times vested in us or our licensors. You are permitted to use this material only as expressly authorised by us or our licensors.

You acknowledge and agree that the material and content contained within the Website is made available for your personal non-commercial use only and that you may (if necessary to make a Purchase) download such material and content onto only one computer hard drive for such purpose. Any other use of the material and content of the Website is strictly prohibited. You agree not to (and agree not to assist or facilitate any third party to) copy, reproduce, transmit, publish, display, distribute, commercially exploit or create derivative works of such material and content.

### **Compliance with laws**

The Website may be used only for lawful purposes and in a lawful manner. You agree to comply with all applicable laws, statutes and regulations regarding the Website and any transactions conducted on or through the Website.

### **Limitation of liability**

While we will use reasonable endeavours to verify the accuracy of any information we place on the Website, we make no warranties, whether express or implied in relation to its accuracy.

The Website is provided on an "as is" and "as available" basis without any representation or endorsement made and we make no warranties of any kind, whether express or implied, in relation to the Website, or any transaction that may be conducted on or through the Website including but not limited to, implied warranties of non-infringement, compatibility, security, accuracy, conditions of completeness, or any implied warranty arising from course of dealing or usage or trade.

We make no warranty that the Website will meet your requirements or will be uninterrupted, timely or error-free, 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. We will not be responsible or liable to you for any loss of content or material uploaded or transmitted through the Website. To the fullest extent permissible under applicable law, we disclaim any and all warranties of any kind, whether express or implied, in relation to the Products.

This does not affect your statutory rights as a consumer, nor does it affect your Contract Cancellation Rights.

We will not be liable, in contract, tort (including, without limitation, negligence), pre-contract or other representations (other than fraudulent or negligent misrepresentations) or otherwise out of or in connection with the Conditions for:

- any economic losses (including without limitation loss of revenues, profits, contracts, business or anticipated savings); or
- any loss of goodwill or reputation; or
- any special or indirect losses, suffered or incurred by that party arising out of or in connection with the provisions of any matter under the Conditions.

Nothing in the Conditions shall exclude or limit our liability for death or personal injury resulting from our negligence or that of our servants, agents or employees.

### **Severance**

If any part of the Conditions shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed to be severable from the Conditions and shall not affect the validity and enforceability of any of the remaining provisions of the Conditions.

### **Waiver**

No waiver by us shall be construed as a waiver of any proceeding or succeeding breach of any provision.

### **Survival**

Each provision of the Conditions shall be construed as separately applying and surviving even if for any reason one or other of those provisions is held to be inapplicable or unenforceable in any circumstances.

### **Entire agreement**

These Conditions govern our relationship with you. Any changes to these Conditions must be in writing and signed by both parties. You confirm that, in agreeing to accept the Conditions, you have not relied on any representation save insofar as the same has expressly been made a term of these Conditions and you agree that you shall have no remedy in respect of any representation. Your Statutory Rights are not affected by these terms and conditions.

Nothing in this Clause shall limit or exclude our liability in respect of any fraudulent or negligent misrepresentation whether or not such has become a term of the Conditions.

### **Law**

The Conditions shall be governed by and construed in accordance with the laws of England and you irrevocably submit to the exclusive jurisdiction of the courts of England.

## **Contact**

You may contact us using the contact section of this Website or writing to us at our place of business:

Murton-Moore LLP  
30a Upper High Street  
Thame  
Oxfordshire  
OX9 3EX

Tel: 01844 220006  
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