

**Leanin' Tree, Inc.**  
**Terms and Conditions of Sale**

1. **Terms of Sale.** These Terms and Conditions ("Terms") govern all sales of products and/or services ("Products") by Seller to Buyer including purchases of the Products by written purchase orders, electronic orders via EDI, internet orders, facsimile orders, telephone orders or catalog order forms (collectively, "Purchase Orders"). These Terms and the non-conflicting provisions of Purchase Orders accepted by Seller constitute a binding contract between Buyer and Seller ("Sales Agreement"). In case of a conflict between these Terms and the Purchase Order, these Terms prevail except where Seller has expressly agreed in writing by signature of an authorized Seller representative and Buyer to (i) the conflicting term in the Purchase Order or (ii) otherwise modify these Terms. For all electronic or internet orders, these Terms are a printed confirmation of the Terms accepted when the order was placed. **For all other orders, these Terms are a confirmation of Buyer's acceptance of these Terms at the time of order and/or Buyer's acceptance and retention of the Products after the 10 day return period detailed below which constitute Buyer's waiver of its right of rescission and acceptance of these Terms.** In all cases, Buyer has a 10-day period from receipt of the Products to return the Products pursuant to Section 7. All Purchase Orders are offers by Buyer to purchase Products and Seller reserves the right to accept or reject all purchase orders in its sole discretion which may include based upon a review of the credit or quality of the Buyer's retail outlet, and further Seller has the right to substitute and replace show-performing designs with proven best-sellers in a similar theme or style.
2. **Price.** The price of the Products shall be Seller's list price as set forth from time to time, unless Seller agrees in writing otherwise, and does not include shipping, handling, processing charges or sales, use, excise or any other taxes or assessments levied by any federal, state, municipal or other governmental authority, unless Seller expressly agrees in writing otherwise. Prices subject to change without notice. Prices may vary in Canada and other international markets.
3. **Payment.** Payments must be made to Seller in U.S. dollars within 30 days of Buyer's receipt of the Products or invoice, whichever is earlier. Payments not received when due shall bear interest at the lower of 18% per annum or the maximum rate allowed by applicable law. Seller reserves the right to limit or cancel the credit of Buyer, if any. Seller reserves the right to refuse any order or ship any accepted order if Buyer is past due on any payment(s) to Seller. Buyer agrees to pay Seller's attorney's fees and costs incurred in collecting the purchase price and other charges whether or not suit is initiated.
4. **Terms of Resale.** Buyer may only re-sell the Products retail to end user customers in its brick and mortar store(s) and/or via its individually owned and operated, ecommerce website for Buyer's brick and mortar location. Resale of the Products via Amazon and/or any other third-party marketplaces, websites, social media platforms, digital platforms, or other means is strictly prohibited. To the extent Buyer is an authorized distributor of Seller, Buyer may further distribute and resell the Products subject to including in its terms of sale to its buyer's resale restrictions consistent with this Section 4 and Buyer shall be responsible for its buyers' adherence to such resale restrictions. At its option, upon any violation of the policy in this Section 4 or any other provisions of this Sales Agreement, Buyer will be in breach of this Sales Agreement and Seller may terminate all further sales to Buyer, and in addition thereto Seller reserves all its rights and remedies pursuant to this Sales Agreement, and at law, or in equity.
5. **Packaging.** Seller reserves the right to package and ship by the means it determines in its sole and absolute discretion, including without limitation, unitizing, palletizing, boxing, and bundling.
6. **Shipment.** Seller shall deliver the Products FOB shipping point. Unless otherwise agreed by Seller in writing, Buyer must pay all transportation costs of the Products. Seller shall use reasonable efforts to meet the shipping date specified by Buyer. If Seller is unable to meet the shipping date specified by Buyer, Buyer has no claim for any damages resulting from any such delay in delivery.
7. **Final Sale; Returns.** Subject to the 10 day return policy as provided in Section 1, all sales of Assortments, Note Cards, Magnets, Mugs, Note Pads, Bookmarks, Coasters, Posters and other gift products are final and may not be returned or exchanged. A return authorization from Seller is required for return under the 10 day return policy in Section 1 or any limited exchange of everyday cards as permitted by Seller from time to time in its discretion. Any approved return under the 10 day return policy in Section 1 or for limited exchange of everyday cards must be securely packed by Buyer to reach Seller without damage. Buyer is responsible for returning the Products at Buyer's sole cost. Any return or limited exchange request shall be timely and directed to Seller at \_\_\_\_\_.
8. **Title and Risk of Loss.** Title to the Products passes to Buyer when the Products are fully paid for. Seller is not responsible for damage or loss in transit. All risk of loss to the Products passes to Buyer as the Products are loaded onto the carrier at the FOB shipping point. Buyer shall be solely responsible for obtaining adequate insurance to cover the Products from the time risk of loss has passed from Seller.
9. **Warranty.** Unless otherwise expressly provided in writing by Seller, Seller provides the Products on an "AS IS" "WITH ALL FAULTS" basis without warranty. **SELLER DISCLAIMS ANY IMPLIED WARRANTIES OR OTHER WARRANTIES BY OPERATION OF LAW WITH RESPECT TO THE PRODUCTS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ANY OTHER MATTER. THIS SECTION SURVIVES THE TERMINATION OR CANCELLATION OF THE SALES AGREEMENT.**
10. **Conditions of Applicability or Warranty.** Seller's warranty of any Product, if any, is of no effect if (i) the Product is not stored or handled appropriately, (ii) the defect of the Product resulted from damages occurring after delivery of the Product, or (iii) the defect of the Product has not been reported to Seller within 10 days after delivery.
11. **Remedies; Liability Limitation.** **IN NO EVENT IS SELLER RESPONSIBLE OR IN ANY WAY TO BUYER FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, ALL DIRECT AND INDIRECT LOST PROFITS, REGARDLESS OF WHETHER THOSE DAMAGES WERE FORESEEABLE. IN ALL CASES, BUYER'S SOLE REMEDY AND SELLER'S LIABILITY SHALL BE LIMITED SOLELY TO THE REPLACEMENT OF THE DEFECTIVE PRODUCTS WITH THE SAME OR SIMILAR PRODUCTS.**
12. **Termination.** In the event of a breach by Buyer, Seller may terminate the Sales Agreement upon giving 10 days written notice of termination. If the Sales Agreement is terminated by Seller because of Buyer's breach, Seller is entitled to reasonable reimbursement for any labor, material or other expenses incurred in connection with the Sales Agreement, plus a reasonable amount for overhead.
13. **Excusable Delays.** Seller is not liable or responsible for delay or failure to perform any of Seller's obligations under the Sales Agreement to make delivery of Products occasioned by (i) any cause beyond its reasonable control, including, but not limited to, a labor dispute, industry disturbance, fires, unusually severe weather conditions, earthquakes, floods, declared or undeclared war, epidemics, computer malfunctions, civil unrest, riots, lack of supplies, delay in transportation, governmental, regulatory or legal action, act of God or terrorism, or (ii) by acts or omissions of Buyer, including, but not limited to, Buyer's failure to promptly comply with the terms of payment under the Sales Agreement ("Excusable Delays"). The date of delivery shall be automatically extended for a period equal to the time lost by reason of any of the Excusable Delays.
14. **Indemnification.** Buyer shall defend and indemnify Seller and its employees and agents against all sums, costs, liabilities, losses, obligations, suits, actions, damages, penalties, fines, interest and other expenses (including investigation expenses and attorneys' fees) that Seller may incur or be obligated to pay as a result of (i) Buyer's negligence, use, ownership, maintenance, transfer, transportation or disposal of the Products; (ii) any infringement or alleged infringement of the industrial and intellectual property rights of others directly or indirectly arising from Buyer's business and use and sale of the Products (including Buyer's trademarks and brand names) or production of the Products ordered by Buyer; (iii) Buyer's violation or alleged violation of any federal, state, county or local laws or regulations, including without limitation, the laws and regulations governing product safety, labeling, packaging and labor practices; and (iv) Buyer's breach of the Sales Agreement.
15. **Entire Agreement; Modification; Waiver.** The Sales Agreement comprises the complete and final agreement between Seller and Buyer and supersedes all prior negotiations, proposals, representations, commitments, understandings or agreements between Seller and Buyer, either written or oral, on its subject. No other agreement, quotation or acknowledgment in any way purporting to modify any of the terms of the Sales Agreement is binding upon Seller unless made in writing and signed by Seller's and Buyer's authorized agents. The Sales Agreement may not be altered or modified except by written agreement of Seller and Buyer. Any other representations or warranties made by any person, including employees or other agents of Seller, that are inconsistent with the Sales Agreement must be disregarded by Buyer and are not binding upon Seller. If any model or sample were shown to Buyer, such model or sample was used merely to illustrate the general type and quality of goods and not to represent that the Products would necessarily conform to the model or sample. The waiver by Seller of any breach by Buyer of any

provision of the Sales Agreement may not be construed to be either a waiver of the provision itself as to subsequent application or any other provision of the Sales Agreement.

16. **Successors and Assigns.** This Sales Agreement binds and inures to the benefit of Buyer and Seller and their respective successors and permitted assignees. The Buyer may not assign any interest in, nor delegate any obligation under the Sales Agreement, without Seller's prior written consent.

17. **Governing Law; Venue; Attorney Fees.** The validity, construction and performance of the Sales Agreement is governed by, and must be construed in accordance with, the laws of the state of Colorado, without regard to its conflicts of law provisions. The U.N. Convention on Contracts for the International Sales of Goods does not apply to the Sales Agreement and all of its terms must be construed in accordance with the Uniform Commercial Code as enacted in the state of Colorado. Buyer irrevocably submits and agrees to the jurisdiction of the state and federal courts of the state of Colorado in Denver, Colorado in any action, suit or proceeding related to, or in connection with, the Sales Agreement or the Products and Buyer waives any defenses and expressly consents to personal jurisdiction and venue in such courts. If any action is brought by Seller to enforce any of the terms of this Sales Agreement, Seller shall recover its costs and expenses, including reasonable attorney's fees, in addition to any other relief to which it may be entitled pursuant to this Sales Agreement.

18. **Severability.** If any provision of this Sales Agreement is held by a court of competent jurisdiction to be contrary to law or public policy it shall be construed to be enforceable to the maximum extent permitted by law, and in all cases the remaining provisions of this Sales Agreement remain in full force and effect in accordance with its terms.

19. **Survival.** The terms of this Sales Agreement that by their nature are reasonably intended by the parties to survive its expiration or earlier termination, including, but not limited to, Sections 4, 7, 8, 9, 10, 11, 14, 16 and this Section 19, survive the expiration or termination of this Sales Agreement.

**6/24 Version**

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