



## Terms of Order and Sale

All sales of products or services (collectively, "products") made by Simplicity Corporation ("Simplicity") to any customer ("Buyer") are subject to the following terms and conditions ("Terms of Sale"):

- 1. Binding Provisions.** Unless otherwise agreed in writing, no Terms of Sale other than those terms and conditions set out below shall be binding upon Simplicity. Nothing contained in any purchase order or other written or verbal communication between Simplicity and Buyer shall in any way modify these Terms of Sale or add any additional terms or conditions. Buyer accepts these Terms of Sale on the first occurrence of (i) Buyer's acceptance of any Simplicity products, (ii) Delivery of Simplicity products to Buyer, or (iii) Buyer payment on any Simplicity invoice.
- 2. Ordering.** All orders for products submitted by Buyer shall be initiated by Buyer by written purchase orders sent to Simplicity. No order shall be binding upon Simplicity until accepted by Simplicity in writing. Purchase orders accepted by Simplicity may not be cancelled by Buyer. All orders are subject to Simplicity's Wholesale Minimum Order Policy.
- 3. Payment and Taxes.** Unless otherwise agreed in by Simplicity, Buyer agrees to pay for the products 50% upon placement of a purchase order by Buyer and 50% upon Delivery. All invoiced amounts are due upon receipt. Any past due amounts will incur a service charge of 1.5% per month on any outstanding balance or the maximum legal rate allowed by law, whichever is less. Any sales, excise or other taxes, if any, shall be added to the invoice and shall be paid by Buyer. To avoid Texas sales tax, all wholesale Buyers must provide a copy of (i) a valid Resale Certificate or Wholesale Business Tax ID Number from State of Texas, or (ii), if located in another state, an equivalent document issued by the state where the wholesale Buyer is located.
- 4. Delivery, Title and Risk of Loss.** Simplicity will deliver all products FCA, Simplicity's facility, as defined in INCOTERMS 2000 ("Delivery"). The cost of any special packing, insurance, or special handling caused by Buyer's requirements or requests shall be added to the amount of the purchase order. Title to products and risk of loss shall transfer to the Buyer upon Delivery. Simplicity will take reasonable efforts to complete delivery of the products as agreed by Simplicity in writing, but Simplicity is not responsible or liable for, and will accept no off-set for, loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to Simplicity, including, but not limited to, causes due to acts of God, war, fire, terrorism, labor difficulties, accidents, inability to obtain materials, delays of carriers, contractors or suppliers, or any other causes of any kind whatever beyond the reasonable control of Simplicity.
- 5. Inspection/Acceptance.** Claims for damage, shortage or errors in shipping must be reported within two (2) business days following receipt of the products by Buyer, otherwise products will be deemed accepted. Claims for products damaged or lost in transit should be made by Buyer to the carrier as Simplicity's responsibility ceases upon Delivery or tender of goods to Buyer or Buyer's representative.
- 6. Return Policy.** No returns are allowed on any custom orders or 30 days after Simplicity's invoice date. Any returns -- including warranty returns -- will NOT be accepted without Simplicity's prior written permission and must have a Simplicity Return Material Authorization Number. Return shipping and insurance costs are the responsibility of the Buyer. All product must be returned in original packaging and condition. Non-warranty returns will be charged a 25% re-stocking fee.
- 7. Warranty.** Simplicity's products are finely hand crafted pieces of art often utilizing unique materials, both man-made and natural. Simplicity therefore cannot guarantee exact color matches for or across materials, dye lots, styles or sizes from one order to the next. Simplicity will make every effort to match a Buyer's order as closely as possible, and inform the Buyer immediately if color variation is deemed by the Simplicity to be substantially different between items shown in Simplicity's promotional material, catalog(s), or website. Colors shown on Simplicity's promotional material, including Simplicity's Website may vary from the actual final artwork. To the extent permitted by applicable law, Simplicity warrants its product to be free from defects in materials and workmanship for a period of 30 days from the date of shipping to Customer. Except for this warranty, Simplicity disclaims any representations, warranties or other guaranties of any kind, expressed or implied, with respect to products sold including, without limitation, their use, design, application, operation, merchantability, physical condition, or fitness for a particular purpose. All material state weights of materials are approximations.
- 8. Limitation of Liability.** In no event shall Simplicity be liable hereunder for any indirect, special, incidental, punitive or consequential damages (including but not limited to loss of revenue or profits, any failure to realize savings or other benefits, loss of reputation) whether based on contract, tort or any other legal theory, even if Simplicity has been advised of the possibility of such damages. In no event shall Simplicity's liability hereunder exceed the amounts received by Simplicity pursuant to this agreement for the products giving rise to the claim, even though Simplicity was advised of the possibility of such damages.
- 9. Copyrights.** Simplicity and its logo are trademarks/copyrights owned by Simplicity Corporation. All the products sold are copyrighted designs owned by or licensed to Simplicity Corporation. Simplicity reserves all rights in and to its products and in all of its promotional materials.
- 10. Governing Law, Disputes and General Terms.** Any sale of Simplicity's Products and these Terms of Sale shall be governed and interpreted in all respects by the laws of the State of Texas (excluding choice of law provisions). All actions, regardless of form, arising out of or related to the sale of the Products sold hereunder shall be brought against Simplicity within one (1) year after the date of Simplicity's invoice. The federal and state courts Dallas County in the State of Texas, United States of America, shall have jurisdiction over all controversies that may arise under or in relation to this Agreement, especially with respect to the execution, interpretation and compliance with the terms of this Agreement. The agreement subject to these Terms of Sale is to be at least partially performed in Dallas County, Texas, and, as such, the parties hereto agree that venue shall be proper with the state or federal courts in Dallas County, Texas to hear such dispute, the parties hereto waiving any other venue to which they might be entitled by virtue of domicile, habitual residence or otherwise. Buyer hereby waives service of process for any action or claim brought by Simplicity provided that notice is given to Buyer by United States Registered mail or overnight international courier to Buyer's address. Simplicity shall be entitled to reasonable costs of collection (including, without limitation, reasonable attorney's fees and court costs) from Buyer on any past due amounts. If any provision hereof is held to be illegal, invalid or unenforceable under any present or future laws, such provision shall be fully severable and the Terms of Sale herein shall be construed and enforced as if such illegal, invalid or unenforceable provision had never been made a part hereof. The remaining provisions herein shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provisions or by their severance herefrom. The Terms of Sale contained herein may not be added to, modified, superseded or otherwise altered except by a written modification signed by the Simplicity's authorized representative. All sales of Products shall be governed solely by the Terms of Sale contained herein.

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