

Fluttering Bloom Designs, LLC

Shelly Pender, owner



PLEASE READ THESE TERMS AND CONDITIONS COMPLETELY AND CAREFULLY. For purposes of these terms and conditions, "We," "Us," "Our," and "Fluttering Bloom Designs," – aka FBD, shall mean Fluttering Bloom Designs, and "You," or "Your," shall mean the person or entity placing an order or otherwise subject to these terms and conditions. By placing an order, You acknowledge that You have read, understood and agree to be bound by the terms and conditions set forth below. If You do not agree to be bound by these terms, then do not place an order with Us. Any attempt to place an order in a manner that attempts to modify, amend, nullify or otherwise change any of the Terms is hereby rejected and shall not be binding upon FBD unless expressly agreed upon in a separate writing and signed by one of Our officers.

Orders

Placement of an order and acknowledgement of the order does not constitute acceptance of an order by Us. We will clearly provide written acceptance or rejection of an order within 2 business days from receipt of Your order during normal business hours. Acceptance or rejection will be provided via email or some other electronic means and will clearly state whether Your order has been accepted or rejected.

Design and Consent

By placing an order, You are consenting to allow FBD to create a design for You using their best judgment and discretion, guided by Your product selection and any written instructions provided by You. Our products are handmade, custom art pieces and subject to creative decisions made during the design stage and throughout the production process. Our choices will be governed by Your design request (if applicable), aesthetics, material quality, and other considerations, including impacts to Our brand.

Because of the handmade artisan nature of Our products, requests for multiple items to be produced to look identical cannot be honored; however, We will make every effort to ensure the products are of similar characteristics. Similarly, due to variations in raw materials, and the handmade nature of Our designs, We cannot guarantee the final color shade of the products will be exactly the same or will exactly match the shade You requested.

Any changes or alterations/modifications to Your design or order may result in additional charges and may delay Your anticipated shipment/delivery date. We are not responsible for any delays or other repercussions resulting from changes or alterations/modifications requested by You.

Personal Items

Should You provide any personal item to Us for incorporation into Your design; You do so at Your own risk and We are not liable for any loss or damage to Your personal item(s).

Fees and Payment

All orders must be paid at the time You submit your order to Us. Payment for any additional charges resulting from changes or alterations/modifications requested by You may, at Our sole discretion, be required prior to Us making such changes or alterations/modifications. We do not accept COD orders, installments, or other credit terms. We offer several methods of payment. Prices quoted in Our advertising media, including on Our website and social media pages, are exclusive of sales tax, shipping charges, and other additional fees (such as rush order surcharges). These charges will be provided to You via an invoice, which may be an automated web medium via Our website or social media pages and must be paid at the time You place Your order.

For large quantity orders, custom orders, or orders for events, We require a non-refundable retainer of at least 50% of the order price to be paid with Your order placement. The remaining 50%, plus the applicable shipping and handling fees, and any other change fees, must be paid prior to shipment/delivery.

Refunds and Returns

ALL SALES ARE FINAL AND NO REFUNDS WILL BE GIVEN UNDER ANY CIRCUMSTANCES FOR ORDERS WE HAVE ACCEPTED. However, if We reject Your order, or if Your order is cancelled within 24 hours of order placement, We will refund the amount We actually received from You. We will not accept any returned items.

Intellectual Property

All content on Our website, social media sites, marketing materials, and the designs of Our products, including custom made products and orders, is the property of FBD or its content supplies and is protected by the United States and international copyright and intellectual property law. The compilation of the content on our website, social media sites,

marketing materials and the designs of our products, including custom made products and order, is the sole and exclusive property of Fluttering Bloom Designs, with copyright ownership thereof protected by the United States and international copyright laws. Our products, including custom designs and designs resulting from Your specifications, requests, or ideas are not considered works for hire or otherwise commissioned works, and We retain sole and exclusive ownership of the same. In such event wherein You would otherwise be granted copyright or other ownership rights of a design in whole or part, produced by Us, You hereby do irrevocably and perpetually assign and grant ownership of the same to FBD, and in doing so, You hereby waive any rights and claims You would otherwise have in the same.

Shipping and Risk of Loss

We normally ship products via the United States Postal Services (USPS) and Our shipping rates are based on the Real Time Rates of the USPS. Shipping charges are calculated by the weight and size of the product(s) being shipped, along with the address characteristics of Your location. We reserve the right to ship orders that have multiple products or large quantities in multiple shipments. Once Your product(s) are shipped, We will provide You with the shipment tracking number(s), which You can track on the shipping carrier's website. For rush orders, orders required by a specific date, or at Your request, We may use a different shipping carrier, such as UPS or FedEx, and the shipping rates will be based on their prevailing rates at the time for the specific shipping services required (ex. next day morning deliver would be more than standard next day). We reserve the right to require a signature for any shipment, and We will try to notify You in advance of this requirement. Shipping charges are not refundable under any circumstances. We are in no way liable to You for shipments arriving late, or lost shipments, caused by the shipment carrier.

We are not responsible for any damage to the product(s) once they are provided to the shipment carrier. If Your product(s) is damaged in delivery, You must notify Us within two (2) business days, and We may assist You with filing a claim with the carrier. Please note that a claim can only be filed if You have the original packaging.

If You provide an incorrect address, rendering the package undeliverable; refuse package delivery; fail to pick up a package from the carrier; fail to ensure someone is available to sign for the package (when required); or if the package is otherwise returned to Us through no fault of Ours, You will be responsible for any shipping charges and additional fees for Us to re-send the package to You.

Limitation of Liability and Indemnities

YOU ASSUME ALL RISK AND LIABILITY FOR LOSS, DAMAGE OR INJURY TO PERSONS OR TO PRODUCTS OR TO YOUR PROPERTY OR THAT OF OTHERS ARISING OUT OF OR RELATING TO THE HANDLING, STORAGE, PRESENCE OR USE OF THE PRODUCT(S) SHIPPED HEREUNDER. YOU AGREE TO INDEMNIFY AND HOLD FLUTTERING BLOOM DESIGNS LLC, INCLUDING ITS OWNERS OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS, PARTNERS AND AFFILIATES (COLLECTIVELY FLUTTERING BLOOM DESIGNS, LLC) HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, DAMAGES, COSTS OR EXPENSES INCLUDING ATTORNEY FEES AND COURT COSTS, WHICH MAY OCCUR BY REASON OF DEATH, PERSONAL INJURY OR PROPERTY DAMAGE, CLAIMS OF THIRD PERSONS OR OF YOU, WHETHER GROUNDLESS OR NOT, ARISING FROM AN ACCIDENT OR OTHER CAUSE RELATING TO, ARISING OUT OF, OR OCCURRING IN CONNECTION WITH THE SALE, HANDLING, TRANSPORTATION, STORAGE OR USE OF PRODUCT(S) SOLD TO YOU. THE TOTAL LIABILITY OF FLUTTERING BLOOM DESIGNS, LLC TO YOU FROM ANY CAUSE WHATSOEVER, WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCTS LIABILITY OR ANY OTHER THEORY OF LIABILITY, WILL BE LIMITED TO THE PURCHASE PRICE PAID TO FBD, EXCLUDING SHIPPING, TAXES, RUSH ORDER CHARGES, OR ANY OTHER EXTRA FEES FOR THE PRODUCTS THAT ARE SUBJECT TO YOUR CLAIM. THESE LIMITATIONS OR LIABILITY OR REMEDIES PROVIDED HEREIN SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY AND NO OTHER COURSE OF ACTION MAY BE MAINTAINED. FBD SHALL NOT UNDER ANY CIRCUMSTANCES, BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF WORK IN PROGRESS, DOWNTIME OR LOSS OF PROFITS. ALL CLAIMS HEREUNDER AGAINST SELLER MUST BE BROUGHT WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ARISES AND YOU EXPRESSLY AGREE TO THIS ONE YEAR PERIOD AND WAIVE ANY OTHER STATUTE OF LIMITATIONS WHICH MIGHT APPLY BY OPERATION OF LAW OR OTHERWISE.

Warranty

FLUTTERING BLOOM DESIGNS HEREBY DISCLAIMS ALL WARRANTIES AND LIABILITIES RELATED TO ITS PRODUCTS, PRODUCTS ARE SOLD ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND WE MAKE NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON OUR WEBSITE, SOCIAL MEDIA SITES, MARKETING MATERIALS, OR ANY OTHER MEDIUM. YOU EXPRESSLY AGREE THAT THE PLACEMENT OF AN ORDER, USE OF OUR PRODUCTS, AND RELIANCE ON ANY INFORMATION PRESENTED ON OUR WEBSITE, SOCIAL MEDIA SITES, MARKETING MATERIALS, OR ANY OTHER MEDIUM IS DONE SO AT YOUR OWN AND SOLE RISK. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, FBD DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, UNDER NO CIRCUMSTANCES WILL FBD BE LIABLE FOR ANY DAMAGES WHATSOEVER OF ANY KIND ARISING FROM THE USE OF OUR WEBSITE, SOCIAL MEDIA SITES, MARKETING

MATERIALS, INFORMATION PRESENTED IN ANY OTHER MEDIUM OF OUR PRODUCTS, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, INCIDENTAL, PUNATIVE, AND CONSEQUENTIAL DAMAGES.

Disputes

Any dispute relating in any way to the products You have ordered, or Your use of any of Our websites, social media sites, or other marketing media shall be submitted to confidential arbitration in the State of Illinois, USA, except that to the extent You have in any manner violated or threatened to violate these terms and conditions or Our intellectual property rights. We may immediately seek injunctive or any other appropriate relief in any state or federal court in the State of Illinois, USA, and You consent to exclusive jurisdiction and venue in such courts. Arbitration under this agreement shall be conducted under the then prevailing rules of the American Arbitration Association. Subject to the limitations set forth in these Terms related to Fluttering Bloom Designs limitations of liability, and Your indemnity thereof, the arbitrators award shall be binding and may be entered as a judgement in any court of competent jurisdiction. To the fullest extent permitted by applicable law, no arbitration under these Terms shall be joined to an arbitration involving another party subject to these Terms, whether through class arbitration or otherwise.

Force Majeure

We will not be considered in default in the performance of Our obligations hereunder or be liable in damages or otherwise for any failure or delay in performance which is due to strike, lockout, concerted act of workers or other industrial disturbance, fire, explosion, flood, or other natural catastrophe, civil disturbance, riot or armed conflict whether declared or undeclared, curtailment, shortage, rationing or allocation of normal sources of supply of labor, materials, transportation energy or utilities, mechanical breakdown, equipment failure, accident, Act of God, delay of subcontractors or vendors, error or omissions by You, sufferance, of or voluntary compliance with acts of government and government regulations (whether or not valid), embargo, or due to any other cause whether similar or dissimilar to any of the causes or categories of causes described above and which is beyond Our reasonable control.

Governing Law and Jurisdiction

This agreement and the rights and obligations of the parties hereto shall be governed by and construed in accordance with the laws of the State of Illinois. The parties hereby agree that the United Nations Convention on Contracts and the United Nations Convention on Contracts for the International Sale of Goods will not apply to this contract.

Miscellaneous

No modification, amendment, revision, discharge, abandonment, or waiver of these and other terms and conditions of sale shall be binding upon Fluttering Bloom Designs unless set forth in writing and signed by one of Our officers. The Terms constitute the entire agreement between the parties. The failure of FBD at any time to require performance by You of any provision of these Terms shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of a breach of any provision herein by Us constitute a waiver of any succeeding breach of the same or any other provision. These Terms may not be assigned by You without Our prior written consent. These Terms shall insure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto. If any term or provision of this agreement, or the application thereof to any circumstances, shall be invalid or unenforceable, the remainder of this agreement shall not be affected thereby.

Signed: _____ Date: _____