



# TERMS AND CONDITIONS OF SALE

**A. Validity of these terms and conditions of business**

All deliveries and services are carried out exclusively on the basis of the following terms and conditions of business. In the event of any conflict or inconsistency between the terms and conditions of sale herein and the terms and conditions contained in Buyer's order or in any other form issued by Buyer, whether or not any such form has been acknowledged or accepted by Blum Canada Ltd. ("Blum"), the terms and conditions herein shall prevail. No waiver, alteration or modification of these terms and conditions shall be binding upon Blum unless expressly accepted in writing and signed by a duly authorized representative of Blum. An acceptance and official confirmation of Buyer's order for the product(s) ordered (the "goods") by Blum shall constitute the complete agreement, subject to the terms and conditions of sale herein set forth, and shall supersede all previous quotations, orders or agreements.

**B. Prices and terms of payment**

1. All prices are estimated and are based on the calculation basis on the date of concluding the contract (e. g; raw material prices, exchange rates, personnel costs, energy and transport costs, etc.) and are exclusive of transport packaging. Prices do not include Goods & Services Tax, Provincial or Municipal sales, use, value-added or similar tax. Accordingly, in addition to the price specified herein, the amount of any present or future sales, use, value-added or similar tax applicable to the sale of the goods hereunder to or the use of such goods by Buyer shall be paid by Buyer to the complete exoneration of Blum.
2. Payment must be made of the final invoiced amount in the invoiced currency, without setoff, abatement or deductions.
3. The invoiced amounts fall due for payment no later than 5 working days after the date of the invoice unless otherwise agreed. When a payment period is agreed, the due date is calculated from the date of the invoice.
4. If the due date is exceeded, without prejudice to other statutory rights, interest on arrears shall be charged at the statutory rate. The Buyer undertakes to refund all costs incurred in the course of any legal steps taken, such as, for example, reminders and collection costs, court and lawyers' costs, insofar as these are proportionate to the claim pursued.
5. All payments must be made directly and exclusively to Blum; payments by third parties shall have no debt-discharging effect. Agents and commercial agents are not entitled to collect payments.
6. If the Buyer's assets situation deteriorates (for example, court proceedings, executions or insolvency proceedings, etc.) or if the agreed payment deadline is not met, Blum shall be entitled to immediately demand payment of all claims and to withdraw from the purchase contract; Blum shall, moreover, be released from making further deliveries. The Buyer shall not retain any payments due or offset them against counterclaims of any kind whatsoever.
7. Unless otherwise stated in the quotation, quoted prices are subject to change by Blum with or without notice. Prices are subject to correction for error.

**C. Delivery, Installation, Transfer of risk**

1. All terms relating to the shipment of the goods by Blum to the Buyer shall be and shall be deemed for all purposes to be Free Carrier (FCA) as that term is defined as INCOTERM by the International Chamber of Commerce from time to time. Costs and risks of the Buyer shall be governed by the INCOTERM definition applicable thereto, under the INCOTERM terms current at the time of shipment.
2. Partial deliveries as well as excess and short deliveries of up to 10 (ten) percent are permitted and the Buyer is obliged to take the same. In such a case, the purchase price shall be adjusted proportionately according to the actual delivery quantity.
3. Upon delivery pursuant to clause C. 1, the delivery shall be considered as accepted and the risk shall pass to the Buyer.
4. Delivery periods are calculated from the replacement times specified by Blum (the total of the regular production and regular transport times to the specified location in accordance with the agreed INCOTERM). When indicating delivery dates, delivery shall be made up to the last working day of the calendar week in which the delivery date falls.
5. Delivery schedules are approximate and are based on prevailing market conditions applicable respectively at the time of quotation and acceptance of Buyer's order. Delivery shall also depend on the prompt receipt by Blum of the necessary information to allow maintenance of the manufacturer's engineering and manufacturing schedules. Blum may extend delivery schedules or may, at its option, cancel Buyer's order in full or in part without liability other than to return any deposit or prepayment which is unearned by reason of the cancellation.
6. Unless otherwise expressly stipulated, the goods shall be installed by and at the risk and expense of Buyer. In the event that Blum is requested to supervise such installation, Blum's responsibility shall be limited to exercising that degree of skill customary in the trade in supervising installations of the same type. Buyer shall remain responsible for all other aspects of the work including compliance with all local and municipal regulations.

**D. Reservation of title**

1. Title to the goods or any part thereof shall not pass from Blum to Buyer until all payments (including interest, expenses and costs) due hereunder have been duly made, except as otherwise expressly stipulated herein. The goods shall be and remain personal or moveable property, notwithstanding their mode of attachment to realty or other property. If default is made in any of the payments herein, Buyer agrees that Blum may retain all payments which have been made on account of the purchase price as liquidated damages, and Blum shall be free to enter the premises where the goods may be located and remove them as Blum's property, without prejudice to Blum's right to recover any further expenses or damages Blum may suffer by reason of such nonpayment.
2. If the Buyer sells the goods delivered by Blum after further processing but prior to payment in full to Blum, the Buyer shall hold the purchase proceeds received for the Buyer's customers in trust for Blum. The Buyer hereby grants to Blum a security interest in the goods, all personal property in any form derived from any dealing with the goods and the proceeds therefrom including insurance proceeds and any other payment representing indemnity or compensation for loss together with all personal property and proceeds therefrom, until payment in full of the purchase price has been made, and agrees to do all things and to execute all documents necessary to protect such security interest.
3. In the case of processing or mixing of the goods delivered by Blum with other goods, Blum's title shall not be lost thereby. Blum shall acquire co-ownership in the proportion of the product used to the selling price of the goods. Title to the processed goods shall only be transferred to the Buyer when the latter has paid the purchase price in full.
4. Payments as well as assignments in advance are always made on account of performance. The approval of resale or further processing as well as the collection of the receivables do not constitute a waiver of the assignment in advance to third parties or a waiver of the reservation of title and the expectant right to the title.
5. In the case of payment arrears or insolvency of the Buyer's customer, the Buyer undertakes to take back the reserved goods or to demand the assignment of the surrender claims of these customers against third parties.
6. In the case of the cessation of payment or insolvency on the part of the Buyer, or an already effected attachment, its right to resale or further processing of the goods delivered by Blum shall expire, along with its right to the collection of outstanding amounts.
7. In so far as the validity of the reservation of title in the country of destination is subject to special conditions or formal requirements, the Buyer is obliged to ascertain and fulfil these requirements.

**E. Warranty and damages**

1. Goods sold hereunder are covered by a warranty against defects in material and workmanship provided the goods are subjected to normal use and service. Complaints must be notified within 10 working days after delivery or after discovery of the defect, or such claims shall otherwise lapse.
2. The warranty period is 24 months from delivery by Blum. The obligation under this warranty is limited to the repair or replacement, at Blum's option, of defective parts provided that proper notice of any defect is given by Buyer hereunder in writing within the applicable warranty period and only upon Buyer's return of the defective parts to Blum or, if designated by Blum, to a location where the works are made, properly packed and with all transportation charges and insurance prepaid by Buyer, and only after an inspection thereof reveals to Blum's satisfaction that Buyer's claim is valid under the terms of this warranty. Buyer assumes all responsibility and expense for dismantling, removal, re-installation and all labour related thereto and all freight in connection with the foregoing. Blum does not assume liability for any installation, reinstallation or other labour costs and expenses of any kind. If the customer of the Buyer (consumer) makes additional claims against Blum in accordance with local law, the Buyer shall fulfil these claims and shall indemnify Blum. This shall also apply in the event of a claim for damages and in the event of recourse by the Buyer.
3. In any other case, Blum, together with its suppliers, shall only be liable for gross negligence. Claims for damages shall become statute barred within 6 (six) months from knowledge of the damage and the party causing the damage.
4. Blum shall not be liable for and shall be held harmless by Buyer from any damage, losses or claims of whatever kind including without limitation any labour costs and expenses, whether contractual, special, consequential, exemplary, punitive, incidental, direct or indirect, arising out of, in connection with or resulting from the sale governed hereby or the goods themselves, including, but without limitation, the manufacture, repair, handling, installation, possession, use, operation or dismantling of the goods and any and all claims, actions, suits, and proceedings which may be instituted in respect to the foregoing. These limitations of liability shall also apply in the event of delay or partial delay in delivery as well as for recourse.
5. The Buyer must exclude its liability to its customers under clauses E. 2 and E. 3 for the benefit of Blum and Blum's suppliers.
6. A warranty claim and/or claim for damages from the combination of Blum products with third party products is expressly excluded. The Buyer must inform its customers thereof.

7. No goods may be returned without Blum's prior written permission. Blum reserves the right to decline all returns or to accept them subject to a handling/restocking charge. Blum reserves the right to adjust the amount of any credit given to Buyer on any return of the goods based on the conditions of the goods on arrival. Credit for returned goods will be issued to Buyer only where such goods are returned by Buyer and not by any subsequent owner of the goods. Goods will be considered for return only if they are in their original condition and packaging.
8. All other warranties, legal, expressed or implied, including but not limited to any expressed or implied warranty of merchantability, of fitness for the intended use thereof or against infringement are hereby expressly excluded.

**F. Final provisions**

1. The law of the Province of Ontario shall govern the validity, interpretation and enforcement of these terms and conditions of sale and of any contract of which these terms and conditions are a part. The Parties hereby agree that the provision of the United Nations Convention on the International Sales of Goods is expressly excluded from any sale of goods by Blum to the Buyer.
2. The place of performance for delivery and payment is exclusively Mississauga, Ontario, Canada for both parties, unless a different place of performance is specified in an individual order.
3. In relation to all disputes arising from this contract, the jurisdiction of the local competent court at Blum's principal place of business is agreed, and Blum shall be free to bring any legal dispute before any other legally competent court, including the court at the Buyer's principal place of business. The Buyer hereby expressly waives any trial by jury.
4. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct. The contracting parties shall replace the legally ineffective or unenforceable provision by an effective and workable provision which comes as close as possible to the content and purpose of the legally ineffective or unenforceable provision.
5. Blum shall not be responsible or liable for any loss or damage incurred by Buyer of any nature or kind, whether at statute, common law, equity or civil code resulting from causes beyond the reasonable control of Blum including, but without limitation, acts of God, war, invasion, insurrection, riot, the order of any civil or military authority, fire, flood, weather, acts of the elements, delays in transportation, unavailability of equipment or materials, breakdown, sabotage, lock-outs, strikes or labour disputes, faulty castings or forgings, or the failure of Blum's suppliers to meet their delivery promises. Furthermore, the acceptance of delivery of the equipment by Buyer shall constitute a waiver of all claims for loss or damage due to any delay whatsoever.

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For further information, please contact:

Iris Sharofi,  
General Manager  
Blum Canada Ltd.