



# Terms and conditions (T&C)

**Prices; Terms of Payment** – Payment of all invoice amounts shall be made in United States Dollars and by the date and terms set forth on the invoice. All payments must be made directly and exclusively to Blum Inc. (“Seller”) by the party identified on the applicable invoice; payments by any third party not identified on the applicable invoice shall have no debt-discharging effect. Seller may change prices and invoice the goods at the price in effect at the time of shipment, without prior notice to Purchaser. If shipment is delayed by request of Purchaser, Seller may demand payment as if shipment has been made. Outstanding accounts cannot be settled by any credits or offsets the Purchaser may have with or against Seller. Overdue and unpaid invoice amounts shall bear interest at the lesser of (a) a rate of 1 1/2 percent per month (annual rate of 18 percent) and (b) the highest rate permitted under applicable law.

**Cancellation** – Orders accepted by Seller shall not be subject to changes, cancellation or suspension except with Seller’s prior written consent. Upon the occurrence of any default in payment or other Event of Default, Seller shall be entitled to refrain from shipping to Purchaser any undelivered portion of the ordered goods.

**Taxes** – Invoice amounts do not include any tax or charge imposed by Federal, State, Municipal, or Foreign authorities, which shall be assumed and paid by the Purchaser. If Seller pays any such tax, Purchaser shall promptly reimburse Seller for all such taxes.

**Delivery** – Seller shall deliver the goods, at Seller’s option, either (a) F.C.A. Stanley, NC (Incoterms® 2010) or (b) F.O.B. Stanley, NC, or such other location as Seller may choose, as soon as possible after receipt of the order, and Purchaser shall bear the risk of loss and risk of damage for ordered goods once such goods have been delivered by Seller to a commercial carrier. Delivery shall be made by commercial carrier, unless otherwise agreed to by Purchaser and Seller. Seller shall not be responsible for delivering goods to Purchaser by a date certain unless expressly agreed to in writing. Should delay in delivery be caused by an act or omission of the Purchaser, the delivery period may be extended as may be reasonable under the circumstances. No order may be cancelled by Purchaser as a result of delays in delivery or for any other cause except by written agreement of Purchaser and Seller, but Seller shall have the option of canceling any undelivered portion of any order if unable to deliver the goods within six months of the order date. Unless otherwise agreed in writing at the time an order is placed, Seller may make partial shipments and submit invoices for partial shipments. If any part of the goods is not delivered by Seller or is not in accord with the description contained in the order, the order for the remaining goods and the respective obligations of the parties in connection therewith shall in no way be affected.

**Limited Warranty** – Seller warrants the goods to be free from defects in material and workmanship for the period of six months from the date of shipment (the “Defect Warranty”). Except as expressly provided herein, SELLER HAS NOT MADE AND EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY GOODS OR PRODUCTS PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. If the goods should fail to conform to the order or to the Defect Warranty, Purchaser shall promptly notify Seller in writing, and Seller’s sole and exclusive obligation, and Purchaser’s sole and exclusive remedy, shall be the repair or replacement, at Seller’s option, of the nonconforming goods or parts thereof. Such repair or replacement shall be, at Seller’s option, either (a) F.C.A. Stanley, NC (Incoterms® 2010) or (b) F.O.B. Stanley, NC (or such other place for delivery as chosen by Seller) and shall not include the cost of delivering the defective goods to Stanley, NC, nor any labor or labor-related costs in the replacement of the defective nonconforming goods or parts. All warranty claims of Purchaser shall be deemed waived if not delivered in writing to Seller within six months from the date of Purchaser’s receipt of the goods. Subject to the Defect Warranty, Seller, together with its suppliers, shall have no liability to Purchaser for any damage or loss except to the extent related to Seller’s gross negligence or willful misconduct hereunder. IN NO EVENT SHALL SELLER BE LIABLE TO PURCHASER UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES OR LOST PROFITS OR LOSS OF GOODWILL.

**Acceptance** – Promptly upon its receipt of goods from Seller, Purchaser shall inspect such goods. If any goods are found to be defective or other than as set forth in the applicable invoice, or if any shortage is discovered, Purchaser shall promptly and, in any event, within 15 days after the date of the invoice, notify Seller in writing of such nonconforming condition. If no such written notice is received by Seller within fifteen days of the date of the invoice, Purchaser shall conclusively be deemed to have accepted the goods listed or described on the applicable invoice. If the Purchaser refuses acceptance of any goods, Purchaser will notify Seller immediately, and until such time that Seller accepts return, Purchaser shall: (1) segregate, and keep segregated, all such goods; and (2) take such action as may be necessary to protect Seller from (a) risk of loss or damage to the goods, whether by fire, other casualty or theft, and (b) all claims and interests of third-parties.

**Returns** – Purchaser must receive prior authorization from Seller before returning goods to Seller. Seller reserves the right to refuse and return collect shipments that are returned without authorization. Returned goods may be subject to a restocking fee of 25% of the invoice amount, as well as the cost of repairing any damaged item.

**Disputes** – If Purchaser disputes any obligation owed by it to Seller, Purchaser shall deliver a written explanation of such dispute to Seller within five (5) days of Purchaser's discovery of the event or condition giving rise to such dispute. Until such dispute is resolved, Seller in its sole discretion may refuse to perform any obligation then owed by it to Purchaser. Purchaser's failure to timely deliver a written notice of dispute shall be deemed to be a waiver of such dispute.

**Defaults and Remedies** – It shall be an Event of Default if Purchaser fails to pay Seller any amount as and when due, as set forth in the applicable invoice, or if Purchaser breaches any duty under these Terms of Sale. Upon the occurrence of an Event of Default, all amounts owed by Purchaser to Seller shall be deemed to be immediately due and payable to Seller without notice or demand, and Seller may exercise any remedy available at law, including any remedy available under Article 2 or Article 9 of the Uniform Commercial Code. If, a material change has occurred with respect to Purchaser or Purchaser otherwise fails to pay an invoice in accordance with these Terms of Sale, then Seller may notify Purchaser and demand in writing that Purchaser provide to Seller adequate assurance of Purchaser's ability to perform its obligations hereunder. Such adequate assurance may take the form of a prepayment from Purchaser to Seller in such amount as Seller reasonably deems sufficient, a provision of additional credit support in the form of letters of credit, third party guaranties and/or collateral security in such forms and amount and provided by such parties as Seller deems sufficient. Seller may refuse to ship additional goods to Purchaser if Seller has any reason to believe that Purchaser may not perform completely and on time. Any dispute, including any dispute regarding payment or any warranty claim, may be brought in, and heard and decided by, any court sitting in Mecklenburg County, North Carolina. Purchaser shall be responsible and reimburse Seller for Seller's reasonable attorneys' fees and expenses in connection with any demand, litigation, arbitration or other proceeding resulting from or arising after the occurrence of an Event of Default.

**Security Interest** – As security for the due and punctual payment and performance of Purchaser's obligations to Seller, Purchaser hereby grants to Seller a purchase money security interest in all goods and inventory purchased by, ordered by and/or shipped or sold to Purchaser by Seller from time to time and all substitutions, accessions, additions, raw materials, supplies, work in process, finished goods and proceeds, including accounts receivable and insurance proceeds, of the foregoing (whether now existing or hereafter arising). Purchaser authorizes Seller as Purchaser's true and lawful attorney and agent-in-fact to file financing statements (including amendments thereto and continuations thereof), documents and other agreements and instruments and do such other acts and things as may be necessary to preserve Seller's security interest so long as they are consistent with the intent of these Terms of Sale. Purchaser shall reimburse Seller for applicable filing fees and Seller's reasonable attorneys' fees and expenses in connection such filings and actions described in the preceding sentence.

**Order and Invoice** – All goods shipped by Seller are subject only to the terms and conditions set forth on the applicable invoice, these Terms of Sale, and any other written agreement executed by Purchaser and Seller.

**General – A.** These Terms of Sale supplement each invoice sent by Seller to Purchaser, and may not be amended, supplemented or abrogated, in whole or in part, except by a written agreement executed by both Purchaser and Seller. These Terms of Sale and each invoice shall constitute the complete agreement between Seller and Purchaser, and shall supersede all prior oral or written statements of any kind whatsoever made by Seller and Purchaser, or their representatives, with respect to the goods delivered with such invoice. All sales are made subject to these Terms of Sale, and Seller objects to any different or additional terms or conditions contained in Purchaser's purchase order or any other document submitted by Purchaser. No terms or conditions different from or in addition to the terms of the Credit Application or these Terms of Sale will become part of any sales agreement, purchase order, or other document, unless specifically approved in writing by Seller. These Terms of Sale may not be modified or waived, in full or in part, by any employee or agent of Seller unless such modification or waiver is in writing and has been executed by an officer of Seller.

**B.** The goods listed on each invoice shall be kept and used by the Purchaser at the site at which the goods were delivered as long as any monies are due and outstanding under the applicable invoice unless written permission is given by Seller to move same.

**C.** If any provision of these Terms of Sale is found contrary to any applicable law of any state or should be held invalid by any Court of proper jurisdiction, all other provisions of this Contract shall remain in full force and effect.

**D.** As used in these Terms of Sale, the term "Purchaser" refers to each party listed on an invoice as being responsible for the payment for the goods shipped by Seller. If the party responsible for payment on an invoice is different from the party to whom the goods were shipped, then the Purchaser shall be responsible for ensuring that the party to whom the goods were shipped complies with the provisions of the Terms of Sale.

**E.** All invoices and these Terms of Sale are to be construed under the laws of the State of North Carolina, without giving effect to the choice-of-law provisions thereof.

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