

Valley Blades Limited

Standard Terms and Conditions

“Seller” means Valley Blades Limited, an Ontario corporation. “Buyer” means the person, firm or entity which is purchasing goods from Seller. “Goods” means the products supplied by Seller to Buyer pursuant to this Agreement. “Agreement” means these General Terms and Conditions together with any quotation (“Quotation”) the Seller may have provided to the Buyer. If Buyer has accepted delivery of the Goods, Buyer shall be deemed for all purposes to have full knowledge of the terms and conditions herein.

1. **SCOPE:** This Agreement is intended by the Parties as the final expression of their agreement and the complete and exclusive statement of the terms and conditions of the Agreement and supersedes all proposals, oral, written, or electronic and all other communications between the Parties relating to the subject matter of the Agreement. No terms stated by Buyer in any purchase order, acceptance or acknowledgment will become part of this Agreement unless expressly agreed to and accepted by Seller in writing and Seller hereby rejects any additional or different terms. Acceptance of the terms and conditions herein shall be considered to have occurred unless written notice of objection is received by Seller prior to shipment of Goods. No modification or rescission of this Agreement shall be effective unless made in writing and signed by both Parties, nor shall this Agreement be waived, modified, rescinded or altered by any subsequent course of dealing or performance between the Parties. These terms and conditions and the prices set out in the Quotation specifically recognize the allocation of the risks of performance of the Parties as well as the limitation of liability and damages and the Parties expressly agree that these limitations on remedies and obligations to indemnify are essential parts of the Agreement and specifically bargained for.
 2. **PRICES:** Prices quoted by Seller shall remain firm for a period of thirty (30) days from the date of a Quotation: provided however, that Seller reserves the right, at any time prior to the acceptance of a Quotation by Buyer, to adjust said prices by providing written notice to Buyer regarding any such adjustment. Quotations provided are priced based on Buyer’s purchase of the entire scope of Goods identified in such Quotation. If less than the entire scope of Goods identified in the Quotation is ordered by Buyer, prices may vary.
 3. **PAYMENT AND DELIVERY TERMS:** Payment terms and delivery schedules shall be as otherwise previously agreed to by Seller or as set out on Seller’s invoice.
 4. **DELIVERY:** All dates for shipment and/or delivery of Goods are approximate. Seller shall not be liable for delay in or failure to make shipment and/or delivery of Goods by any identified date for any reason whatsoever. In the event of any delay, regardless of the cause, the Parties will agree upon a new date of shipment and/or delivery of Goods. All references to freight charges contained in a Quotation is an estimate. Seller shall not be responsible for any differences, specifically including, without limitation, fuel surcharges, which may occur between freight estimates contained in a Quotation and actual freight charges applicable at the time of shipment, and Buyer shall be responsible for all costs associated therewith.
 5. **TAXES AND OTHER CHARGES:** To the extent legally permissible, all present and future excise levies or taxes or similar charges, specifically including, without limitation, H.S.T. imposed by any federal, state, provincial, foreign or local authority which the Seller may be required to pay or collect, upon reference to the sale, purchase, transportation, delivery, storage, use or consumption of Goods, including taxes upon or measured by receipts therefrom (except net income and franchise taxes), shall be for the account of the Buyer.
 6. **TITLE AND RISK OF LOSS:** Except if delivered under consignment, title and risk of loss for Goods transfers to the Buyer when the Goods are made available to the Buyer at Seller’s shipping point, unless Goods are shipped in Seller’s vehicles in which case title and risk of loss transfers to Buyer when the vehicle first enters Buyer’s property.
 7. **SECURITY INTEREST:** Buyer hereby grants Seller a security interest in the Goods to secure the unpaid balance of the purchase price and all other obligations of the Buyer to Seller however arising. Buyer authorizes Seller to file all necessary financing statements and other similar documents required to perfect the security interest granted herein and irrevocably grants Seller a power of attorney to execute any documents on behalf of Buyer relating thereto.
 8. **WARRANTY FOR SELLER PRODUCTS:** Seller warrants that the Goods manufactured by Seller shall be free from defects in material and workmanship under normal use and service when correctly installed, used and maintained. This limited warranty shall expire and terminate twelve (12) months after delivery of the Goods and shall not apply to Goods which have been subjected to misuse, abuse, neglect, improper installation, storage, handling and/or maintenance. Should Goods not conform to such limited warranty and upon confirmation by Seller that Goods have been delivered, stored, installed, operated and maintained in accordance with proper and reasonable standards, Seller shall, upon prompt notice by Buyer, either replace or repair only the defective Goods, or part thereof and Seller shall not have the right to reject the whole order or delivery because of the defect in one or more Goods. Such remedy shall be Buyer’s sole and exclusive remedy for breach of the limited warranty. The limited warranty herein is the sole and exclusive warranty of the Seller with regard to the sale of the Goods and are in lieu of all implied, statutory or other warranties of any kind, whether written, oral or implied by law. Without limiting the generality of the foregoing, Seller makes no warranty of merchantability or fitness for a particular purpose or other warranties arising by usage of trade, course of performance or course of dealing. To the extent the Goods provided by Seller include third party manufactured goods (“Third Party Components”) the warranty for such Third Party Components shall be limited to the warranty, if any, that Seller is authorized to pass through to Buyer for such third party.
 9. **WARRANTY FOR THIRD PARTY PRODUCTS:** To the extent that the Goods are manufactured by a third party (“Third Party Products”) and the Seller is acting as a mere distributor of such Third Party Products, the Seller provides no warranty other than the warranty, if any, that the Seller is authorized to pass through to the Buyer.
 10. **LIMITATION OF LIABILITY:** In no event shall Seller be liable for any special, indirect, consequential, incidental, exemplary or punitive damages whether arising under contract, warranty, tort, negligence, strict liability or any other theory of liability, including but not limited to loss of profits, loss of opportunity, loss of use of the Goods, loss of Goodwill or any similar theory of liability. Provided further, in no event shall Seller’s liability exceed the purchase price paid by the Buyer for the Goods, regardless of whether the claim is made in contract, tort, warranty, or other theory of damages.
 11. **INDEMNITY:** Buyer agrees to defend, indemnify and hold Seller, its officers, directors, agents and employees harmless from all claims, demands, actions and causes of action relating to personal injury or property damage to third parties, including solicitor’s fees and actual costs incurred as a result thereof, to the extent of its negligence or otherwise arising after delivery of the Goods to the Buyer.
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- 12. FORCE MAJEURE:** Seller is not liable for non-performance or delay in performance caused by circumstances beyond Seller's control ("Force Majeure Event"). A Force Majeure Event shall include, without limitation: (a) acts of God, war, riots, fire, explosion, floods, strikes, lockouts, injunctions, accidents, Goods short supply, unforeseen shutdown of major sources of supply, breakage of machinery or apparatus or national emergency, (b) the occurrence of any unforeseeable contingency making performance impracticable, or (c) compliance in good faith with any applicable government statute, regulation, decree, order or rule.
- 13. PATENTS, TRADEMARKS AND COPYRIGHTS:** No license or other rights under any patents, copyrights or trademarks owned or controlled by Seller or under which Seller is licensed are granted to Buyer or implied by the sale of Goods hereunder. Seller's drawings, blueprints, computer codes, technical information, intellectual property and know-how shall be the exclusive property of the Seller, and the Buyer shall have no right, title or interest therein. Buyer shall maintain in confidence, and shall not disclose to any third party, or use for any purpose other than that for which it is supplied, any information or property of Seller which is designated by Seller as confidential, secret or proprietary information of the Seller. Buyer shall not identify as genuine products of Seller any Goods purchased hereunder which Buyer has treated, modified or altered in any way, nor use Seller's trademarks on any such products.
- 14. GOVERNING LAW, INTERPRETATION:** The sale of the Goods pursuant to this Agreement and all contracts associated therewith shall be interpreted and governed by the laws of the Province of Ontario, and the laws of Canada applicable thereto notwithstanding conflicts of law principals. The United Nations Convention of Contracts for the International Sale of Goods does not apply to this Agreement. If any of the provisions of this Agreement are held to be invalid, illegal or unenforceable, then such provision shall be ineffective only to the extent of such invalidity and the unaffected provisions of this Agreement shall be unimpaired, and remain in full force and effect.
- 15. WAIVER:** No waiver by Seller of any breach of any term of the Agreement shall be deemed a waiver of any other breach. No delay in the enforcement of rights by the Seller will be deemed a waiver and Seller's failure to object to any communication from Buyer shall not be deemed an acceptance thereof or a waiver of any of these terms and conditions.
- 16. LANGUAGE:** *Cette convention est disponible en version française. This Agreement is available in the French language. Si vous choisissez de signer la version anglaise de cette convention, vous serez réputé avoir exigé que cette convention et tous documents y afférents soient rédigés en langue anglaise seulement.* If you chose to execute the English language version of this Agreement, you will be deemed to have required that the Agreement and all related documents be drafted in English only.
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