

TERMS AND CONDITIONS OF SALE

www.blum.com

TERMS AND CONDITIONS OF SALE

A. Validity of these terms and conditions of business:

All deliveries of goods and services from Blum (together, the "**Goods**") are carried out exclusively on the basis of the following terms and conditions of business, which apply between you (the "**Buyer**" or "**you**") and Blum New Zealand Limited ("**Blum**" or "we", "our" or "us") and your acceptance of such Goods will be deemed to be acceptance of these terms and conditions. Conflicting terms and conditions will not be accepted by us, even if these terms and conditions are not expressly contradicted.

B Prices and terms of payment:

1. All prices are non-binding and are based on the calculation basis on the date of concluding the specific contract for Goods (e. g; raw material prices, exchange rates, personnel costs, energy and transport costs, etc.) and are exclusive of Goods and Services Tax, any other government duties, levies or taxes, transport packaging any costs of removal or installation of Goods, freight costs and costs for labour or services supplied by third parties.
2. Payment must be made in the invoiced currency, free of charges and without deductions or set off. Your payment is only made when funds have fully cleared through the bank system into our bank account.
3. Unless Blum has agreed to extend credit to you, accounts are payable in full before delivery. Blum may accept and apply payments from you in respect of any indebtedness, and will not be bound by any conditions or qualifications attaching to the payments. If Blum has agreed to extend credit to you, you must pay for the Goods in full, without deduction or set off, by the date agreed respectively stated on the invoice.
4. If the due date is exceeded, without prejudice to other statutory rights, interest on arrears shall be charged on a daily basis at 5% per annum above the current overdraft rate charged by our bankers at that time, and interest shall continue to accrue both before and after judgment. 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, creditor arrangements etc.) or if the agreed payment deadline is not met, Blum shall be entitled to immediately demand payment of all outstanding payments and to terminate any purchase contract or orders without any liability to the buyer and shall be released from making further deliveries or providing any further services. The buyer shall not retain any payments or offset them against counterclaims of any kind whatsoever.

C. Delivery, Transfer of risk:

1. Unless the buyer specifies otherwise in writing, Blum will deliver the Goods to the buyer's premises. Blum uses its reasonable endeavours to deliver by any agreed delivery date. However, failure to do so does not entitle the buyer to cancel its order nor will Blum be liable for any consequential or other loss resulting partly or wholly from late delivery. If the buyer asks for delivery of Goods directly to another person, that person takes possession of the Goods for the buyer as its agent.
2. Unless otherwise agreed, the buyer will be responsible for payment of any freight charges for deliveries. Notwithstanding the term of delivery, the risk in the Goods passes to the buyer at the time the Goods leave the warehouse of Blum.
3. 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.
4. Operational interruptions and events of force majeure, e. g. technical faults, strikes, natural disasters or weather events, war, interruptions or delays in the supply of raw materials, lack of raw materials and similar cases at Blum as well as at suppliers of Blum or the service providers commissioned in the transport chain shall release Blum from its delivery obligations. Blum shall not be in breach of these terms and conditions or any contract with the buyer, or otherwise be liable to the buyer, for any delay in performance as a result of such interruptions or events.

D. Reservation of title:

1. Blum reserves title to all delivered Goods until payment in full of all outstanding monies owing to it (including interest, expenses and costs).
2. If the buyer sells the Goods delivered by Blum - even after further processing - before payment in full to Blum, the buyer shall assign his purchase price claims against his customers from his deliveries to Blum. The buyer undertakes to carry out all the public actions required for the effectiveness of the transfer of claims (e. g., assignment note on the invoice or note in its books, etc.). Furthermore, the buyer also undertakes to oblige its customer also to sell the Goods with extended reservation of title and against advance assignment of its purchase price claim.

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3. Until all such monies have been paid:
   (a) you will keep the Goods separate from any other Goods in your possession, and properly stored, protected and insured, and identified as our property;
   (b) all sums received from any insurance claim made in respect of loss of or damage to the Goods shall be treated as if they were proceeds of sale and held by you on the same terms as those set out in clause 3(d) below, and you will also hold on trust for us and, if required by us, forthwith assign to us the benefit of any insurance claim made in respect of the Goods;
   (c) if the Goods are mixed with, or incorporated or processed by you into other Goods, those other goods shall be separately stored and marked so as to be identifiable as being made from or with the Goods;
   (d) where the Goods are sold to you as inventory for resale, you may resell them in the normal course of your business at full market value, provided that (i) the resale shall be as principal in relation to your sub-buyer but, as between you and us, you will sell as our fiduciary agent and bailee and (ii) you hold the proceeds of the resale on trust for us, and pay them into a separate bank account without mixing them with other monies; and
   (e) we may, at any time, require you to deliver the Goods (which have not been resold) to us and, if you fail to do so forthwith, our employees and agents may enter any premises where the Goods might be stored and recover them, and you agree to indemnify us, on demand, against any liability incurred by us in our exercise of this right.
4 You acknowledge and agree that, by accepting these terms and conditions, you grant us a security interest over the Goods supplied to you and their proceeds (by virtue of the retention of title in clause D3 above).
5 You undertake to:
   (a) do all acts and provide us on request all information we require to register a financing statement or financing change statement on the Personal Property Securities Register; and
   (b) advise us immediately in writing of any proposed change in your name or other details on the Personal Property Securities Register.
6 You:
   (a) waive your right to receive a verification statement in respect of any financing statement or financing change statement relating to the security interest;
   (b) waive your rights and, with our agreement, contract out of your rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the Personal Property Securities Act 1999 (“PPSA”); and
   (c) agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions and, with our agreement, contract out of such sections.
7 Unless the context otherwise requires, the terms and expressions used in clauses D3 – D6 have the meanings given to them in, or by virtue of, the PPSA

E. Warranty and damages

1. If the Consumer Guarantees Act 1993 (“CGA”) applies, these terms and conditions shall be read subject to your rights under the CGA.
2. When you are acquiring the Goods for the purposes of a business (as provided in sections 2 and 43 of the CGA), the CGA shall not apply.
3. Where clause E2 above applies and you are acquiring Goods for the purposes of resale, your terms of trade applying to the resale (and, if your customers acquire the Goods for the purposes of resale, their terms of trade and the terms of trade of each other person in your distribution chain) must include a provision having the same effect as that clause. You agree to indemnify us, on demand, against any liability under the CGA as a result of any failure by you, your customers or any other person in your distribution chain to include such a provision.
4 We warrant that the Goods will comply with the terms of any warranty applicable to the particular Goods which is notified in writing to you by Blum (“Warranty”). Your remedy for a breach of the warranty comprises only the free material replacement of the defective part and is subject to the terms of the warranty. We reserve the right to vary the terms of the Warranty from time to time by publishing revised terms on our website. Any such variation will apply to any Goods sold after the effective date of that variation.

5. To the fullest extent permitted by law our Warranty is in substitution for all other terms, conditions, undertakings, inducements, representations or warranties (whether express or implied by statute or common law or arising from conduct or by previous course of dealing or trade custom or trade usage or otherwise) as to the Goods and all such terms, conditions, undertakings, inducements, representations or warranties are expressly excluded, including but not limited to its quality or fitness for any particular purpose (even if that purpose is made known expressly or by implication to the buyer) . If the customer of the buyer (consumer) makes additional claims against Blum outside of the Warranty, 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.

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6. To the fullest extent permitted by law, Blum shall have no liability to the buyer or any third party other than as expressly provided and in accordance with clause E3 and all other loss, damage, cost, loss of profits, anticipated savings, wasted expenditure, loss of contracts with third parties, goodwill or any type of special, indirect or consequential loss whether suffered by the buyer or by any third party is expressly excluded, whether or not Blum was aware that such loss was possible or such loss was otherwise foreseeable, whether such loss arises from any representation, recommendation or advice made or given in relation to the Goods, the use of the Goods or the failure by Blum to observe and fulfil its obligations under these terms and conditions or otherwise.
7. The buyer shall indemnify Blum on demand from and against all losses, claims, damages, costs (including legal costs on a solicitor client basis), charges, expenses (including collection expenses), liabilities, demands, proceedings and actions, including claims by any third party which arise from, or can be attributed to, an act or omission of the buyer, its employees, agents or contractors.

F. Accessing the Webshop:

"While Blum endeavours to ensure that the information it has provided on the Webshop is free from error, it is provided "as is" and "as available" and without warranties of any kind either express or implied. Blum does not warrant the accuracy, currency or completeness of the information on the Webshop or that the Webshop is error free or suitable for your intended use. Blum does not warrant that the Webshop or the server that makes it available are free of viruses or other harmful components and, to the extent permitted by law, Blum shall not be responsible for or liable for any error in, or omission from, the information we have provided on the Webshop.

2. You must not:
   (a) edit or otherwise modify any material on the Webshop;
   (b) republish or redistribute material from the Webshop (including republication on another website);
   (c) sell, rent or sub-license material from the Webshop; or
   (d) reproduce, duplicate, copy or otherwise exploit material from the Webshop for a commercial purpose.
3. We may restrict access to the Webshop, in whole or in part, at our discretion. You must not circumvent or bypass, or attempt to circumvent or bypass, any access restriction measures on the Webshop.

4 You must not:
   (a) use the Webshop in any way or take any action that causes, or may cause, damage to the Webshop or impairment of the performance, availability or accessibility of the Webshop or the servers or networks that host the Webshop;
   (b) use the Webshop, any material on the Webshop or any of our community areas, in any way that is unlawful, illegal, fraudulent or harmful, or in connection with any unlawful, illegal, fraudulent or harmful purpose or activity;
   (c) post or transmit any information or material which in any way infringes or violates the rights of others or which is offensive, illegal, defamatory, threatening, invasive of privacy, obscene, discriminatory or otherwise objectionable;
   (d) use the Webshop to copy, store, host, transmit, send, use, publish or distribute any material which consists of (or is linked to) any spyware, computer virus, Trojan horse, worm, keystroke logger, rootkit or other malicious computer software;
   (e) conduct any systematic or automated data collection activities (including without limitation scraping, data mining, data extraction and data harvesting) on or in relation to the Webshop without our express written consent; or
   (f) access or otherwise interact with the Webshop using any robot, spider or other automated means."

You are responsible for maintaining the confidentiality of your password and registration details for the Webshop and are fully responsible for all activities that occur under your password and registration. You agree to immediately notify us of any unauthorised use of your password or account or any other breach of security."

G. Final provisions:

1. These terms and conditions will be interpreted in accordance with and governed by the laws of New Zealand, and the New Zealand courts have non-exclusive jurisdiction in respect of all matters between Blum and the buyer. In these terms and conditions references to any law include any changes to that law which are in force from time to time.
2. Should a provision of these terms and conditions of business be or become invalid or unenforceable as a whole or in part, this shall not affect the legal validity of any of the other provisions. 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.
3. You authorise Blum to collect and hold personal information in accordance with Blum's privacy policy and the Privacy Act 2020 from any source we consider appropriate to be used for credit, administration, service and marketing purposes. You further authorise us to disclose personal information held by us for these purposes to any other person. You understand that you have a right of access to, and may request correction of, personal information held by us about you.

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4. Neither Blum nor its suppliers transfer to the buyer any right, title or interest in any copyright, trade marks, patents or other intellectual property rights in or relating to the Goods.
5. No delay or failure by Blum to exercise its rights under these terms and conditions operates as a waiver of those rights. A partial exercise of those rights does not prevent their further exercise in the future. Blum will not be deemed to have waived any condition unless that waiver is in writing and signed by Blum. Any waiver will apply only to the particular matter in respect of which it is given.
6. These terms and conditions contain the complete agreement between Blum and the buyer. The buyer acknowledges that there has been no representation made by Blum to the buyer except as expressly stated in these terms and conditions and that it has not relied on any representation, warranty, or other assurance except as set out in these terms and conditions.
7. Blum may amend these terms and conditions, Privacy Policy and/or Cookie Policy from time to time by notice to the buyer in writing or by publishing the amended terms and conditions or policies on Blum's website at. Any such amendments will apply to any contract entered into or Goods sold after the effective date of those amendments.
8. We may send you emails and other electronic newsletters and communications relating to Blum and the Goods and/or our Webshop. These electronic communications will contain instructions for how you can unsubscribe from the mailing list.

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