



General Terms and Conditions of Trade 贸易的一般条款与条件

A. Validity of these terms and conditions of business

商业条款与条件的有效性

All deliveries and services are carried out exclusively on the basis of the following terms and conditions of business. Conflicting terms and conditions will not be accepted by us, even if these terms and conditions are not expressly contradicted. 所有的交付和服务应当完全基于下列商业条款与条件而开展。我们不会接受相冲突的条款与条件，即使该等条款与条件未被明确否决。

B. Prices and terms of payment

价格与付款条款

- All prices are non-binding 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 VAT and transport packaging. The price shall be subject to the one confirmed by Blum in a respective purchase order or contract. 所有价格均为不具约束力的，且系基于合同订立日的计算基础（如：原材料价格、汇率、人力成本、能源和运输成本等），并且不包含增值税和运输包装费。价格应当以相应的采购订单或合同中经百隆确认的为准。
- Payment must be made in the invoiced currency, free of charges and without deductions. 付款必须以账单币种支付，且不得有任何收费或扣除。
- 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. 除另有约定外，账单金额应当在账单日起5个工作日内到期应付。如双方约定付款期限的，到期日应当自账单日起算。
- If the due date is exceeded, without prejudice to other statutory and contractual rights, interest on arrears shall be charged at the statutory rate or the contractually agreed rate, whichever is higher. 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. 如买方逾期未付款的，在不损害其他法定权利和合同性权利的前提下，买方应当以法定利率或合同约定利率中更高者向百隆支付逾期利息。买方承诺向百隆返还百隆采取任何催收逾期贷款的法律措施过程中而产生的所有费用（例如催款和收款的费用、法院和律师的费用），前提是这些费用对于主张的索赔是适当的。
- 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. 全部的付款应当直接由买方向百隆支付，且只能向百隆支付；第三方不能代买方向百隆支付应付款项。百隆的代理和商业代理人无权代百隆向买方收取款项。
- 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 or offset them against counterclaims of any kind whatsoever. 如果买方的资产状况恶化（例如进入法院流程、执行或破产程序等），或未能在约定的付款截止日期付款，百隆有权立即要求买方支付所有应付款项并解除采购合同；此外，百隆应被免于进一步交货的义务。买方不得保留任何应付给百隆的款项，或者将应付给百隆的款项与其他任何百隆应付给买方的款项进行抵消。

C. Delivery, Transfer of risk

交付，风险转移

- Costs and risks of the buyer shall be governed by the agreed INCOTERM clause (2010 version). If no other INCOTERM clause is agreed, deliveries of goods shall be ex works (EXW). 买方的成本与风险应当适用约定的国际贸易术语（2010版）中的条款。如未就国际贸易术语条款达成约定的，货物的交付应当采用百隆工厂交货（EXW）。
- 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. 部分交付以及不超过10%（百分之十）的超额或者短缺交付是被允许的，且买方有义务予以接受前述情形下的交付。在这种情况下，应当根据实际交付数量按比例调整采购价格。
- Upon delivery pursuant to clause C. 1, the delivery shall be considered as accepted and the risk shall pass to the buyer. 依据第C条第1款交付时，交付应当被视为接受，风险应转移至由买方承担。
- 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. 交付期根据百隆指定的更迭时间计算（根据约定的国际贸易术语运至指定地点的正常生产与正常运输时间的总和）。如指定交付日期，交付应当在交付日期所在日历周的最后一个工作日前完成。

5. 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.
如发生运营中断或不可抗力事件(如技术故障、罢工、自然灾害或天气事件、战争、原材料供应中断或迟延、原材料短缺等)或百隆、百隆的供应商、运输链委托的服务提供商发生的类似情形的,应免除百隆的交付义务。

D. Reservation of title 所有权保留

1. Blum reserves title to all delivered goods until payment in full of all outstanding claims arising from the business relationship (including interest, expenses and costs).
百隆保留全部交付货物的所有权,直至买方全额支付因业务关系产生的全部应付款项(包括利息、费用和开支)。
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.
如买方在向百隆全额付款前,将百隆交付的货物进行出售-甚至是在进一步加工之后进行出售-买方应当将买方就其交付的货物对其客户享有的付款请求权转让给百隆。买方承诺采取促成请求权有效转让的全部必要公开的行动(如在账单或账簿上进行转让标注等)。此外,买方也承诺要求其客户以延伸的百隆的所有权保留的方式出售货物,并将其客户对其下游买方的付款请求权提前转让给买方,进而可转让给百隆。
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.
如需要将百隆交付的货物与其他货物一起加工或混合,百隆的所有权不应就此丧失。百隆应当根据物品销售价格中所使用货物所占比例享有共同所有权。经过加工的货物的所有权仅在买方支付全部购买价格之后才转让给买方。
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.
百隆是否对买方要求预付款与是否批准买方提前将货物转让给其客户均根据买方和百隆的合作情况确定。百隆对于买方转售或者进一步加工以及直接收取买方客户应收款项的批准并不构成百隆对于要求买方或买方客户将其对第三方的付款请求权提前转让给百隆的弃权,或百隆对于所有权保留以及其附随的可期待权利的弃权。
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.
如买方的客户拖欠款项或无力清偿债务的,买方承诺收回保留所有权的货物,或者要求买方的客户将其享有的对第三方的付款请求权转让给买方,进而转让给百隆。
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.
如果买方或与百隆交易有关的买方的直接或间接客户停止支付或者无力清偿,买方转售或者进一步加工百隆交付的货物的权利,以及其自行向其下游客户收取应付款项的权利应当终止(向其下游客户收取应付款项的权利应转让给百隆)。
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.
如果所有权保留条款在目的国需要满足特殊条件或正式形式要求才能有效的,买方有义务确定并满足这些要求。

E. Warranty and damages 保证与损害

1. Complaints must be notified within 10 working days after delivery or after discovery of the defect, or such claims shall otherwise lapse.
投诉必须在交付后或者缺陷发现后10个工作日内予以通知,否则该等主张将会失效。
2. The warranty period is 24 months from delivery by Blum and comprises only the free material replacement of the defective part. 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.
保证期限为百隆交付后24个月,且仅包含用免费实物替换有缺陷的部件。如果买方的客户(消费者)根据当地法律对百隆提出超出交付后24个月内免费实物替换有缺陷的部件以外的其他额外赔偿请求的,买方应当处理该等额外赔偿请求并确保百隆免受损失。本条同样适用于损害赔偿主张以及买方行使追索权的情形。

3. Blum, together with its suppliers, shall only be liable in the event of intention or gross negligence, with the exception of personal injuries pursuant to the Product Liability Act. Claims for damages shall become statute barred within 2 (two) years from knowledge of the damage and the party causing the damage. Liability for minor negligence is excluded, as well as compensation for consequential damage and damage to property, loss of profits, loss of interest and damages from claims of third parties against the buyer. Blum together with its suppliers shall not be liable for material damage resulting from product liability incurred by a company. These limitations of liability shall also apply in the event of delay or partial delay in delivery as well as for recourse.

除《产品质量法》规定的人身损害外, 百隆及其供应商仅在故意或者重大过失的情况下承担责任。损害赔偿的法定诉讼时效为自知晓损害及造成损害的一方起2(两)年。轻微过失责任, 以及对于间接损害、财产损失、利润损失、利息损失以及第三方对于买方的损害赔偿主张被排除适用。百隆及其供应商不应由其他公司造成的产品责任导致的实质损害承担责任。本条的责任限制同样适用于迟延或者部分交付以及追索权的情形。

4. 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. 买方必须, 为了百隆和百隆供应商的利益, 排除第E条第2款和第3款项下其对其客户的责任。
5. 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. 由百隆产品与第三方产品的组合产生的保证主张和/或损害赔偿主张应当明确予以排除。买方应当就此通知其客户。

F. Final provisions 最终条款

1. All legal transactions concluded with Blum are governed by the PRC law, excluding the provisions of international private law and excluding UN purchase law. 与百隆进行的全部法律交易由中华人民共和国法律管辖, 不适用国际私法的规定且不适用联合国采购相关法律。
2. The place of performance for delivery and payment is exclusively Shanghai, PRC for both parties, unless a different place of performance is specified in an individual order. 除在个别订单中指定不同的履行地外, 双方约定交付和付款的履行地仅限于中国上海。
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. 有关本合同产生的全部争议, 双方同意由百隆主要营业地的当地有管辖权的法院管辖, 且百隆可自由地向任何其他依法有管辖权的法院, 包括买方主要营业地的法院, 就任何法律争议提起诉讼。
4. 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. 如果这些商业条款与条件的某一条款全部或者部分是, 或者变成无效或者无法执行, 其不应当影响任何其他条款的法律效力。缔约双方应当在内容与目的上最接近该等无效或者无法执行条款的有效且可执行的条款予以代替。

Status 06.2018

版本状态: 2018年07月