

**General Terms and Conditions of Sale and Delivery for  
Animal Magic B.V.**

with its registered office in Amsterdam, filed with the Chamber of Commerce in Amsterdam under no. DS 2228  
on 18 March 1993

**Article 1: Applicability of these terms and conditions**

- 1.1 These terms and conditions apply to all of the offers, orders, agreements and commitments between Animal Magic B.V., hereinafter to be referred to as "*Animal Magic*", and the other party, hereinafter to be referred to as "*the client*", as well as the fulfilment thereof, unless the parties have expressly agreed otherwise in writing.
- 1.2 If a difference is determined between the Dutch text of these conditions and the text in another language, then the Dutch version of the text or explanation of this text shall prevail.
- 1.3 If any provision from these general terms and conditions becomes null and void or is nullified, in whole or in part, the other provisions from these general terms and conditions shall remain in full force and Animal Magic and the client shall enter into consultation in order to agree upon new provisions to replace those which have been declared null and void or nullified.
- 1.4 If and to the extent that one or more provisions from these general terms and conditions should conflict with statutory provisions determined as mandatory by the government, then the latter provisions shall be deemed to have replaced the provisions concerned, or a portion of the provisions of these terms and conditions, without prejudice to the validity of the other provisions from these general terms and conditions.
- 1.5 Provisions which deviate from these general terms and conditions shall only be binding in the event these have been approved in writing by Animal Magic beforehand.

**Article 2: Agreements**

- 2.1 An agreement shall only be considered to come into effect after the order is confirmed explicitly in writing by or in a manner authorised by Animal Magic, or in the absence thereof, if Animal Magic has proceeded with the delivery thereof in accordance with the order. The effective date which shall apply as valid for the agreement is the date of the written confirmation of the order by or on behalf of Animal Magic or the date of delivery.
- 2.2 Agreements or contracts entered into with employees of Animal Magic shall not be binding with respect to the latter, to the extent they have not been confirmed in writing by its management. Employees of Animal Magic are considered to be all those members of staff who do not form part of the management at Animal Magic.
- 2.3 Animal Magic reserves the right to refuse orders without providing reasons. This refusal shall never imply the right to compensation for damages.
- 2.4 If Animal Magic reaches a settlement with two or more parties, these are jointly and severally liable for the fulfilment of all of the obligations arising from the agreement.

### **Article 3: Offers**

- 3.1 All of the offers, quotations and price indications provided by Animal Magic are free from obligation, unless the contrary is stated explicitly in writing.
- 3.2 Animal Magic is only bound by quotations if it receives confirmation of the acceptance thereof from the client in writing within 14 days.
- 3.3 If offers are based on the information provided by the client, Animal Magic may assume the accuracy of this information. Animal Magic is not bound by any commitment unless it confirms this in writing. Animal Magic does not consider itself bound by the contents of folders, catalogues and other printed matter unless this is referred to explicitly in the agreement.

### **Article 4: Prices**

- 4.1 Unless indicated otherwise, those prices corresponding to the offer provided by Animal Magic shall be valid.
- 4.2 The prices stated in the offer are exclusive of BTW, transport costs and other levies imposed by the government unless explicitly agreed upon otherwise for deliveries outside of the Netherlands, for customs clearance.
- 4.3 The prices are based on the material and raw materials prices, energy prices, foreign currency exchange rates, interest costs, wages and salary costs, social security contributions and government levies, freight, insurance premiums, taxes, government levies or any other price-determining factors valid at the time of the offer and/or order date. Should increases occur in these cost factors between the time of the acceptance of the order and the time of delivery of the goods, Animal Magic reserves the right to charge any resulting differences in price to the client.
- 4.4 Price increases arising from supplements and/or changes in the order and/or agreement shall be at the expense of the client.

### **Article 5: Cancellations**

- 5.1 In the event an order is cancelled, Animal Magic is entitled to charge all of the costs (including labour costs, storage costs, commission) which it has had to incur in order to draw up and/or supply its offer to the client, in the minimum amount of 10% of the agreed upon sales price, all of this without prejudice to Animal Magic's right to full compensation for loss of profits, as well as any other damages arising from the cancellation, unless otherwise agreed upon in writing.

### **Article 6: Delivery**

- 6.1 The delivery periods indicated shall only be valid by approximation and Animal Magic shall not provide a guarantee in this regard. If it has been agreed upon that payment must be executed prior to delivery (or that partial payment must be made), then the delivery

time will be automatically extended until the payment (or partial payment) has been received.

- 6.2 In the event of late delivery, the client must provide Animal Magic with written notification of this and provide it with a reasonable period to satisfy its delivery obligation. If the goods cannot be delivered on time as a result of the client's actions, Animal Magic shall extend the delivery time by that number of days it deems reasonable in order to still be able to satisfy the obligations arising from the agreement.
- 6.3 In the event the term of delivery is exceeded, Animal Magic shall never be required to pay the client compensation for any damages arising as a result.
- 6.4 Unless otherwise explicitly agreed upon in writing, delivery shall always occur 'ex warehouse' or from the location in which the goods are stored and/or FOB Port of Shipment. The risk shall therefore pass to the client at the time that the goods leave the warehouse and/or are delivered on board in accordance with the Incoterms.
- 6.5 In the event one of the Incoterms is the agreed upon term of delivery, the international rules of Incoterms valid at the time the agreement is concluded shall be applicable.
- 6.6 Animal Magic shall reserve the right to deliver goods cash on delivery (COD).
- 6.7 Animal Magic shall retain the right to deliver in instalments. If goods are delivered in instalments, Animal Magic is authorised to invoice each instalment separately.
- 6.8 The client is obligated to take possession of the goods purchased at the time these are delivered to him, be this at the time the goods leave Animal Magic's warehouse, or the time they are made available to it in accordance with the agreement. Should the client fail to take possession of the goods, for whatever reason, or is negligent with regard to providing information or instructions necessary to delivery, then the goods shall be stored at the risk and expense of the client.
- 6.9 In the case of the circumstances mentioned under paragraph 8, the client shall owe all of the additional costs, including at any rate storage costs. The client shall also bear the risk of all direct or indirect damage suffered by the client or third parties which may occur to or by these goods.

#### **Article 7: Retention of Title**

- 7.1 The goods delivered by Animal Magic shall remain the property of Animal Magic until the buyer has fulfilled all of the obligations below arising from the agreement concluded with Animal Magic:
  - anything to be done in return with regard to the goods delivered or to be delivered or with regard to the goods themselves;
  - any claims, including those regarding penalties, interest and costs, resulting from the client's failure to fulfil the agreement(s).

- 7.2 Goods delivered by Animal Magic which fall under the retention of title provision pursuant to paragraph 1 may only be sold within the framework of the normal operation of business, and the client is not authorised to pledge the goods and/or establish any other right to the goods.
- 7.3 If the client fails to fulfil its obligation or a reasonable fear exists that it will fail to do so, Animal Magic is entitled to remove the goods delivered, to which the retention of title referred to under paragraph 1 applies, from the premises of the client or third parties keeping the goods for the client, or is entitled to have these removed. The client is obligated to obtain any and all cooperation in this regard under penalty of a fine of 10% of the amount owed to it per day, without prejudice to Animal Magic's right to claim full compensation for damages.
- 7.4 If third parties wish to establish or be entitled to any rights to the goods delivered under retention of title, the client is obligated to notify Animal Magic of this fact as quickly as may be reasonably expected.
- 7.5 Upon first request by Animal Magic, the client undertakes to:
- insure and keep insured the goods delivered under retention of title from fire, explosives and water damage and from theft and to provide the insurance policy for inspection;
  - to pledge all of the client's claims upon insurers with regard to the goods delivered under retention of title to Animal Magic in the manner such as prescribed in Article 3:329 BW (Dutch Civil Code);
  - to pledge any claims which the client obtains with regard to its client in the sale of goods delivered under retention of title by Animal Magic to Animal Magic in the manner such as prescribed in Article 3:329 BW (Dutch Civil Code);
  - to mark the goods delivered under retention of title as being the property of Animal Magic;
  - to grant cooperation in other ways to all of the reasonable measures which Animal Magic wishes to take in protecting its proprietary rights with regard to the goods and which do not unreasonably hinder the client in the normal operation of its business.

#### **Article 8: Payment**

- 8.1 The claims from Animal Magic must be considered as debts payable by the client to the address of the creditor.
- 8.2 Unless otherwise explicitly agreed upon, payment must be executed at net value in cash no later than 10 days after the invoice date at Animal Magic's offices, or by transferring the amount due to a bank account indicated by Animal Magic.
- 8.3 In the event of liquidation, bankruptcy, suspension of payment, application to be placed under guardianship and the death of the client as well as cases in which the goods or claims of the client have been attached, the client's debts shall become immediately due and payable.

- 8.4 A payment executed by the client shall first serve to reduce all of the costs and interest owed and finally to reduce those accounts which are due and payable and have been outstanding the longest.
- 8.5 If payment is not executed on time, the client shall be found to be in default by operation of law (de jure); from the time default commences, the client shall owe interest over the amount due and payable of 2% per month, or portion thereof.
- 8.6 Animal Magic is furthermore entitled to charge the client for all of those costs which must be incurred to guarantee the collection of the amounts owed, including all of the judicial and extrajudicial costs. The extrajudicial costs amount to at least 15% of the principal with a minimum of € 300 per incident/invoice.
- 8.7 If the client has not submitted an objection to an invoice and/or account statement to Animal Magic in writing within a week of the date of the document in question, the client will be assumed to be in agreement with the document in question.
- 8.8 Without prejudice to the right of retention/suspension, Animal Magic is free to demand pre-payment upon delivery. The client is entitled to provide security in the form of a bank guarantee or other form of security, at the discretion of Animal Magic.
- 8.9 Payment must be executed without the deduction of a discount or setoff.

#### **Article 9: Warranty**

- 9.1 Warranties for goods delivered which Animal Magic purchases elsewhere shall only be given to the extent these are provided by the suppliers involved.
- 9.2 Animal Magic does not guarantee that the goods it delivers are usable for the objective for which the client has purchased these goods, regardless of whether or not Animal Magic knew or should have known the client's intended objective at the time it concluded the agreement.
- 9.3 Animal Magic's obligations under the warranty do not apply in the event defects arise through normal wear and tear, improper use or improper or incorrect maintenance and/or use by or on behalf of the client, which shall be at Animal Magic's discretion as well as in the event the client performs modifications or repairs to the delivered goods themselves, or has this done by third parties and if the goods have been merged with other materials after delivery.
- 9.4 In the event of faulty delivery, Animal Magic has the right to fully credit the defective item which has been returned or to repair the defective item/remedy the work, or to redeliver or rework the item or work.
- 9.5 The client must provide Animal Magic with the opportunity to repair any defects at all times.
- 9.6 The warranty mentioned above is only valid if the client has satisfied all of its obligations with respect to Animal Magic.

- 9.7 The liability does not however go beyond the coverage provided for under Animal Magic's company liability insurance policy.

#### **Article 10: Liability**

- 10.1 Animal Magic is only liable to the client with regard to the following:
- a. liability for damage resulting from defects in goods delivered as provided for under Article 9 (warranty) of these terms and conditions;
  - b. Animal Magic is liable if the damage has been caused by gross negligence or intention on the part of Animal Magic or its management staff;
  - c. any other liability on the part of Animal Magic is limited to the amount of the benefits paid out by the insurance, to the extent this liability is covered by its insurance policy;
  - d. if the insurance does not offer coverage in a certain case or does not pay out benefits, the liability is limited to the maximum amount of the amount invoiced for the goods delivered.
- 10.2 Animal Magic shall never be liable to pay compensation for trading and/or consequential losses suffered by a client.
- 10.3 The client shall indemnify Animal Magic for all of the litigation, demands or other actions on the part of third parties, insofar as these are the result of liability and/or damage on the part of the client, unless the actions and/or omissions committed by the client are the result of Animal Magic's failure to fulfil its contractual obligations, or fulfil them properly or on time.

#### **Article 11: Claims and complaints**

- 11.1 The client must inspect the goods purchased upon delivery or have this done. In doing so, the client must determine whether the goods delivered conform to the agreement, specifically:
- if the correct goods have been delivered;
  - if the goods delivered correspond to that agreed upon in terms of quantity;
  - if the goods delivered do in fact satisfy the agreed upon quality requirements or -- if these are not present -- the requirements which may be set for normal use and/or business purposes.
- 11.2 The client can no longer invoke its rights with regard to a defect in the performance if it has not, within an appropriate time after it has discovered the fault or defect or reasonably should have discovered this, protested this in writing by registered letter sent to Animal Magic, or if it has failed to provide Animal Magic with the opportunity to check the defects and repair them, if it has processed or incorporated the delivered goods in whole or in part, and/or has had them used, processed or incorporated, or has delivered them to third parties.

- 11.3 Within an appropriate time is defined as being within 8 days after receipt of an item, or, if the item has not yet been delivered or completed, within 8 days after the client has discovered the defect, whereby it must notify Animal Magic of this in writing, on submission of proof of the nature of the defect and when and how it has determined the presence of the defect.
- 11.4 Complaints concerning a portion of the goods delivered may not give cause to reject the entire shipment.
- 11.5 Minor variations considered to be acceptable within the trade may not represent grounds for claims.
- 11.6 Even in the event the client submits a claim on time, its obligation to pay and purchase the orders shall remain in effect. Goods may only be returned to the seller after receipt of prior written permission.

#### **Article 12: Industrial and intellectual property**

- 12.1 Unless agreed otherwise, Animal Magic shall retain all of the copyrights as well as all of the other rights of industrial or intellectual property to the designs, sketches, images, drawings, prototypes, software and offers it has supplied. These documents shall remain its property and may not be copied, shown to third parties or used in any other way without its explicit and written permission, regardless of whether or not the client has been invoiced for the costs involved in this. The client is obliged to return these items to Animal Magic upon first request under penalty of a fine of € 500 per day.

#### **Article 13: Packaging and transport**

- 13.1 Animal Magic undertakes to package goods destined for the client properly and to protect them in such a manner that they will, if handled in a normal manner, arrive at their destination in good condition.
- 13.2 Unless agreed otherwise in writing, all deliveries shall be exclusive of BTW (VAT), inclusive of packaging and packaging materials (with the exception of returnable packaging for which is it customary to charge a separate deposit) and shall be sent ex-warehouse.
- 13.3 Unless agreed otherwise, boxes, baskets, crates and the like will be invoiced at cost price. The acceptance of goods without remarks on the consignment note or receipt shall be considered to be evidence that the packaging was received in good condition. Animal Magic will accept packaging in return for payment of the price invoiced for this, if, in its assessment, this has been returned to it complete, intact and in good condition.
- 13.4 The client will be considered to be in possession of any import and/or payment permits required. The lack or revocation of these permits does not release the client from the obligation to purchase the goods in the agreed upon manner. If the goods have been sold by Animal Magic, without customs clearance, the client will not be entitled to derive any rights to cancel the order due to an increase in import duties, turnover tax and/or other taxes or duties, nor shall it be entitled to do this if a modification in any quality standards

and/or objections filed by third parties to the goods on the grounds of patents, trademarks or other rights.

#### **Article 14: Advertising and display**

- 14.1 When goods purchased are displayed or advertised including an indication of the price, the prices stated may not be lower than those set out in the agreement.
- 14.2 The client is obliged to cooperate with and participate in any measures Animal Magic takes which are designed to improve sales and of which it will always notify the client in advance. These measures designed to improve sales could involve advertisements, special offers, premiums and price enquiries, enforcement of certain consumer prices, a certain display in the client's sales area, etc.

#### **Article 15: Sole distribution**

- 15.1 Sole distribution rights are not recognised, for any country, municipality or district unless sole distribution is agreed upon in writing and this agreement has been confirmed by registered post between the parties.

#### **Article 16: Suspension and dissolution**

- 16.1 If the client fails to fulfil one or more of the obligations arising from this or any other agreement concluded with Animal Magic, or fulfil them properly or in a timely manner, it will be considered to be in default by operation of law and Animal Magic will still be authorised, at its discretion, to suspend the agreement in whole or in part, or to dissolve the agreement in whole or in part or to demand the fulfilment thereof without prejudice to the claims Animal Magic shall have to compensation for damages whereas Animal Magic shall furthermore be authorised to cancel all of the other transactions with the client which are pending to the extent these have not yet been executed under equal conditions.  
All of these cases shall still result in the exigibility of all that which is owed to Animal Magic.
- 16.2 Animal Magic is entitled to dissolve the agreement with immediate effect, in whole or in part, without providing notification of default and without judicial intervention by providing the client with notification in writing, in the event of the suspension of payments, bankruptcy, guardianship or administration order and/or discontinuation or winding-up of the client, as well as in the event an execution is levied on the client.
- 16.3 During circumstances involving force majeure, Animal Magic's delivery and other obligations shall be suspended. If the period during which fulfilment of Animal Magic's obligation is not possible as a result of force majeure lasts longer than 2 months, both parties are authorised to dissolve the agreement without any obligation arising for the compensation for damages.
- 16.4 If, at the time of the dissolution stipulated in the previous paragraphs, Animal Magic had already performed services for the client and in fulfilment of the agreement, it is entitled to invoice the services already performed and/or to be performed separately and the client is obliged to pay this invoice as if it had involved a separate agreement.



Amounts invoiced prior to the dissolution of the agreement involving that which has already been performed or delivered in fulfilment of the agreement remain nonetheless due and payable in observation of the above and shall be immediately due and payable at the time of the dissolution.

#### **Article 17: Force majeure**

17.1 In the event of force majeure and other circumstances of similar nature, by which reasonable fulfilment of the order cannot (temporarily) be expected from Animal Magic, Animal Magic shall have the right, exclusively at its discretion:

- a. to modify the order if possible so as to make the execution thereof possible; or
- b. to extend the term of execution by a duration equal to that of the duration of the aforementioned circumstances; or
- c. to dissolve the agreement on the grounds of Article 16.3 of these general terms and conditions.

17.2 The circumstances mentioned above in paragraph 3 include fire, blockade, interruption of operations, power failure, extreme variations in temperature, natural disasters, export or import hindrances, refusal to grant import or export permits, confiscation, strikes or work stoppages and any case in which Animal Magic, as a result of personnel or materials – whether or not these originate from third parties – which Animal Magic employs in the fulfilment of the agreement, regardless of the reason, has been rendered incapable of fulfilling the agreement.

#### **Article 18: Settlement of disputes**

18.1 Notwithstanding the legal provisions in force for the competence of the civil courts, every dispute between Animal Magic and the client shall be settled by the competent court of the Netherlands. The seller shall however remain authorised to summon the buyer to appear before the court authorised by law or by the applicable international convention.

18.2 The laws of the Netherlands apply to every agreement between Animal Magic and the client.

#### **Article 19: Changes to the terms and conditions**

19.1 Animal Magic is authorised to make changes to these terms and conditions. These changes shall become effective on the announced effective date. Animal Magic shall send the amended terms and conditions to the client in a timely manner. In the event no effective date is indicated, the changes shall become effective with respect to the client as soon as it has been notified of these changes.