



S.r.l.

Via Grotte di Nottola s.n.c. – 04012 Cisterna di Latina (LT) Italy - Tel./Fax +39-06-9681776 – info@bluemagiconline.it  
Cod. fisc. e P.IVA 02135670590 - Capitale sociale € 25.000 i.v. - Trib.Latina N. 148489 – C.C.I.A.A. Latina 148489

## Conditions of sale

### 1. Scope of application and conditions of sale

The transmission to Blue Magic Srl (Blue Magic) of orders for the supplying of products implies the full unreserved agreement of the client to all the terms of sale.

Any possible clause or opposite term put by the client, in any time or by all means, will not be opposable to Blue Magic except for a different written agreement signed by the Management of Blue Magic. The fact that Blue Magic does not avail of one of the clauses of the current terms, does not mean that the company will not use any clause in the future.

### 2. Orders

All orders must be made in writing and they must indicate for each product the code, the description and the requested amount (preferably by using the standard packaging or one of its multiple); all information are reported in the Blue Magic catalogue. Blue Magic has the right to reject the execution of clients' orders with whom there are some pending disputes concerning payment of previous supplying. All orders are accepted by Blue Magic only after the order's confirmation.

### 3. Prices

Prices indicated in the Blue Magic price list, at the net of eventual agreed discounts, enclose packing costs. In any time and without warning, Blue Magic can update the prices or its current price list, in order to consider the rise of costs production, of any change or variation of exchange rate. The indicated prices do not include expedition expenses, except for different agreement between the parts.

If the ordered goods are delivered outward the European Union, customs duties, local rates, or any another cost linked to the importation will be charged to the client and the client will be responsible both for the necessary statements and the payments to the authorities and/or to the qualified institutions of its own country.

### 4. Delivery

The time of delivery is two (2) weeks from the confirmation order, in case the products are available and unless particular conditions were present at the time of agreement. These conditions will be expressly mentioned in the order confirmation. The terms are indicative and not binding, unless the case in which Blue Magic has not specified (in writing) that the terms are binding. Any delay in the delivery of goods will not allow the client to solve the order, unless Blue Magic has not accomplished its obligations within thirty (30) days from the arrearage that the client should send over, in writing (by



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registered letter or by fax) and if, at the expiration of the previously mentioned term, the client confirms, in writing, the will of settling the contract.

Even in the case in which Blue Magic accepts the binding terms by writing, the company will not be considered heedless of its own duties, in the following cases:

- unexpected technical circumstance, default of carriers and/or suppliers, events out of Blue Magic control (as indicated in clause n° 15);
- omission or mistakes in the information given by the client;
- late delivery or/and late fulfilment upon request of the client;
- delays due to customhouse formalities.

In case of orders which concern many products, Blue Magic has the right to split the delivery.

When the goods are delivered to the courier, there is the transfer of the risk to the client.

In case of absence of written and motivated reserves from the client within three (3) days from the date of delivery of goods, they will be considered accordant to the order without prejudices of the rights of the client relative to the guarantee.

## **5. Packing and carriage**

Packing is made by Blue Magic. Every particular and/or additional packing must be requested by the client and agreed by writing with Blue Magic and the cost will be invoiced at the price in effect the day of the order. Blue Magic is not obliged to retire the packing.

Expeditions will be made by a courier delegated by Blue Magic; unless a different preventive agreement during the order, the carry expenses and/or insurances will be charged to the client with another invoice added to the cost of goods.

The client must verify at the moment of delivery the good condition of the packing and the content of the parcel and, if necessary, indicate on the delivery document given to the carrier, the motivated reserves in respect of apparent damages and/or shortages. These reserves must also be confirmed in writing to the carrier and to Blue Magic within three (3) days from the shipping date (by registered letter or by fax). Otherwise all the complaints could not be accepted.

## **6. Ownership**

Blue Magic reserves expressly ownership of the goods until the entire payment of the price, included all the additional costs.

Payment will be considered made only when the entire price of the order will be received and/or accredited by Blue Magic. The client does not grant in pledge or give



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other types of guarantee on the material until the entire payment of the price. If the goods are modified and/or transformed, their ownership is reserved to Blue Magic for an amount corresponding to their value at the moment of the order.

In case a part or the entire invoice is not paid, within the expiry date, Blue Magic in accordance with what stated in article 12, (Italian civil code) can solve by right, without any judicial intervention, the contract and the client must immediately pay back to Blue Magic goods which has not been paid.

The rights of intellectual and industrial ownership relative to the provided goods will remain to Blue Magic (or, if the case, to the third who is the author).

## 7. Payment

Payment of goods should be made in Euro upon Blue Magic order. Bills are payable, at the net and without discounts, within the date indicated in the document, if not differently authorized in writing by Blue Magic.

Bills will be considered received after three (3) days from the date of their shipping. Blue Magic has the right to request in any moment the payment, in cash, before the fulfilment of any orders. This clause will be applied in particular:

- in case of first shipping to a new client;
- in case of foreign clients;
- in case of missing payment of previous orders;
- in case of negative result on the financial verifications on the client.

A failed payment within the expiry agreed date will imply the application of the interest of arrearage according to the Law October 9<sup>th</sup> 2003 n.231, without the necessity of a full arrearage, starting from the day after the date of payment reported in the invoice and until the effective payment. The interests will be given at the moment of the reception of the debt note sent by Blue Magic. In this case Blue Magic will have the right to not make the delivery and/or solve the contract, according to clause 12.

## 8. Confidentiality

Studies, Plans, Drawings, Technical schemes, analytics descriptions, documents provided and/or delivered by Blue Magic will remain property of Blue Magic. They cannot be revealed to other people, they cannot be duplicated without the preventive written expressed accord of Blue Magic.

The client 's engagement implies:

- do not copy or provide others with any info, data or documentation obtained by Blue Magic;



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- do not provide any confidential information obtained by Blue Magic or acquired during the trade relation with the company;
- do not copy, modify, tamper and do not make an improper use of the goods.

Employees as well must respect the current clauses.

These clauses will be valid even in case of splitting of the contract.

## **9.Change of products**

All the technical data showed in the list are approximate.

Blue Magic has the right to make changes and/or improvements to the products, in any time and without warning, whenever it is necessary or/and useful.

## **10.Setting**

Setting is not made by Blue Magic. The client is responsible for the wrong setting and must use the goods following the instructions provided by Blue Magic, in particular those related to the setting, to the materials and tools compatible with the goods.

## **11. Warranty**

### **11.1. Extent**

Blue Magic assures all its new products (with expressed exclusion of all the expandable materials) against any manufacture lacks (except for those due to carriage) for twelve (12) months from the shipping date. The execution of the guarantee is subject to the regular payment of the bills at the moment of the request of replacement and/or repair and, furthermore, it is also subject to the return of the faulty goods as expected by the clause 11.3.(see below)

### **11.2. Execution of the guarantee**

Blue Magic decides if faulty assured goods must be repaired or free replaced (except for repair of other types of damages). The guarantee expected by the clause 11 (saved the irremissible laws) replaces any other expressed or tacit guarantee.

Blue Magic will never be responsible for indirect, special and consequential extra contractual or contractual damages (loss of order, of profit and any other trade or economic damage included).

### **11.3.Return of goods**

All the returns which have no preventive assent of Blue Magic will no be accepted. Assured goods which must return to Blue Magic for repair or/and replacement must be authorized (in writing) and must be sent back with their original pack. The carriage is made without charges. Faulty replaced goods will become of Blue Magic property.



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#### **11.4 Restrictions to the guarantee**

There is no guarantee in case of:

- manumission of goods;
- wrong setting of goods;
- use of no-suitable nor compatible materials;
- changes made without written warring of Blue Magic;
- defaults due to the use of products, materials and tools which are not compatible with goods;
- returned materials without respecting clause 11.3.

#### **11.5. Defaults and complaints**

Claims for shortfalls and/or apparent damages must be communicated as per modalities of clause 5. Any defaults of the goods, due to manufacturing process are covered by the guarantee (clause 11). If there are defaults/lacks in the supplied goods, the client must inform, in writing, the company within eight (8) days from the survey. In case of timely complaint of lacks, the client can benefit from the guarantee of clause 11.

#### **11.6 Exclusions**

The guarantee of the current clause 11 excludes the application of the guarantees expected by articles 1490 and 1497 of civil Italian code and it remains the only guarantee given by Blue Magic.

#### **12. Splitting of the contract**

Blue Magic can split the contract, without the pronouncement of the Authority in the following circumstances:

- The client does not accomplish one of the contractual duty relative to the order and, in particular, in the case in which the failed payment is not corrected in the successive 15 days from the dispatch of a written reminder (by registered letter or fax);
- Bankrupt of the client or cession of the company.

In all these cases, the client must return with promptness the delivered and not paid goods, in good conditions, to the address which will be provided by Blue Magic.

In addition, the client must provide Blue Magic with an amount equal to twenty (20) per cent of the price of the goods (in terms of damages) that the client accepts to pay as simple request of Blue Magic.



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Each rate in effect at the moment of the invoicing, will be added to the above amounts. In case of failed payment there will be interests of arrearage at the rate equal to the legal interest in effect in Italy.

The current clause does not prevent Blue Magic from asking a further sustained eventual damage.

### **13. Brands**

Clients may use brands showed on the sales goods only in order to identify them. Clients may not change or remove any brand from the goods.

Clients must not register the Blue Magic brand under their name or any other brand or distinctive sign which can be confused with those of Blue Magic.

### **14. Restriction of responsibility**

In case Blue Magic is responsible for a lack of goods or for a defective performance, the company will be responsible only for direct material damages to/or people within the limit of order's amount, according to the irremissible laws (responsibility of product).

Blue Magic is not responsible for any indirect or consequential damages, and/or immaterial, and/or moral included damages, in particular economic damages or trade losses as loss of profit, of orders, interruption of service and damages of same nature made by the client to Blue Magic, because of damages to others.

Blue Magic will not be considered responsible and it will not be obliged to reimburse in case of major strength or other events out of Blue Magic control.

### **15. Extraordinary events/circumstances**

In case of particular circumstances, (governmental operations, strike, insurrections, war, restriction to the importation, flooding inundation, fire or any other event considered by law as an exceptional event) the interested part can notify it to the other part in writing (by registered letter or fax) within fifteen (15) days from the event; the duties of the involved parts can be interrupted for a long period of time, equivalent to the duration of the event and without the right to get any compensation.

In case the extraordinary event will continue for more than three(3) months, the other part can solve the contract by right and without acknowledgement of damages.

### **16. Applicable law and competent court**

The current general terms of sale are regulated by the Italian law except for the application of the Vienna Agreement on the contracts of international sale of goods.

Any dispute linked to the current terms of sale and to the execution and accomplishment of contractual duties will be delegated to the Court of Latina.



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THE CLIENT

According to Articles 1341 and 1342 of the civil Italian code, we approve the following specific clauses:

Art.2 (orders), art.4 (delivery), art.5 (Packing and carriage), art.7 (Payment), art.11 (Guarantee), art.12 (Splitting of the contract), art.14 (Restriction of responsibility), art. 16 (Applicable law and qualified Forum).

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