

GENERAL TERMS OF SALE LINCO BAXO GROUP OF COMPANIES rev - 2 dtd 01.01.05

Article 1 - General and preamble.

In these general terms of sale the following words have the following meanings:

LB : LINCO BAXO INDUSTRIE REFRATTARI SPA - MILANO.

CLIENT : All natural or legal entities to whom LB has made an offer or with whom it has entered an agreement for the purpose of sale, contract and commercial business.

These general terms shall apply to all offers, agreements and contracts that LB enters with the client.

If a client wishes to use his own general terms of sale, the general terms of LB shall take preference.

If a client wishes to deviate from these general terms, LB is bound only by his acceptance in writing.

LB shall only be bound by verbal agreements with and/or commitments given by its employees and/or its representatives after it has confirmed them in writing.

Article 2 - Offers, orders, deviations and tolerances.

All offers made by LB in whatever form shall be without commitment and shall not bind LB to make delivery.

The mere acceptance of an offer by a client does not therefore mean that an agreement and / or a contract has been concluded between the client and LB. LB shall only be bound by his confirmation of sale, even if client's order is accepted by commercial travellers, commercial agents, resellers and other intermediaries.

The risk of mistakes and/or errors made in respect of orders which are not confirmed by a sale confirmation (for example with urgent deliveries) shall be borne by the client.

Unless and insofar as it is agreed otherwise in the written confirmation of an order, LB shall not be bound by any sketches, drawings, calculations, estimates, graphs, prospectuses, catalogues, size and weight specifications and/or other representations and data it provides.

Without LB permission, the above may neither be copied wholly or in part nor made available to third parties or for inspection and must immediately be returned to LB at LB first request or if LB is not given the order to which they pertain.

With respect to the delivery of fungible goods, the client shall permit the following deviations:

DEVIATIONS OF QUANTITIES FOR GOODS DELIVERED ON A UNIT BASE :

less than 5 items 1 pcs, 6 to 10 items 2 pcs, 10 to 49 items 3 pcs, more than 50 items 5 %.

DEVIATIONS OF QUANTITIES FOR GOODS DELIVERED ON A WEIGHT BASE :

less than 1 ton 10 %, more than 1 ton 5%

With respect to technical features of fungible goods, the client shall permit the following tolerances :

QUALITY TOLERANCES ON SIZES FOR STANDARD MASS-PRODUCTION :

dimensions more than 300 mm $\pm 1,2\%$, 150 to 299 mm ± 3 mm, less than 149 mm ± 2 mm.

Cord lengths shall be permitted to have a sag of 1%.

QUALITY TOLERANCES ON CLIENT'S SPECIFICATIONS AND LB DATA SHEETS :

CHEMICAL COMPOSITION

One-component product (>90%) 5 %, Main element (>20%<90%) 10 %, Secondary elements (>1%<20%) 20%, microcomponent <1% 0,4.

COLD CRUSHING STRENGTH average of specimen - 20% , **MODULUS OF RUPTURE** average of specimen - 20% ,

LINEAR CHANGE OF DIMENSION average of specimen + 20% ,

DENSITY at 105 °C. average of specimen $\pm 15\%$, **DENSITY at 815 °C.** average of specimen $\pm 15\%$,

REQUIRED MATERIAL (without allowance) average of specimen $\pm 15\%$, **GRADING** excess over max.size + 5 % (on weight)

However values which do not prevent the use of material and do not impair the performance are meant acceptable ; should LB data sheets improve totally and/or partially values defined by client 's technical specifications and / or applicable national / international standards , the latter will be used totally and/or to assess quality deviations .

Article 3 - Delivery, completion.

Unless it has been agreed otherwise in writing, deliveries shall be made ex works. Irrespective of the method of shipment, goods shall always travel at the risk of the client.

The client shall be obliged to provide LB shipment instructions for goods in good time. In the absence of shipment instructions, LB shall be entitled to invoice the goods and to charge the customer on store expenses, deposit fee any related costs in this respect to the client

LB shall observe delivery times as punctually as possible. If delivery times are, for whatever reason, exceeded, the client shall not be entitled to claim damages, to dissolve the agreement between the parties or to suspend his obligations under the terms of the agreement between the parties.

If the client does not lodge a complaint with LB in writing within fourteen days of delivery, he shall be deemed to have approved the goods. In the event of a complaint, goods must be maintained in the same condition, until said complaint has been investigated by or on behalf of LB.

The most recent version of the INCOTERMS shall apply to all deliveries.

The provisions of Article 3 of these general terms shall also apply to partial deliveries.

Article 4 - Inspection

If an inspection has been agreed, it shall take place at LB factory or warehouses or in another location that LB shall specify in good time. After the client has approved the goods, they shall be considered to meet the agreed specifications. If the client, after being given the opportunity to do so, does not conduct an inspection, LB shall test the goods against the agreed specifications in the client's place as if it were the client.

If LB approves the goods in such a situation, they shall also be deemed to meet the agreed specifications. Unless it is agreed otherwise, inspections shall be carried out at the expense of the client. The client may only return delivered goods after receiving written approval to do so from LB.

The costs of returning goods shall be borne by the client. Goods should be returned in their original packaging.

Article 5 - Prices .

Prices shall be exclusive of the costs of packaging materials, transport costs, VAT tax and all other taxes and levies, which, be they statutory or agreed by the parties, shall be borne by the client. If one or more of the cost price factors increases after the date of LB offer - even if this occurs as a result of unforeseen circumstances - LB shall be entitled to increase the agreed price mutatis mutandis. LB shall inform the client of any such price increases. If the purchase price is quoted in a foreign currency and the exchange rate of said currency with the euro changes unfavourably for LB after the parties have entered an agreement, LB shall be entitled to increase the purchase price in such a way that the equivalent value in euros is the same as it was when the agreement between the parties was first concluded.

Article 6 - Retention of title.

As long as they can be distinguished as separate items, delivered goods shall remain the property of LB until the client has fulfilled all his obligations to LB. This shall include any obligations regarding the payment of interest, costs and damages. The client shall be entitled to sell goods that have been delivered to him and that belong to LB in a legal way to third parties or to process them in the normal conduct of his business. However, the client shall in such a case be obliged at the first request of LB to assign the respective claim against his debtor to LB and to inform said debtor accordingly. If one or more invoices for the delivery of the same type of goods are unpaid, the goods delivered by that are present at the customer's place of business shall be deemed to relate to said unpaid invoices.

Article 7 - Payment.

The client shall be deemed to recognise invoices as correct and payable, if he does not protest against them in writing within fourteen days of the date thereof. All payments shall be made without any deduction or set-off into a bank to be specified by LB within the period it sets in this respect. If the payment period is exceeded, the client shall, by operation of law and without having to be given notice of such, be in default in respect of LB. The payment period referred to above shall be regarded as a term to be observed on penalty of forfeiture of rights. In the event that the client defaults in the payment of one invoice, all LB other claims against him shall become immediately due and payable. In this respect, LB shall also be entitled to dissolve immediately all agreements with the client out of court and claim the legal interest over the total outstanding sum. All costs either judicial or extra-judicial as well as the costs of legal advice related to the collection of any sum owed by the client to LB shall be borne by the client. The set-off of debts and claims held by the parties against each other shall not be permitted under any circumstances whatsoever.

Article 8 - Force majeure.

For the purpose of these general terms, force majeure is understood as being a failing for which LB can neither be attributed nor held accountable by law, legal act or according to generally accepted business codes. Force majeure shall include, amongst other things, any type of restrictive government measure whatsoever, drastic changes in exchange rates, strikes, plant occupations, seizures, machinery breakdowns, transportation problems, power-cuts, shortages of raw materials, semi-finished goods, ancillary materials and the continued non-performance of third parties either wholly or in part from whom goods or services are due to be received. Without prejudice to its right to dissolve the agreement without judicial intervention, in the event of force majeure on the part of LB, the execution of the agreement shall be suspended as long as the conditions of force majeure make it impossible to implement it. In the event of force majeure, LB cannot be held liable in any way whatsoever for not fulfilling its obligations or not fulfilling them on time or for the payment of damages in any form whatsoever and no matter what they are called.

Article 9 - Warranty and liability .

LB manufactures, sells and installs heat resistant materials, refractories and insulating, which are by definition consumables; accordingly LB can never give a performance guarantee over a specific life span and/or performance of the goods.

However LB warrants that its products are manufactured in accordance with its applicable material specifications and are free from defects using LB specifications as standard. LB make no other representation or warranty of any kind, express or implied, in fact or in law, including without limitation, the warranty of merchantability, the warranty of fitness for a particular purpose, the warranty of specific life span and the warranty of performance for the goods it delivers. **LB shall not accept any liability for any defects or consequential damage whatsoever that exceeds the value of the delivered goods and services (e.g. erection at site)**. It is expressly agreed that the limit of LB liability shall be only the resupply of a like-quantity of non-defective product and/or service and that LB shall not be liable for any incidental, consequential or other damages for any alleged negligence, breach of warranty, strict liability or any other events, other than the limited liability set forth above.

LB hereby disclaims any liability for its products if damage incurred can be attributed to the design of a product in which its goods are used as components or in which its goods are processed as raw materials.

LB shall not accept any liability whatsoever for whatever reason towards the client or towards third parties for any consultancy, engineering and installing services it provides.

Article 10 - Applicable law and disputes.

All agreements between LB and the client shall be exclusively governed by Italian law. Unless LB chooses another legal institution, the District Court in Milan shall have exclusive jurisdiction over other legal institutions, including judicial establishments in other countries, to hear disputes between the client and LB.