

## **CIRCULAR N. 2608/08 – GENERAL SALES CONDITIONS**

### **1 - APPLICABILITY**

1.1. All the agreements stipulated between Landucci S.r.l. (hereinafter indicated as "the Seller") for the sale of its products (hereinafter indicated as "the Products") and a customer (Purchaser) will be integrally and exclusively governed by the present general sales conditions that replace and invalidate all the previous general sales conditions, written or verbal agreements, or the previous procedures and practices eventually followed by the parties, and exclude the application of all the other general conditions adopted by the Purchaser and third parties.

### **2 - MODIFICATIONS**

2.1 The Seller reserves the right to modify and/or change the present general sales conditions, enclosing such modifications in the written correspondence.

### **3 - DELIVERY CONDITIONS**

3.1 If not differently established in writing by the Seller, the delivery of the Products is understood as agreed upon EXW (Ex Works) (Incoterms 2000 International Chamber of Commerce Italy).

### **4 - RISK TRANSFER**

4.1 The moment of the risk transfer of the sold goods is established by international standards for the interpretation of the commercial terms (INCOTERMS) of the International Chamber of Commerce, in force from the stipulation date of the agreement.

## **5 – RETENTION OF TITLE**

5.1 The Products will remain property of the Seller, until the same Seller has received the entire payment of the Products, ex articles 1523 and successive, civil code.

## **6 – ACTS OF DISPOSAL PROHIBITION**

6.1 The Purchaser cannot sell, transfer, or use as collateral, the goods purchased before having paid integrally its price to the Seller, to who must be immediately communicated, through registered letter sent in advance via fax, the executive procedures that, upon third parties request, should have affected such goods.

## **7 - ORDERS**

7.1 The orders must be written in a clear and complete way on the Purchaser's headed letter paper.

7.2 Each purchase order for the Product must specify the quantity of ordered Product and the foreseen delivery date.

## **8 – ACCEPTANCE OF THE ORDERS**

8.1 The orders of the Purchaser will be binding for the Seller only after their written confirmation by the same Seller.

8.2 The Purchaser must anyway carefully check that the order confirmation corresponds to the order and communicate possible errors within three days from the receipt of the order confirmation.

8.3 After such term, possible errors or non-conformities of the order confirmation will be understood as accepted and the Purchaser cannot enforce them anymore.

## **9 – MODIFICATION AND CANCELLATION OF THE ORDERS**

9.1 Any modification or cancellation of the orders by the Purchaser will not be effective if it arrives to the Seller after the goods are already under production.

9.2 In case the modification or the cancellation of the order should be prompt, pursuant to previous paragraph, the possible expenses and damages that the Seller should have already managed and experienced for the production of the ordered Products are at total charge of the Purchaser that commits to reimburse or compensate upon simple request of the Seller.

9.3 All the possible cancellations or modifications of orders must arrive to the Seller in writing and must be accepted in writing by the same Seller to be valid and effective.

## **10 – RESCISSION OF THE AGREEMENT OR SUSPENSION OF THE DELIVERY**

10.1 The Seller can cancel every order already confirmed and/or rescind any sales agreement and/or suspend the delivery of the goods with immediate effect in the event that one or more of the following circumstances should occur:

a - the Purchaser is in a state of insolvency or default for the payments, or liquidity shortage, even if temporarily, or is declared bankrupt, or is admitted into any insolvency proceedings or analogous proceedings;

b – the Purchaser’s assets are under total or partial court-ordered seizure, or if a liquidator or a receiver of the Purchaser’s assets is appointed;

c - the financial or assets and liability situation of the Purchaser deteriorates to such an extent that it determines a reduction or cancellation of the credit from the credit Insurance, or the revocation of a renewable letter of credit, and it does not supply suitable additional guarantees to the Seller;

d - The Purchaser does not fulfil one of the fundamental obligations of the present general conditions or of Products purchasing contract towards the Seller.

## **11 - RESPONSIBILITY OF THE SELLER FOR THE INFORMATION SUPPLIED**

11.1 All the information supplied by Seller about the Products, in absence of the specific technical information sheet of the Seller, including those indicated in the catalogues, in the promotional material, in the price lists and in the correspondence, are given in good faith and with every care to assure the accuracy of such information.

11.2 However, the Seller is not responsible for the errors that could have been done unintentionally; therefore, the above-mentioned information must be considered as merely indicative and not binding.

## **12 - REPLACEMENT OR MODIFICATION OF COMPONENTS OR PRODUCTS**

12.1 The Seller reserves the right to modify, replace, or add any product, or its component, anytime.

## **13 – PRICES AND PAYMENT CONDITIONS**

13.1 The sales prices are indicated in the offers sent, on each occasion, to the Purchaser.

13.2 Except differently agreed, the price of the goods must be paid within 60 days from the invoice date, at the main headquarters and/or a branch of the Seller.

## **14 - IRREGULARITY OR DELAY OF THE PAYMENTS**

14.1 Possible delays in the Purchaser's payments will entitle the Seller to the immediate suspension of the delivery of the Products to the Purchaser; even if it is referred to, orders or lots different from those for which the irregularity or delay of the payment occurred.

14.2 Fifteen days after the agreed deadline of the payment, the default interests, in measure equal to that established by the Legislative Decree No. 231/2002, will automatically accrue on the price, and with no need of declaration of default.

14.3 The Seller has also the right to the reimbursement of the costs incurred, also through extrajudicial agreement, for the recovery of the credit and the debt-collection letter, without prejudice the evidence of larger damages.

## **15 - DELIVERY OF THE GOODS**

15.1 The deliveries must be executed in the normal working days of the Seller.

15.2 The Product must be delivered to the Purchaser in the normal packing foreseen by Landucci S.r.l. for the Product.

15.3 The delivery date of the products must always be considered as indicative and not peremptory.

15.4 The delivery term indicated is understood as starting from the complete technical, commercial, and administrative definition of the order. In case of order with part of the payment in advance, the delivery time starts from the receipt of the advanced partial payment. In case of order with incomplete technical specifications, the delivery term starts from the complete technical definition of the order.

15.5 A tolerance of 30 working days after the established delivery term is anyway always admitted.

15.6 The Seller will do everything in its power for the punctual fulfilment of the contract and delivery of the Products within the agreed terms but in no case, he will be responsible for the damages and the expenses directly or indirectly caused by the delayed fulfilment of a contract and the delayed delivery of the Products.

## **16 - GUARANTEE OF THE PRODUCTS**

16.1 The Seller guarantees that the Products are in conformity with the technical specifications that the Purchaser declares to have examined in ample and exhaustive way before executing the purchase order.

16.2 In case of an order of dies or inserts for a shape of which a particular dry pasta thickness is required, except for different agreements, the Seller will manufacture dies and/or inserts that guarantee the thickness required by the Purchaser, with a tolerance of +/- 0.05 mm on the thickness itself. Possible other measures are guaranteed according to the general tolerances of "Rough" type as from UNI 5307-63 table. Except different agreements, in case of complaint the measurement system of reference is the one established by the standards of the Seller.

16.3 In case of an order of dies or inserts for a shape of which a particular dimension of the hole on the die is required, except for different agreements, the Seller will manufacture dies and/or inserts that guarantee the dimensions required by the Purchaser (or the ones reported in the Seller's catalogue), with a tolerance of +/- 0.05 mm on the thickness and of +/- 0.15 mm on the width and/or the diameter of the shape itself. Possible other measures are guaranteed according to the general tolerances of "Rough" type as from UNI 5307-63 table. Except different agreements, in case of complaint the measurement system of reference is the one established by the standards of the Seller.

16.4 The Seller will not be responsible in the event that products are not suitable to a use different from the one in the instruction manual or sheets, except for different written guarantee released, according to the case, by the Seller.

16.5 The Seller guarantees also that the goods have no manufacturing defect in conformity with the standards in force in Italy.

16.6 Such guarantee is understood as in lieu of any additional guarantee regarding the marketability, quality, and suitability for a specific purpose different from the one in the instruction manual or sheets, except particular written guarantee released by the Seller.

## **17 - DURATION OF THE GUARANTEE**

17.1 The guarantee as set forth in the previous clause has a duration of twelve months from the delivery date of the Products, if it concerns machines.

17.2 The guarantee for the replaced or repaired parts expires the same day of the expiration of the machine's guarantee.

17.3 No minimum period is guaranteed for the duration of the extruders or inserts.

## **18 - GUARANTEE EXCLUSIONS**

18.1 The Seller will not be responsible in case the Purchaser or the final customer have not stored and taken care of the Products in an appropriate way or anyway in conformity with the possible recommendations supplied by the Seller for the use and maintenance of the products that the Purchaser declares to know well.

18.2 The Purchaser loses the right to the guarantee, if the complained failures result caused by: force majeure causes; the same Purchaser, its dependents, or third parties; from wrong installation; inexperience in the running of the machinery; wrong or anomalous use; bad or omitted maintenance; repairing, replacements and modifications executed without the authorization of the Seller.

18.3 The Purchaser loses the right to the guarantee also if he does not allow any possible check requested by the Seller or if, upon the Seller's request, The Purchaser does not return the Product or its faulty component within ten days from the request.

18.4 All the electrical parts and the ones that due to their nature or use are subject to inevitable wear and tear are excluded from the guarantee.

18.5 Except different written agreement, no guarantee is released by the Seller regarding the conformity of the Products with the standards and regulations of any nature, expressly including also the safety and accident-prevention standards, in force in the Country of the Purchaser, if different from those in force in Italy.

18.6 The Seller will have no obligation to adapt the Products, after the sale, to the standards that came into force successively.

18.7 However, without prejudice for what above-mentioned, the Purchaser has the obligation to inform the Seller about the existence, the precise content, and the right standards reference of binding laws in force in its Country, regarding the Products or their packing.

18.8 In no case, the Purchaser can compensate the price of the goods through possible credits he has with Seller.

18.9 The Purchaser declares to be aware of the fact that the Products can be dangerous for the people or the property if not installed or used in full conformity with the assembling and use instructions supplied by the Seller.

18.10 The Seller is not responsible for any damage caused by the installation or use of the Products not in conformity with the instructions supplied by the same Seller or by the installation of the Products with other products or devices, even if regarding safety, not produced or supplied by the Seller.

## **19 - DEFECTS AND DIFFERENCES REPORT MODALITIES**

19.1 The Purchaser must examine the Products or have them examined within thirty days from the delivery, even if the contract or the single order implies the transport of the Products to another destination by the Purchaser.

19.2 The Purchaser, under penalty of cancellation, must report in writing to the Seller possible defects, differences and damages of the Products, in punctual, detailed, and not general way, within thirty days from



the delivery of the same Products, specifying the number of defected products, the type of defect, the lot interested by the defects, and the invoice related to the goods, as well as number and date of the order confirmation.

19.3 In the following ten days from the report, a complete assortment of the goods, for which the defects are reported, must be sent to the Seller, while all the goods must be put at the Seller or its delegates' disposal for the opportune verifications.

19.4 In case of not punctual fulfilment of such report modalities, the goods is understood as being accepted without reservations, and possible complaints against the Seller will not be valid.

## **20 - RESTRICTIONS OF THE DAMAGES**

20.1 If one of the parties is obligated to compensate the other one, the total amount of such compensation is limited to the damage that the faulty party could reasonably foresee at the time of completion of the contract.

20.2 The maximum compensation amount can never exceed the value of the defected Product.

20.3 Only the damages that are immediate and direct consequence of non-fulfilment or wrongful act can be refunded.

20.4 The party that claims the non-fulfilment of the contract is obligated to take all the necessary measures to reduce the loss occurred, as long as this can be done without unreasonable inconveniences or expenses. If it fails to do so, the party responsible for the non-fulfilment, will be entitled to a proportional reduction of the damages.

## **21 - CONTENT OF THE PRODUCTS' GUARANTEE**

21.1 In the event that the Seller agrees about the effective existence of the reported defect and there was not a violation of any of the guarantees, the only solutions recognised to the Purchaser will be alternatively, at the unquestionable choice of the Seller:

a – take the faulty Product back and repair it, providing then for its return to the Purchaser;

b - replace the Product or the faulty part of the Product.

21.2 Except different agreements with the Purchaser, the repairing modalities and/or replacement of the material under guarantee do not include the intervention of the personnel of the Seller at the Purchaser's place. Such intervention, if requested, must be considered not included in the guarantee, and therefore it must be paid.

21.3 Except different agreements, the parts to replace will be sent by the Seller to the Purchaser carriage paid, and replaced at care and expenses of the Purchaser.

21.4 The Seller will not be anyhow responsible, except wilful misconduct or gross negligence, for any direct, indirect or consequential damage, loss of profits or of commercial image, that might have been experienced by the Purchaser consequently to the features or differences or defects of the Products, for a total amount that exceeds the gross amount paid by the Purchaser as price of the Product or of the lot of Products that caused the above-mentioned damages.

## **22 - PAYMENTS IN CASE OF THE SELLER NON-FULFILMENT**

22.1 The Purchaser cannot submit a claim against possible defaults of the Seller if it has not fulfilled the payments; possible defaults of the Seller do not allow the Purchaser to suspend or delay the payments.

## **23 - RETURN OF GOODS**

23.1 Returns of goods will not be accepted if not previously authorised in writing by the Seller.

23.2 In any case the return expenses are at the charge of the Purchaser.

## **24 - ASSEMBLING**

24.1 The assembling on site of the Products is not included in the sale.

24.2 The costs and the assembling modalities must be possibly agreed in writing according to the case.

## **25 - INSTALMENT PAYMENT**

25.1 In the event that, an instalment payment is foreseen, the taxes and any type of costs will be totally paid with the first instalment of the payment.

## **26 - COMMISSIONING**

26.1 The commissioning of the Products is executed only if agreed upon in writing, and the expenses and risk are at charge of the Purchaser.

## **27 - PARTICULAR SALES CONDITIONS**

27.1 In the event that the Purchaser wants to exclude from a particular contract with the Seller any responsibility restriction foreseen by the present conditions, such exclusion must be proposed in writing to the Seller before the termination of such contract, so that if at its discretion, the Seller decides to accept such exclusion, and always in writing, it is possible to agree upon the consequential price increase of the Products that reflects the risk increases and the additional obligations that the Seller has agreed to sustain.

## **28 - DRAWINGS, DOCUMENTS, TECHNICAL INFORMATION OF THE SELLER**

28.1 Any drawing, document, technical information or software related to the production or the assembling of the Products, or their components delivered to the Purchaser will remain of sole proprietorship of the Seller. Such documents and information cannot be used by the Purchaser for extra-contractual purposes or copied, reproduced, transmitted, or communicated to third parties without the written permission of the Seller.

## **29 - APPLICABLE LAW**

29.1 All the contracts stipulated by the Seller are exclusively subject to internal Italian law with express exclusion of the applicability of the United Nations Convention for the international sale of moveable property signed in Vienna on 11.04.1980.

## **30 - CONCILIATION CLAUSE, JURISDICTION, AND EXCLUSIVE COMPETENCE**

30.1 The parties agree that, all the possible controversies, deriving from the interpretation, the application, the execution, the rescission, nullity, possibility to be annulled, invalidity and the fulfilment of the present agreement must be subject to a preliminary conciliation attempt assigned to a professional conciliator chosen from the list of the conciliation Organism, Concordia s.r.l., with registered office in Padua, P.zza Castello 16.

30.2 The place where the conciliation will take place is in Florence, via Alfieri, 28.

30.3 The conciliation will be executed in the Italian language.

30.4 Such conciliation proceedings will be considered closed 60 days after its start and it is regulated by the above-mentioned Regulation conciliation organism.

30.5 The parties commit to apply to conciliation before starting any dispute vs. litigation.

30.6 If the controversy will not be solved at the end of the conciliation procedure as set forth in the previous clause, and anyway within 60 (sixty) days from the starting of the same conciliation procedure or within the

different period that the parties will agree upon in writing, it will be subject exclusively to Italian jurisdiction and in particular, it will be of exclusive competence of the Court of Florence.

## **31 - AUTHENTIC TEXT - MODIFICATIONS**

31.1 The text, written in the Italian language, of the present sales conditions will be the sole authentic text.

31.2 Other possible texts written in foreign languages must not be considered binding, since they represent only courtesy versions, with a merely indicative purpose to facilitate the discussion.

31.3 No addition or modification will be valid if not in writing.

## **32 - FORCE MAJEURE**

32.1 None of the Parties will be responsible for its non-fulfilment to any of the obligations herein foreseen, if it is able to prove: a) that the non-fulfilment was caused by an event out of its control; b) that it was not reasonable to expect, at the time of the signature of the present Agreement; and c) that it was not reasonably possible to prevent or rectify such event or at least its effects.

32.2 For the purposes of this clause and without considering exhaustive the herein offered list, a “force majeure event” will include fires, floods, wars, disorders, natural disasters, acts of civil or military authorities, fires, strikes, uprisings.

32.3 If a force majeure event should occur, the date/s for the fulfilment of the involved obligation/s will be postponed for the necessary time required by the force majeure event, as long as, if the force majeure event continues for a period of, or exceeding two (2) months, the non involved Party has the right to immediately rescind the present Agreement, with written communication to the involved Party. Each Party will make efforts to minimize the effects of each force majeure event.

### **33 - TECHNICAL AND LEGAL EXPENSES**

33.1 In case of judicial or extrajudicial controversy between the parties, the losing party must pay all the expenses, including the legal ones in reasonable measure, the technical expenses, and the judicial ones, to the winning party.

### **34 - RELATIVE INVALIDITY OR INEFFICACY**

34.1 The possible invalidity or inefficacy of one or more clauses or part of them does not imply the invalidity or the inefficacy of the other clauses or the remaining part of clause.

### **35 – AUTHENTIC TEXT**

35.1 If a document or a contract is written in more languages, the one in the Italian language will be considered authentic.

### **36 - PURCHASER PERSONAL DATA**

36.1 Except different agreements, the personal data of the Purchaser are considered written under the responsibility of the same Purchaser, as foreseen by article 41 of DPR 26.10.1972 No. 639.

### **37 - PERSONAL DATA PROCESSING**

37.1 The Seller uses also through external collaborators the data regarding the Purchaser, exclusively for administrative and accounting purposes, also when they are communicated to third parties.

37.2 The Purchaser authorizes with the closure of the sales contract, the communication to third parties of its own personal data in relation to fulfilments connected with the same sales contract (pursuant to lgs.d. No.196 of 30.06.2003 about the protection of personal data).