

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                      |   |                         |
|----------------------|---|-------------------------|
| LABELTEX MILLS, INC. | ) |                         |
|                      | ) |                         |
| Opposer              | ) |                         |
|                      | ) | Opposition No. 91161944 |
| v.                   | ) |                         |
|                      | ) |                         |
| LABELTEX S.R.L.      | ) |                         |
|                      | ) |                         |
| Applicant            | ) |                         |

**APPLICANT’S RESPONSE IN OPPOSITION TO OPPOSER’S UNCONSENTED  
MOTION FOR EXTENSION OF TIME**

Applicant Labeltex S.r.l. hereby opposes the Unconsented Motion for Extension of Time filed by Opposer Labeltex Mills, Inc.

In its motion, Opposer states that both parties have served discovery requests, that Applicant has served a second set and that Opposer intends to answer, but so far has been unable to complete and serve its second set of discovery requests. The basis for this allegation is that Opposer is awaiting translations “of more than 400 documents submitted under protective order by Applicant, the vast majority of which are in Italian and unintelligible to Opposer’s counsel”. Moreover, Opposer indicates that the translation is currently in process, but that it was held up “pending Applicant’s explanation of the meaning of certain terms contained in the submitted documents”, explanation offered by Applicant’s counsel on October 26, 2005. Opposer’s arguments are unfounded as Opposer has had the documents for many months. Moreover, most of the documents are in English and most are invoices showing Applicant’s prior use of the mark at issue. The customer name, shipment dates and sales amount on the documents require no translation and there is very little text in Italian. Opposer has had ample time to serve a second



set of discovery requests before the closing of the discovery period, but failed to prepare and serve them. Opposer is now seeking an unjustified 90-day extension merely to delay this proceeding further.

Discovery in this opposition opened on September 22, 2004, and was originally scheduled to close on March 21, 2005. Opposer served a first set of discovery requests on Applicant on November 1, 2004. Applicant's answers were due by December 6, 2004. Applicant's requested, and obtained, a 14-day extension of the time to serve its answers, which became due on December 20, 2004. On December 17, 2004, Applicant served its answers to Opposer's first set of interrogatories and its answers to Opposer's first requests for production. On February 14, 2005, Applicant filed a consented motion for a 60-day extension of the discovery period, to May 20, 2005, to allow both parties to complete their discovery. On April 5, 2005, Applicant produced Documents Nos. LM 0001-0015. On April 12, 2005, a protective order, duly signed by the parties and by their attorneys, was filed with the Board. On April 13, 2005, Applicant produced Documents Nos. LM 0016-LM 0100. On May 13, 2005, Applicant produced Document No. LM 0101. On the same day, Applicant filed a consented motion for a 90-day extension of the discovery period, to August 18, 2005. On May 31, 2005, Applicant served Documents Nos. LM 0102-0357. On June 21, 2005, Applicant served Documents Nos. LM 0358-LM 0413, and indicated to Opposer that at that point Applicant believed that it had completed its document production and provided all information requested in Opposer's first set of interrogatories.

On August 15, 2005, Opposer filed a consented motion for a 90-day extension of the discovery period, to November 18, 2005. On November 16, 2005, Opposer's counsel sent a fax letter to Applicant's counsel requesting consent to an additional ninety-day extension of the

discovery period, and on November 17, 2005, Applicant's counsel declined to consent to any further extension.

Opposer's request for an additional extension of the discovery period should be denied because Opposer has had ample time to complete discovery. Opposer argues that it could not serve additional discovery requests on Applicant pending the translation of hundreds of documents produced by Applicant, and that the translation itself could not proceed unless Opposer was provided with the meaning of terms appearing in those documents. Opposer's argument is groundless. Applicant produced 413 documents, some of which are copies of catalogs showing photographs of labels designed and manufactured by Applicant and sold under Applicant's mark LABELTEX (Doc. Nos. LM0028-LM 91). Obviously, none of these documents requires any translation. The vast majority of documents produced consist of invoices, all of which, except for the first nine invoices, show entries in both English and Italian. As a sample, Doc. No. LM 0022 (redacted) is attached as Exhibit A. These invoices clearly show the dates, name and address of Applicant's clients, quantities of the products sold and their price. No translation is required for these terms.

When Applicant produced its documents, it indicated that the "description" section of the invoices contains codes identifying the various kinds of labels sold by Applicant under its mark. In his motion Opposing counsel claims that the translation of the documents produced were suspended pending explanation of certain terms contained in the invoices. This argument is baseless. In his letter of July 28, 2005, Opposer's counsel inquired as to the meaning of the terms "CART", "DDT", "IMP" and "IMPI", and "EDC". Samples of documents containing these terms are attached as Exhibit B. As explained by Applicant's counsel in a letter dated October 26, 2005, all these terms (except for DDT, which is an acronym for "shipping

document") merely indicate specific kinds of labels produced and sold by Applicant. It is obvious that the specific meaning of these terms is irrelevant in this proceeding. However, even admitting that Opposer needed an explanation as to the meaning of these five terms, Applicant provided it well before the closing of the discovery period, and thus Opposer had ample time to serve additional discovery requests. In light of the above, it is clear that there is no ground for Opposer's counsel's claim that he could not proceed in discovery because of a need for translation. Applicant consented to several extensions in order to let the parties to complete their discovery. Because both parties have had sufficient time to complete their discovery, no additional extensions should be granted, and Opposer's unjustified delay in conducting its discovery should not be rewarded.

Thus, Applicant respectfully requests that Opposer's Unconsented Motion for Extension of Time be denied.

LABELTEX S.R.L.

By:

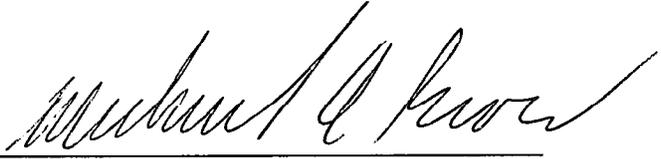


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Attorneys for Applicant

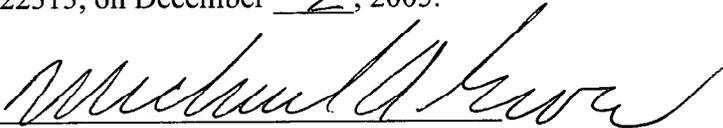
**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing has been served on Opposer's counsel Robert Louis Finkel, 5215-2 White Oak Avenue, Encino, California 91316, on December 2, 2005, marked first class mail postage prepaid.

  
\_\_\_\_\_

**CERTIFICATE OF MAILING**

It is hereby certified that the attached Applicant's Response in Opposition to Opposer's Motion to Extend Discovery (Re: Opposition No. 91161944) is being deposited with the United States Postal Service, first class mail postage prepaid, addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313, on December 2, 2005.

  
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# **EXHIBIT A**

# ABELTEX

ABELTEX s.r.l. - Cap. Soc. 90.000.000 I.v.  
 Via Sozzigalli - 41018 SOLIERA (MO) - Via Carpi - Ravenna: 1766  
 Part. Iva 00348880364 - REA 160303 Mo - Uff. Reg. Imp. Mo 7317  
 o Meccanografico MO 025005 - Partita Iva CEE IT 00348880364  
 059/5683765 - Telefax 059/5683085  
 abeltex.com e-mail: abeltex@abeltex.com

|                          |                              |                              |
|--------------------------|------------------------------|------------------------------|
| 1. FATTURA<br>V. INVOICE | DATA FATTURA<br>DATE INVOICE | CODICE CLIENTE<br>CUST. CODE |
| 989                      | 31/12/99                     | 19181                        |

07721 CLIFFWOOD / NEW JERBEY

Pag. 1

USA STATI UNITI

FISCALE - PARTITA IVA  
 UNDE/1

|                                       |  |               |                      |                 |
|---------------------------------------|--|---------------|----------------------|-----------------|
| PAG. PAGAMENTO - PAYMENT              | SPEDIZIONE A RICVERO<br>DELIVERY THROUGH | COD. AG       | ZONA<br>ZONE         | AGENTE<br>AGENT |
| BONIFICO BANC. 30 GG. F.M.            |  | 20916         |                      | LA FILTOM       |
| BANK                                  |  | PORTO<br>PORT | VE. CONDIZ.<br>ORDER |                 |
| O BANCA SWIFT ROLOIT2B113 KONTO 32442 |  |               |                      |                 |

| CODICE ARTICOLO<br>ARTICLE CODE   | DESCRIZIONE<br>DESCRIPTION   | QUANTITA'<br>QUANTITY | U.M.<br>U.M. | PREZZO<br>PRICE  | TOTALE<br>TOTAL   |
|---|--|-----------------------|--------------|--|-------------------|
| 89B0000   | DESTINAZIONE MERCE<br>CARLO DIBCADGIATI SNC<br>Via Marconi 8<br>22069 ROVELLASCO (CO)<br><br>DDT N. 01/05875 dt. 23/12/1999<br><br>ET. TESS. SFERRA BROB MM 45X80<br>RIVALSA SPESE TRASPORTO | 8000,00<br>1,00       | pz           | 69,00<br>20.000,00   | 552.000<br>20.000 |
| MERCI USCITE DAL TERRITORIO DOGANALE<br>DELLA COMUNITA' AI SENSI DELL'ARTICOLO 703-<br>PARAG. 2 PUNTO A) E PARAG. 5 DEL REG. C. E.<br>2454/93 DEL 02-07-1993. =<br>Vincolate ad AWB:<br>006 4077 4403<br>n. _____ del _____ |  |                       |              | <b>DOGANA DI MILANO</b><br>Merci uscite dalla Comunità<br>come da visto uscite apposto<br>della dogana di <u>MALPENSA</u><br>in data <u>09-04-2000</u> |                   |
| CONFIDENTIAL<br>ATTORNEY'S EYES ONLY  |  |                       |              |  |                   |
| LM 0022   |  |                       |              |  |                   |
|    |  |                       |              |  |                   |
| iario che il materiale oggetto del contratto di fornitura e' di origine intracomunitaria (C.  |  |                       |              |  |                   |



|                        |                     |                    |                        |                    |                         |                    |
|------------------------|---------------------|--------------------|------------------------|--------------------|-------------------------|--------------------|
| MERCE<br>GUNT          | % BC.<br>% DISC     | SCONTO<br>DISCOUNT | TRASPORTO<br>TRANSPORT | IMBALLO<br>PACKING | TOT. IVA<br>TOT. V.A.T. | TOT. ES<br>TOT. EX |
| 552.000                | 0,00                |                    | 0                      | 20.000             |                         |                    |
| IMPONIBILE - NET VALUE | C.I.V.A. - % V.A.T. |                    | I.V.A. - V.A.T.        |                    |                         |                    |
| 572.000                | 20,00               |                    | 114.400                |                    | 572.000                 | 114.400            |

# **EXHIBIT B**

# ABELTEX

ABELTEX s.r.l. - Cap. Soc. 90.000.000 i.v.  
 s. SOZZIGALLI - 41018 SOLIERA (MO) - Via Campi - P.le Varano, 17/b  
 Part. Iva 00348680364 - REA 160303 Mo - Uff. Reg. Imp. Mo 7317  
 Meccanografico MO 026005 - Partita Iva OEE IT 00348680364  
 059/5683788 - Telefax 059/5683023  
 abltex.com e-mail: abltex@abltex.com

|                      |                              |                              |
|----------------------|------------------------------|------------------------------|
| FATTURA<br>& INVOICE | DATA FATTURA<br>DATE INVOICE | CODICE CLIENTE<br>CUST. CODE |
| 931                  | 21/11/00                     | 19321                        |

Pag. 1 USA STATI UNITI

FISCALNE - PARTITA IVA  
NUMBER

## INVOICE

|                                       |  |                     |              |                 |
|---------------------------------------|--|---------------------|--------------|-----------------|
| MOD. PAGAMENTO - PAYMENT              | SPECIFICAZIONE A MEZZO<br>DELIVERY THROUGH | COD. AZ.            | ZONA<br>ZONE | AGENTE<br>AGENT |
| RIMESSA DIRETTA RICEV. FATTURA        |  | 29083               |              | 2201            |
| BANK                                  | PORTO<br>PORT                              | VB. ORDINE<br>ORDER |              |                 |
| BANCA SWIFT: ROLDIT28113 (RNTD) 32442 |  |                     |              |                 |

| CODICE ARTICOLO<br>ARTICLE CODE  | DESCRIZIONE<br>DESCRIPTION                   | QUANTITA'<br>QUANTITY | U.M.<br>U.M. | PREZZO<br>PRICE | TOTALE<br>TOTAL |
|--|--|-----------------------|--------------|-----------------|-----------------|
| Iazione : Teresa Zanzi<br>Via P.F. Carrega 12<br>43044 Collecchio (PR) |  |                       |              |                 |                 |
| DDT N. 01/05453 Dt. 21/11/00   |  |                       |              |                 |                 |
|  | CONCORSO SPESE TRASPORTO                     | 1,00                  |              | 26,000          | 26,00           |
| 74X0000  | BUSTA PERGAMENA ROBERT C. 65x45mm            | 2.700                 | pz           | 160,000*        | 432,00          |
| 34XIMPI  | IMPI. BUSTA PERGAMENA ROBERT C. 65x45mm      | 1                     | pz           | 119,000         | 119,00          |
| 32X0000  | CART. TASCA ROBERT #425 140x116mm + STON     | 2.940                 | pz           | 550,000*        | 1.397,00        |
| 32XIMPI  | IMPI. CART. TASCA ROBERT #425 140x116mm      | 1                     | pz           | 53,000          | 53,00           |
| 50X0000  | CART. TASCA ROBERT #724 140x116mm + STON     | 2.750                 | pz           | 550,000*        | 1.512,50        |
| 50XIMPI  | IMPI. CART. TASCA ROBERT #724 140x116mm      | 1                     | pz           | 53,000          | 53,00           |
| 49X0000  | CART. TASCA ROBERT #411 140x116mm + STONE    | 2.800                 | pz           | 550,000*        | 1.584,00        |
| 49XIMPI  | IMPI. CART. TASCA ROBERT #411 140x116mm      | 1                     | pz           | 53,000          | 53,00           |
| 48X0000  | CART. TASCA ROBERT 100XCO. 140x116mm+STON    | 2.750                 | pz           | 550,000*        | 1.512,50        |
| 48XIMPI  | IMPI. CART. TASCA ROBERT 100XCO. 140x116mm   | 1                     | pz           | 53,000          | 53,00           |
| 33X0000  | ET. ROBERT PELLE NER+ST. A CALDO 45x65mm     | 2.050                 | pz           | 280,000*        | 574,00          |
| 39X0001  | ET. ROBERT PELLE MAR+ST. A CALDO 45x65mm     | 3.050                 | pz           | 280,000*        | 854,00          |
| 39XIMPI  | IMPI. ET. ROBERT PELLE+ST. A CALDO 45x65     | 1                     | pz           | 167,000         | 167,00          |
| 10000  | CART. SEGNAV. ROBERT 150x50mm ST. 2 + STON   | 2.475                 | pz           | 450,000*        | 1.113,75        |
| 55XIMPI  | IMPI. ROBERT C. SEGNAVAG. 50x150mm           | 1                     | pz           | 114,000         | 114,00          |
| 53X0000  | CART. PEND. ROBERT 100x54mm ST. 2COL.+STON   | 3.590                 | pz           | 310,000*        | 1.112,90        |
| 53XIMPI  | IMPI. CA RT. PEND. ROBERT 100x54mm ST. 2COL. | 1                     | pz           | 248,000         | 248,00          |

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LM 0026

declare that the goods supplied are made inside the E. E. C.

|                         |               |                 |                      |                     |                     |                   |
|-------------------------|---------------|-----------------|----------------------|---------------------|---------------------|-------------------|
| NET VALUE               | % SG. + DISC. | SCONTO DISCOUNT | TRANSPORTO TRANSPORT | IMBALLLO PACKING    | TOT. IVA. TOT. VAT. | TOT. ES. TOT. EX. |
| 10.952,65               | 0,00          | 0,00            | 26,00                |                     |                     |                   |
| IMPOSSIBILE - NET VALUE | NIVA - % VAT. | IVA - VAT.      | TOT. IMP. TOT. VALUE | TOT. IVA. TOT. VAT. | TOT. ES. TOT. EX.   |                   |
| 10.978,65               | 20,00         | 2.195,73        | 10.978,65            | 2.195,73            |                     |                   |

# LABELTEX

**LABELTEX s.r.l.** - Cap. Soc. € 46.480 i.v.  
 Frazione SOZZIGALLI - 41019 SOLIERA (MO) - Via Carpi - Ravarino, 1755  
 C. F. e Part. Iva 00348680364 - REA 160303 Mo - Uff. Reg. Impr. Mo 7317  
 Numero Meccanografico MO 025005 - Partita Iva CEE IT 00348680364  
 Tel. 059/563765 - Telefax 059/563025  
 www.labeltex.com e-mail: labeltex@labeltex.com

NEW YORK, NY 10012 (NY)

|   |                              |                              |
|---|------------------------------|------------------------------|
| N. FATTURA<br>N. INVOICE                      | DATA FATTURA<br>DATE INVOICE | CODICE CLIENTE<br>CUST. CODE |
| 16  | 16/01/03                     | 19527                        |
| CODICE FISCALE - PARTITA IVA<br>V.A.T. NUMBER |                              |                              |

Pag.: 1 USA STATI UNITI

## INVOICE

|  |                            |  |                     |              |                 |
|--|----------------------------|--|---------------------|--------------|-----------------|
| COD. PAG.                                  | PAGAMENTO - PAYMENT        | SPEDIZIONE A MEZZO<br>DELIVERY THROUGH | COD. AG.            | ZONA<br>ZONE | AGENTE<br>AGENT |
| 123  | 50% ALL'ORDINE 50% COSEGNA | DHL                                    | 29023               | 220T         |                 |
| BANCA - BANK                               |                            | PORTO<br>PORT                          | VS. ORDINE<br>ORDER |              |                 |
| ROLO BANCA SWIFT: ROLOIT2B113 KONTO: 32442 |                            | FCO                                    |                     |              |                 |

| CODICE ARTICOLO<br>ARTICLE CODE | DESCRIZIONE<br>DESCRIPTION  | QUANTITA<br>QUANTITY | UM<br>U/M | PREZZO<br>PRICE | TOTALE<br>TOTAL | C.I.<br>V.C. |
|---------------------------------|---|----------------------|-----------|-----------------|-----------------|--------------|
| 2305080000                      | DDT N. 01/00124 Dt. 16/01/03<br>WOVEN LABEL ALVIN VALLEY MM 50X75 | 9.470                | pz        | 200,00*         | 1.894,00        | 71           |
| 20242B0101                      | WOVEN LABEL SIZE 32/38 MM 10X15                                   | 5.100                | pz        | 25,55*          | 130,31          | 71           |
| 20242B0102                      | WOVEN LABEL SIZE 34/42 MM 10X15                                   | 5.260                | pz        | 25,55*          | 134,39          | 71           |
| 20242B0103                      | WOVEN LABEL SIZE 36/40 MM 10X15                                   | 5.200                | pz        | 25,55*          | 132,86          | 71           |
| 20242B0104                      | WOVEN LABEL SIZE 36/44 MM 10X15                                   | 4.980                | pz        | 25,55*          | 127,24          | 71           |
| GOODS OF ITALIAN ORIGIN         |   |                      |           |                 |                 |              |
| PACKAGING : PAPER BOX           |   |                      |           |                 |                 |              |
| NO. OF PCS: 00002               |   |                      |           |                 |                 |              |
| GROSS WEIGHT: 13,00             |   |                      |           |                 |                 |              |
| NET WEIGHT: 10,00               |   |                      |           |                 |                 |              |

**LABELTEX s.r.l.**  
 Via Carpi Ravarino, 1755  
 41019 SOZZIGALLI DI SOLIERA  
 P. IVA 00348680364

We declare that the goods supplied are made inside the E. E. C.

|   |                     |                    |                        |                    |                         |                         |                                |
|---|---------------------|--------------------|------------------------|--------------------|-------------------------|-------------------------|--------------------------------|
| NETTO MERCE<br>NET AMOUNT   | N. DISC.<br>% DISC. | SCONTO<br>DISCOUNT | TRASPORTO<br>TRANSPORT | IMBALLI<br>PACKING | TOT. IMP.<br>TOT. VALUE | TOT. IVA<br>TOT. V.A.T. | TOT. ES.<br>TOT. E.T.          |
| 2.418,80  | 0,00                | 0,00               | 0,00                   |                    | 2.418,80                | 0,00                    |                                |
| CONDIZIONI: La merce viaggia a rischio e pericolo del Committente, anche se spedita porto franco. Non si accettano reclami, trascorsi 3 giorni dal ricevimento della merce; i pagamenti sono validi se fatti alla nostra casa. In caso di controversie il foro competente è quello di Modena. |                     |                    |                        |                    |                         |                         | TOTALE FATTURA - TOTAL AMOUNT: |
|   |                     |                    |                        |                    |                         |                         | \$ 2.418,80                    |

Scad: 17/01/03 1.899,40 Scad: 17/01/03 1.899,40  
 \*All marked prices are intended by bloc 1.000

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LM 0323

# LABELTEX

LABELTEX s.r.l. - Cap. Soc. € 46.480 i.v.  
 Frazione SOZZIGALLI - 41019 SOLIERA (MO) - Via Carpi - Ravarino, 1755  
 C. F. e Part. Iva 00348880364 - REA 160303 Mo - Uff. Reg. Impr. Mo 7317  
 Numero Meccanografico MO 025005 - Partita Iva CEE IT 00348880364  
 Tel. 059/563765 - Telefax 059/563025  
 www.labeltex.com e-mail:labeltex@labeltex.com

10122 NEW YORK NY (NY)

Pag.: 1

USA STATI UNITI

|                          |                              |                             |
|--------------------------|------------------------------|-----------------------------|
| N. FATTURA<br>N. INVOICE | DATA FATTURA<br>DATE INVOICE | CODICE CLIENTE<br>CUST CODE |
| 510                      | 05/11/03                     | 19649                       |

CODICE FISCALE - PARTITA IVA  
VAT NUMBER

### INVOICE

|  |                            |  |                    |              |                 |
|--|----------------------------|--|--------------------|--------------|-----------------|
| COO PAG                                  | PAGAMENTO - PAYMENT        | SPEDIZIONE A MEZZO<br>DELIVERY THROUGH | COO AG             | ZONA<br>ZONE | AGENTE<br>AGENT |
| 123                                      | 50% ALL'ORDINE 50% COSEBNA | FEDERAL                                |                    | 29023        | 2207            |
| BANCA - BANK                             |                            | PORTO<br>PORT                          | VS ORDINE<br>ORDER |              |                 |
| CASSA IBAN: IT89P0610523302000000009 121 |                            | ASSEGNATO                              |                    |              |                 |

| CODICE ARTICOLO<br>ARTICLE CODE  | DESCRIZIONE<br>DESCRIPTION   | QUANTITA<br>QUANTITY | U.M.<br>U.M. | PREZZO<br>PRICE | TOTALE<br>TOTAL | C.I.<br>V.C. |
|--|--|----------------------|--------------|-----------------|-----------------|--------------|
| 23329Y0000   | DDT N.01/04216 Dt.05/11/03<br>WOVEN LABEL TAYA MM 22X96<br>MATERIAL CONTENT: 100% POLYESTER<br><br>GOODS OF ITALIAN ORIGIN<br><br>PACKAGING : PAPER BOX<br>NO. OF PCS: 00001<br>GROSS WEIGHT: 2,00<br>NET WEIGHT: 1,00 | 3.250                | pz           | 240,00*         | 780,00          | 71           |
| <p><b>LABELTEX S.R.L.</b><br/>         via Carpi di Ravarino, 1755<br/>         41019 SOZZIGALLI DI SOLIERA<br/>         Iva 00348880364</p> |  |                      |              |                 |                 |              |

We declare that the goods supplied are made inside the E. E. C.

|                         |                         |                       |                        |                    |                 |                               |
|-------------------------|-------------------------|-----------------------|------------------------|--------------------|-----------------|-------------------------------|
| NETO MERE<br>NET AMOUNT | NETO MERE<br>NET AMOUNT | SCONTO<br>DISCOUNT    | TRASPORTO<br>TRANSPORT | IMBALLI<br>PACKING | TOTALE<br>TOTAL | TOTALE FATTURA - TOTAL AMOUNT |
| 780,00                  | 0,00                    | 0,00                  | 0,00                   | 0,00               | 780,00          | \$ 780,00                     |
| 780,00                  | 71                      | ART. 8 ESPORT. 1° COM | 780,00                 | 0,00               |                 |                               |

CONDIZIONI: La merce viaggia a rischio e pericoli del Committente. Anche se spedita porto franco. Non si accettano reclami, trascorsi 8 giorni dal ricevimento della merce. I pagamenti sono validi se fatti alla nostra casa. In caso di controversie il foro competente è quello di Modena.

Scad: 06/11/03 390,00 2° Scad: 06/11/03 390,00  
 \*\*All marked prices are intended by bloc 1.000

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