

# General conditions of sale & delivery (Version October 2014)

The following general conditions of sale & delivery apply, in so far as nothing else has been agreed in writing, for all deliveries made by NYCO flexible packaging GmbH (NYCO). Differing conditions of the order are not binding upon NYCO.

## 1. Offers, orders

NYCO's offers are without obligation. Orders are only binding upon NYCO when confirmed in writing. No liability is assumed for any indications about the products, photographs of products, technical specifications, etc. Only the valid actual specifications of NYCO at the date of confirmation are binding.

## 2. Prices

The prices are DDP, in so far as nothing else has been agreed in writing. The value added tax will be charged separately. Additional freight costs for express- and special transport are charged to the customer's account. The prices quoted by NYCO are principally valid for a period of 3 months. Also in the case of orders for goods to be delivered on demand for an unlimited period.

## 3. Delivery

NYCO delivers the goods as a consignment free to the customer's destination by truck or railway via the usual route. Forwarding instructions are only binding on NYCO if NYCO has confirmed them in writing.

## 4. Delivery times

If fulfilment of the terms of the contract is disturbed or made impossible on account of force or events which cannot be influenced by NYCO, NYCO may extend the delivery leads or withdraw from the contract without becoming liable to pay costs or damages to the customer. If NYCO has not kept to the delivery date the customer has the right to cancel the contract at the end of a given notice period of 60 days including any other part deliveries. The customer cannot make any claims for damages whatsoever which may result from delayed or non delivery, unless the customer's claims are based on gross negligence on NYCO's part.

## 5. Complaints

NYCO is liable only for those specifications of the goods which have been confirmed in writing. No further guarantee is granted especially for the suitability of the material not intended for the stipulated contents. Faults with respect to weight, quantity and condition of the goods are to be notified immediately after receipt in writing, otherwise the goods are regarded as accepted. In the event of obvious damage to the packaging, a written reservation is to be made on the delivery note or CMR consignment note. Transport damage is also to be notified immediately. The goods must be kept unchanged at NYCO's disposal until they have been inspected by a claims agent. Our original packaging is to be used again for the return transport. Minor deviations in colour as well as technically unavoidable registration differences do not constitute a reason for complaints. The purchaser is solely liable for any infringements of patents, samples, models, designations and other rights which have occurred on the basis of the same documents. In the event of a justified complaint, NYCO supplies replacement free of charge to the corresponding extent against the return of the rejected goods. NYCO rejects all additional or further demands nor does NYCO accept any responsibility for consequential damage claims. The rejected goods may only be returned after specific instructions from NYCO. If the customer refuses to receive the goods without a valid reason, then he is liable for all the consequences and damages arising there from.

## 6. Excess or short delivery tolerances

The tolerances for under- and over deliveries are:

Mengen	Percent deviation
0 m2 – 4'999 m2	30%
5'000 m2 – 9'999 m2	20%
über 10'000 m2	10%

These tolerances are also valid for partial deliveries.

## 7. Tolerances

- a) The strength tolerances are:
- according to EN 546-3 for aluminium foil the tolerances are  $\pm 8\%$  based on a confidence region of 90%
  - for paper and carton  $\pm 10\%$  of the average of the total delivery
  - for other raw material the usual trade tolerances
- b) The cut- and dimensional tolerances are:
- for cut-sizes  $\pm 1$  mm in each direction
  - for rolls  $\pm 1$  mm for the reel width
  - diameter of die-cut lids and print space according to signed machine drawings

## 8. Reservation of proprietary rights

Printing rollers, embossing rollers or other tools, as well as preparatory printing material which is supplied by NYCO, e.g. drawings, flexo plates, photo works, films, remain the property of NYCO, even if a contribution towards the costs has been paid by the customer. The customer's claim to the use of these materials for repeat orders without incurring new costs lapses one year after the date of the last order executed with the same. NYCO reserves its proprietary right to the goods supplied by them, as well as any goods the customer has a claim on until all obligations by the customer have been fulfilled. The customer grants NYCO the right to register the reservation of proprietary rights. The customer further undertakes to notify NYCO of any change of address of their registered offices before moving.

## 9. Terms of payment

If not otherwise agreed, the payment must be effected within 30 days of invoice date, without any deduction. In case of delayed payment standard trade interest rate, but at least interest rate foreseen by law will be charged. Should any doubts arise regarding the purchaser's ability to meet his financial obligations due to subsequent changes for the worse of his economical situation, NYCO is entitled to immediately call for payment of the outstanding invoices in cash. For remaining call-off orders that concern the same account a variation to the contract in form of prepayment can be called for. If the purchaser does not comply with this requirement within a period of time previously confirmed in writing, NYCO can withdraw from the contract. If there are several outstanding claims against the customer, incoming payments will, in so far as NYCO does not make any other provisions, be credited to the oldest claim in each case, including all incidental costs.

## 10. Trademark protection

If, by printing the ordered goods, NYCO should infringe the rights of third parties to trade marks, samples, models or other intangibles, or if the statutory definition of unfair competition should be thus fulfilled, the customer is solely liable.

## 11. Liability

Apart from the warranty claims, the customer cannot assert claims of any kind, regardless

of what legal basis, against NYCO or persons employed by NYCO to fulfil NYCO's obligations for damages on account of infringement of contractual or statutory obligations, in so far as the liability for an infringement of contractual or statutory obligations has not been excluded. NYCO is liable only for the damage which could be envisaged at the time of finalising the contract.

## 12. Variations

Variations from the foregoing terms and conditions are only valid after written confirmations from NYCO.

## 13. Place of jurisdiction, applicable law

The place of jurisdiction for both parties is the domicile of the company NYCO flexible packaging GmbH. NYCO is at liberty to take legal actions against the customer at another statutory place of jurisdiction. The parties' rights are subject to Swiss Law, excluding CISC (United Nations Convention on Contracts for the International Sale of Goods [Vienna Convention]).

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