

NYCO GENERAL TERMS AND CONDITIONS OF SALE

Article 1 – Purpose and scope of application

1.1 Every order for products implies acceptance without reserve by the purchaser of these general terms and conditions of sale which prevail over any other document of the purchaser and, in particular, over any general purchasing terms and conditions, except in the event of express, prior derogation of NYCO.

1.2 These general terms and conditions apply to all the sales of our products except in the event of a specific agreement prior to the order. Any other document, notably catalogues, prospectuses, advertisements and notices are only of informative and indicative, non-contractual value.

Article 2 – Orders

2.1 Definition

An order means any order placed by letter, fax, e-mail or registered mail on an order form signed by the customer and accepted by NYCO.

2.2 Modification

2.2.1 The orders sent to NYCO are irrevocable for the customer except in the event of written acceptance by NYCO.

2.2.2 Any request for modification of an order placed by a customer can only be examined by NYCO if the request is made in writing, including fax or e-mail, and has reached NYCO at the latest two business days after the receipt by NYCO of the initial order. Whatever the case, NYCO reserves the right to refuse any request.

Article 3 – Deliveries

3.1 Times

3.1.1 The delivery times are only given for information and depend on the availability of the shippers and on the order of arrival of the orders. NYCO shall have the right to make partial deliveries.

3.1.2 No late delivery compared with the indicative delivery times initially planned can justify termination of the order placed by the customer and recorded by NYCO of the payment of penalties or indemnities.

3.2 Risks

The transfer of the risks of loss or damage is provided for by the Incoterm confirmed in the acknowledgement of receipt of the order.

3.3 Shipping

In the event of damage to the goods delivered or missing goods, the customer must make all the reservations necessary with the shipper. Any product that has not been the subject of reservations by registered letter with acknowledgement of receipt to the shipper within 72 hours from its receipt in accordance with Article L 133-3 of the Commercial Code, a copy of which shall be sent simultaneously to NYCO, shall be considered as accepted by the customer.

3.4 Acceptance

3.4.1 Without prejudice to the measures to take by the customer vis-à-vis the shipper as stipulated in Article 3.3, in the event of hidden defects or missing products, any claim, whatever the nature thereof, involving the products delivered shall only be accepted by NYCO if it is made in writing by registered letter with acknowledgement of receipt within the three days stipulated in Article 3.3.

3.4.2 It is the responsibility of the purchaser to provide all the proof as to the reality of the defects or missing products recorded.

3.4.3 No return of goods can be made by the customer without the prior, express and written agreement of NYCO.

The costs of the return shall only be paid by NYCO in the case where an apparent defect or missing products are accepted by NYCO after return of the product or recorded on site by its agent.

Only the shipper chosen by NYCO is authorised to make the return of the products concerned.

3.4.4 Any product returned without the agreement of NYCO shall remain available to the customer and shall not give rise to the establishing of any credit note.

In the event of partial dispute, the notification by the customer shall not dispense it from paying the non-litigious part of the invoice on the payment date stipulated in the contract.

3.5 Suspension of deliveries

In the event of entire non-payment of an invoice due, after formal notice has remained without effect for 48 hours, NYCO reserves the right to suspend any delivery in progress and/or future delivery.

Article 4 - Prices

4.1 The prices are stipulated excluding taxes and the invoices are payable according to the conditions stipulated in Article 5.1. The prices of NYCO can be revised at any time.

4.2 The prices are established FCA named place, except in the event of a prior, written agreement concluded with the customer.

Article 5 – Payment conditions

5.1 Payment

Every new customer shall be the subject of a payment in advance. Except in the event of a stipulation to the contrary shown in the confirmations of orders, the goods are payable by bank transfer or irrevocable and confirmed documentary credit. The customer shall only be released from its obligations after collection of the price.

No discount shall be granted for early payment.

5.2 Payment conditions

The invoices are issued on the shipping date.

The payment date is shown on the invoice.

5.3 Non-payment

Any sum unpaid on the payment date shall give rise to the payment by the customers of penalties fixed at three times the statutory interest rate and an all-inclusive indemnity of €40 for collection costs (Article D 441-6 of the Commercial Code).

Pursuant to Article L 441.5 of the Commercial Code, these penalties are payable automatically on receipt of the notice informing the purchaser that we have debited them to it.

5.4 Payment in advance or requirement for guarantee

Any deterioration in the financial situation of the customer may justify the requirement for guarantees or a payment in advance.

Article 6 – Reservation of ownership

6.1 The transfer of ownership of the NYCO products is suspended until full payment of the price of the latter by the customer in principal and related costs even in the event of the granting of payment times. Any clause to the contrary, notably inserted in the general purchasing terms and conditions, is deemed to be unwritten in accordance with Article L 621-122 of the Commercial Code.

6.2 The customer can only resell the unpaid products in the framework of the normal operating of its business and cannot, in any event, pledge or grant collateral on the unpaid stocks.

6.3 In the event of late payment of all or part of the invoice by the customer on the payment date, NYCO expressly reserves the right to recover the goods that the customer shall be obliged to return to NYCO on the first request at its expense and risk.

6.4 In the event of the bringing of bankruptcy proceedings, the orders in progress shall be automatically cancelled and NYCO reserves the right to claim the unpaid goods in stock with the customer.

Article 7 – Warranty

NYCO warrants the conformity of its products with the certificates of analyses attached to the products.

The following defects are excluded from this warranty:

- A defect due the negligence of the customer in the handling, storage or installation of the products in breach of the specifications and instructions of NYCO and/or the rules of use.
- A defect resulting from the modification of the products by the customer or by a third party without the prior, written agreement of NYCO.

NYCO does not accept any liability for any damage whether it involves personal injury or property damage distinct from the purpose of the contract or financial losses.

Article 8 – Attribution of jurisdiction

In the event of a dispute between the parties about the application of these general terms and conditions of sale as well as about the contracts concluded, NYCO and the customer shall try, first of all, to amicably settle any dispute.

In the event where no agreement should be found within ONE month from the first conciliation meeting, the dispute shall be submitted to the Paris Commercial Court even in the event of an appeal under guarantee or a plurality of defendants.

Only French law shall be applicable.