

General Terms and Conditions of Sale (version Aug. 2019) - translated 2021

All legal transactions shall be concluded in the name and for the account of HENKEL CENTRAL EASTERN EUROPE GESELLSCHAFT MBH, ("Seller"), who shall be responsible for the performance of the contract and to whom all payments shall be made.

1. In the absence of an express agreement to the contrary, deliveries shall be made exclusively on the basis of the following terms and conditions, which shall become part of the contract at the latest upon acceptance of the delivery by the Buyer; they shall apply mutatis mutandis to services and work performance. Unless otherwise agreed in these Terms and Conditions, the statutory provisions shall apply exclusively. Any deviating terms and conditions of the Buyer shall be excluded. Any invalid provisions shall be replaced by valid provisions which come closest to the intended economic purpose. The Buyer shall ensure that conflicts of interest caused by actual or legal bias in its sphere are excluded and shall notify the Seller thereof without delay if such a conflict arises.
2. Oral declarations require written confirmation to be legally effective.
3. The list prices valid on the day of delivery shall apply. All price quotations are exclusive of value added tax.
4. In the absence of deviating information on the invoice, claims for delivery of goods shall be due and payable concurrently after delivery or provision of the goods for collection without any deduction. The place of payment shall be the registered office of the payee. A deduction of agreed discounts is inadmissible as long as older due claims are unpaid. In the event of default in payment, any discounts agreed or granted shall be forfeited. All payments must be received on the Seller's account on the settlement date. Expenses caused by delayed receipt of payment shall be borne by the Buyer.
5. Checks are to be presented in such a way that they can be cashed by the Seller on the settlement date. Checks are accepted at the risk of the Buyer and without obligation to redeem on account of payment only and can be refused at any time without giving reasons.
6. In case of default in payment all open claims shall fall due and the Seller shall be entitled to withdraw from the contract without notice. Even without withdrawal, the Seller is entitled to claim retrieval and temporary storage of delivered goods at the expense and risk of the Buyer. Interest on arrears shall be payable at a rate of 9.2 percentage points above the prime rate. In addition to interest on arrears, the Seller either has the option to demand a lump sum in the amount of 40 euros for collection costs or to demand all costs necessary for the appropriate collection or recovery of the Seller's claim against the Buyer, including the related necessary costs for collection, representation and any other legal costs.
7. Payments shall be credited exclusively against the oldest claim. Amounts shown in balance notifications shall be deemed acknowledged unless they are immediately disputed; balance notifications shall not result in a change of due dates. Retention of payments and offsetting against counterclaims are excluded.
8. Delivered goods remain the property of the Seller until full payment of the purchase price. Until then, the Buyer shall not be entitled to dispose of the goods in any manner other than that which is customary in the ordinary course of business (consumption, processing or resale). In the event of resale of delivered goods, the Buyer shall assign to the Seller, by way of security, the proceeds agreed therefrom; in the event of processing or transformation, the Seller shall acquire pro rata co-ownership of the processing result. The Seller shall be notified immediately of any assertion of rights by third parties to the Buyer's assets subject to retention of title.
9. Transport aids and returnable containers are not subject matter of the purchase. They are to be returned in a cleaned condition at the expense and risk of the Buyer without being requested to do so.
10. Minor violation of the delivery periods or dates shall be irrelevant. Circumstances that make the delivery impossible or substantially more difficult as well as official interventions in the contractual relationship release the Seller from the obligation to deliver and entitle him to withdraw from the contract, unless they were demonstrably foreseen or caused by gross negligence.
11. From the time the goods have been handed over to the forwarding agent or carrier, the Buyer bears all risks of loss of or damage to the goods, even if partial deliveries are made or the Seller has assumed other services, e.g. shipping costs or delivery and installation.
12. Defective goods will be remedied or exchanged for defect-free goods upon Seller's discretion, whereby the Buyer must prove that the defect already existed at the time of delivery. The Seller shall only be liable for consequential damages caused by a defect in the event of demonstrable gross negligence up to the purchase price; this shall also apply to recommendations, provided that the Buyer proves that their incorrectness falls in the sole responsibility of the Seller. If the Buyer has provided a warranty for goods to a consumer, the Buyer shall assert the claims against the Seller within four weeks.
13. The Seller shall only be liable for all damages incurred during or in connection with the performance of the Seller's contractual obligation, insofar as the Buyer proves that the Seller or vicarious agents of the Seller have caused this damage intentionally or by gross negligence. The Seller shall only be liable for consequential damage – unless subject to the Product Liability Act – for indirect damage, for pure financial loss or loss of profit, provided that the Buyer proves that the Seller caused this damage intentionally. All claims for damages of the Buyer against the Seller lapse at the latest one year after knowledge of the damage.
14. The place of performance is the Buyer's plant or the Buyer's warehouse.
15. Austrian substantive law shall apply exclusively, to the exclusion of Austrian private international law and the UN Convention on Contracts for the International Sale of Goods. The exclusive place of jurisdiction is Vienna.
16. The general terms and conditions of sale concerning the Sonderhoff machine and machine spare parts business as well as Sonderhoff toll manufacturing services are available at www.henkel.at/verkaufsbedingungen.