

## **Terms and Conditions**

### **1. General**

These terms and conditions are an integral part of any legal transaction concluded by and in agreement with HENKEL Beiz- und Elektropoliertechnik GmbH & Co. KG (hereinafter referred to as HENKEL) and shall exclusively apply to businesses and legal entities under German public law.

It offers its services subject to the following conditions exclusively. Any customer conditions to the contrary shall only apply if expressly acknowledged and confirmed in writing.

### **2. Quoting and conclusion of a contract**

All HENKEL quotes are subject to change in principle and are governed by our terms and conditions. We reserve the right to make technical modifications and changes to procedures and production as well as potential errors.

A contract is only concluded once we have confirmed receipt and therefore acceptance of the order in writing (order confirmation).

Price lists and verbal price information shall be deemed guide prices and are non-binding.

For an order value of less than EUR 150 per order, we reserve the right to charge a minimum quantity surcharge of EUR 50 per order.

### **3. Performance specification, scope of performance**

If there are any performance descriptions, drawings, technical specifications etc. enclosed with the customer's order, these shall form the basis for the placement of the order and shall be binding. We are not obliged to check these for completeness or for potential inaccuracies.

The customer shall be liable for any damages which occur as a result of erroneous documents.

Should changes to performance be required due to incorrect documents, any associated additional costs shall be borne by the customer.

If HENKEL's services are performed professionally based on the documents provided, any retrospectively required changes to the service to be performed by us shall incur costs for the customer. Changes to the delivery item and/or contractual services must be agreed separately.

If, despite every care being taken, a defect should occur which was already present at the time of risk transfer, subject to a timely complaint being made, we shall perform repairs of our choice accordingly.

### **4. Supply, risk transfer, insurance**

All of our deliveries are unpaid shipments from our factory at the risk and expense of the customer. If the contractual object from HENKEL is taken to another location at the customer's request, the risk is therefore transferred as soon as we have passed the delivery on to the transport company. The customer expressly declares that they do not object to delivery by rail, haulier, freight company or post. Transport insurance will only be taken out at the customer's special request and at the customer's own expense.

The goods provided to us for contract processing are stored in our factory. The contractor shall accept no liability for theft, break-ins, fire, storm and hail or vandalism. If the client wishes for the goods to be insured, they must explicitly request this, stating the value of the goods. The goods shall then be insured at cost price. The relevant amount will be listed as extra in the quote.

For contract processing, our quote is based on an insured value of EUR 50,000 per contract processing order in the event that the workpiece(s) is/are damaged or destroyed during processing. If this insured value is over EUR 50,000, the customer is obliged to specify the higher insurance amount for calculation purposes. If this information is not provided, the total liability considered shall be limited to EUR 50,000. No liability shall be accepted for consequential damages under any circumstances. The same shall apply if the customer, despite awareness and specification of a higher insured value, adheres to our quote.

#### 5. Pricing

Our prices are net and, unless otherwise agreed in writing, ex-works, i.e. excluding transport, packaging and VAT.

Packing costs are charged separately. Payment must only be made to the account stated on the invoice.

#### 6. Service schedule, delay

Agreed delivery schedules shall only commence when all of the documents required to carry out the work are available and material deliveries are complete.

Changes to the originally agreed services to which HENKEL has agreed in writing shall lead to an extension in planned schedules in line with the associated additional outlay, without requiring an agreement.

Should delivery be delayed because the customer is not yet in a position to accept our delivery, we must be paid all associated additional costs from the point at which the contractually agreed delivery schedule has been exceeded.

The delivery schedules shall be deemed in principle as binding. However, should the delivery schedule be exceeded, we shall be liable to the customer for damages associated with the delay only in the case of gross negligence or malicious intent.

Our obligation to pay a contractual penalty, entered into in a separate written agreement, must only be paid if the conditions in said agreement are in place.

The customer shall carry the burden of proof for culpability. If the agreed delivery date is missed by over four weeks, the customer is entitled, after setting an appropriate grace period, to withdraw from the contract, provided it is proven that we are culpable.

The delivery schedule is deemed to have been observed if the delivery item has left our factory before said schedule has come to an end or it has been disclosed that it is ready to be sent.

#### 7. Quality assurance (QA), guarantee, compensation

The surface properties promised by us following quality finishing by HENKEL are of a general nature and may be subject to deviations in the context of technical developments and procedural changes. They are therefore not binding and are for information on potential usage and application options only.

Only the properties guaranteed to the customer in writing are binding. These shall be inspected and guaranteed using standard quality assurance measures.

Our quality assurance system is certified and the methods for inspecting surfaces are established. These are disclosed to the client on request. If the QA methods are not sufficient for the customer, they must accordingly conclude relevant agreements on additional inspections in writing with HENKEL.

HENKEL shall accept no liability for defects which were not recognised when using the prescribed or agreed QA inspection methods, or their consequential costs.

HENKEL undertakes to perform surface treatment in compliance with the order and/or specifications. As the surface quality is subject to interplay between raw material/alloy grade, pre-treatment/pre-treatment condition and surface treatment procedure/process, we shall not accept liability in principle for the surface quality of the components we process. We recommend, prior to ordering, having sample processing of original parts carried out and testing the surface quality under the subsequent conditions of use.

Following delivery, the customer must inspect the goods for apparent defects and inform HENKEL thereof in writing within 14 days. Should they fail to do so, the goods shall be accepted as defect-free. On delivery of the goods and further processing and/or use/application, the client acknowledges that there may be no complaints arising from deficient surface quality.

The customer must complain of any hidden defects in writing within 8 days of their discovery and provide evidence of the reasons for late detection. Once the complaint period has expired, rights pertaining to a defect are forfeited.

Should it become apparent on acceptance that goods do not comply with the contract, the customer must accordingly give HENKEL the opportunity to remedy the defects for which it is at fault at its own expense.

In the event of a timely complaint of a defect which we acknowledge to be justified, the customer is entitled to request repairs be carried out in our factory. An appropriate period of time must be granted for this.

The customer is not entitled to withhold the agreed remuneration because of defects. If the customer carries out repair works or makes any other changes to the defective contractual object themselves without our express consent, any guarantee on our part shall no longer apply. Once the complaint has been made regarding the defect, the customer must immediately give HENKEL the opportunity to conduct a detailed inspection.

For claims in accordance with the German Product Liability Act [Produkthaftungsgesetz], liability to the customer only exists for own products.

On delivery of components with material flaws and/or surface defects arising from the manufacturing process, pre-treatment flaws and defects resulting from a low alloy grade which are made apparent through processing by HENKEL and/or its procedures and/or chemicals are not the fault of HENKEL and any liability for our quality finishing shall not apply.

We reserve the right to charge the customer for any additional expense which arises. We shall not reimburse any costs for rejects arising from processing due to changes in shape, cracks, etc., nor shall we reimburse any material which has become unusable during processing.

The customer is not entitled to demand reduction, follow-up deliveries (repairs) or any consequential costs or property damages resulting from unsatisfactory surface quality.

HENKEL shall be liable in accordance with statutory provisions if the customer asserts claims for damages which are based on malicious intent or gross negligence, including malicious intent or gross negligence on the part of our representatives or vicarious agents. If no wilful breach of contract has taken place, liability for compensation is limited to the foreseeable damages which typically occur. Liability for culpable injury to life, body or health remains unaffected.

If the liability to compensation for us is excluded or limited, this shall also apply to personal liability for compensation on the part of our employees, staff, workers, representatives and agents. This limitation also applies if the customer, instead of claiming compensation for the damage, demands compensation for useless expenditures instead of performance.

The limitation period for defect claims is 12 months, calculated from the risk transfer onwards.

Documents provided: We reserve property rights and copyright for all documents entrusted to the customer in conjunction with placement of the order, such as calculations, drawings etc. These documents may not be made available to third parties unless we provide the customer with our express written consent to this.

#### 8. Due dates, payment conditions, invoicing

Unless otherwise expressly agreed, all invoiced amounts are payable within 30 days of invoicing. The date on which the invoiced amount is received in our account shall determine whether the payment schedule has been met. Payments must be made directly to HENKEL, i.e. not to representatives or delivery agents. Discounts may only be deducted subject to special written agreement.

We are entitled to issue interim invoices based on the progress of work for individual partial services, insofar as this is contractually agreed, or if it arises from the nature of the service, or the partial service can be used independently.

In the case of a default of payment, the appropriate statutory interest on arrears shall apply.

Partial payments received shall be credited firstly to the existing receivable, then to the interest, and then to any prosecution costs which arise.

It is not possible to offset against claims from other deliveries which the customer has addressed to us.

We are entitled, in the case of default on the part of the customer on payment of interim or final invoices, to withhold deliveries until full payment has been made.

#### 9. Retention of ownership

We shall retain ownership of the goods we deliver until the payable remuneration has been paid in full.

#### 10. Right of withdrawal

If the customer defaults on payment of a payable receivable, insolvency proceedings are instituted against their assets or a request to open insolvency proceedings has been rejected due to a lack of assets to cover costs, we are entitled to request the return of unused services.

On placing the order, the customer consents to HENKEL adding the client to their reference lists and agrees to publication (e.g. website). The customer has the right to refuse if they would prefer for publication not to take place. In this case, the client must inform HENKEL in writing.



11. Place of performance, jurisdiction, choice of law

The place of performance and jurisdiction for all disputes arising from this contract is our company's registered office in Neustadt-Glewe. German law shall apply exclusively.

Date: 04.10.2017