



General Conditions of Sale and Supply Global Export
Henkell & Co. Sektkellerei KG, Biebricher Allee 142, 65187 Wiesbaden, Germany

I. Validity and Scope

1. These General Conditions of Sale and Supply Global Export (hereinafter the 'Conditions') apply to all sales, supplies, services and offers between us, the company Henkell & Co. Sektkellerei KG, Biebricher Allee 142, 65187 Wiesbaden, Germany (also the 'Seller') and you, the Buyer.
2. These Conditions also apply to future business even where no renewed reference is made to them or where their validity is not explicitly agreed upon, provided that they have been made available to the Buyer in previous business.
3. Any deviating terms and conditions or statements of the Buyer to the contrary or references to his own business or purchasing conditions are hereby rejected. Any deviations from our Conditions are only valid if expressly confirmed by us in writing.
4. No business relationship under these Conditions, no matter how long it may last, creates any exclusivity for either party or any right for Buyer to long term supply or for the Seller to receive regular orders, unless agreed in written form.
5. Supplements and amendments to the agreements made, including these Conditions, must be made in writing to be effective. The written form shall be deemed to have been observed if it is transmitted by telecommunication, in particular by fax or e-mail, provided that a copy of the signed declaration is transmitted.
6. Our business relationship with the Buyer shall be made exclusively in the German or English language, in each case depending on whether the Buyer makes the relevant purchase in English or German.

II. Order, Offer, Conclusion of Contract

1. All our offers and specifications are subject to our confirmation and non-binding. They are valid for a period of 4 weeks counted from receipt.
2. An order is binding for the buyer as soon as we have received the order.
3. Orders become binding on us only following our written confirmation of order or supply under these Conditions.
4. Verbal acknowledgments, agreements or guarantees are only valid if confirmed by us in writing.
5. The binding order cannot be cancelled by the Buyer without our written consent.

III. Prices and Payments

1. Unless otherwise agreed, our prices are fixed in the order confirmation and have to be considered in Euro, always net from VAT (exclusive of value-added tax) and net from packaging and transport costs. Any customs duties and similar public are payable by the buyer.
2. Unless expressly otherwise agreed, all shipments shall require advance payment (to be made in the manner specified in our invoice), at least 7 (seven) calendar days before the planned delivery date.
3. We may - without prejudice to our rights arising from default on the part of the Buyer - demand an extension of delivery and performance deadlines or a postponement of delivery and performance dates by the period during which the Buyer fails to meet his contractual obligations, in particular overdue payments.
4. Unless otherwise specified or agreed, we are bound to prices agreed in the order confirmation for a period of four weeks from the date of confirmation of order. For deliveries to be made after this period, we will make a new offer based on the price list valid at that time.
5. Supplementary supplies and services, in particular those not specified in the order-confirmation, will be invoiced separately.
6. If the Parties have agreed on special conditions for certain purchase quantities in the form of a separate written agreement, the Buyer is not allowed to combine the purchases of several Buyers for the purpose of increasing the purchase quantities.
7. In the event that we have agreed to payment after delivery, our invoices shall be due and payable by the Buyer with-in 30 business days upon receipt by the Buyer of the goods and the invoice. In the event the Buyer fails to pay on the due date, the outstanding amounts shall bear interest at 5% p.a. from the due date; the right to claim higher interest and further damages in case of default shall remain unaffected.
8. The Buyer shall have no right of set-off or retention, except to the extent that the counterclaim has not been disputed by us or been determined by a final and binding decision.
9. Until full payment of due invoice sums including interest and costs incurred, we are not obliged to make further deliveries under current contracts.
10. We shall be entitled to make outstanding deliveries only against advance payment or provision of security if, after conclusion of the contract, we become aware of circumstances which are likely to substantially reduce the creditworthiness of the Buyer and which risks the payment of our outstanding claims by the Buyer under the respective contractual relationship (including other individual orders). In addition to asserting the reservation of title, we may also withdraw from the contract or demand compensation for damages instead of performance.

IV. Delivery

1. Except for otherwise indicated in the order confirmation, the terms of delivery are Free Carrier (FCA) in accordance with Incoterms 2020 at the agreed place of dispatch (at the risk of the Buyer).
2. The dispatch of the goods is specified in the order confirmation or as otherwise agreed in written form. If shipment has been agreed, delivery periods and delivery dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned with the transport by the Buyer.
3. Unless agreed otherwise, the Buyer agrees to order and purchase not less than the minimum quantity of one (1) full loaded pallet per stock keeping unit (SKU) or which shall have a minimum amount order of 3.000,00 (three thousand) EUR.
4. Our capacity of delivery is reserved. Delivery dates or periods which can only be agreed in writing (including e-mail correspondence) are subject to this reservation.
5. We reserve the right to proper delivery by our suppliers. Delivery dates or periods expressly confirmed by us are subject to this reservation.
6. If we are in default of delivery, Buyer shall grant us an adequate additional time for performance. Only after the expiry such adequate additional time for performance the Buyer may declare the contract avoided unless the goods are reported to him as being ready for dispatch by such time. Furthermore our liability for damages shall be limited in accordance with Section IX. of these conditions.
7. We shall not be liable for impossibility of delivery or for delays in delivery if these are caused by force majeure or other events that were not foreseeable at the time of conclusion of the contract (e.g. operational disruptions of all kinds, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortage of labour, energy or raw materials, difficulties in procuring necessary official permits, official measures/dispositions or the failure of suppliers to deliver, outbreaks of a state of emergency, epidemics, storm, earthquakes, landslide, quarantine, war or war like situation, acts of terrorism, civil disturbance, or any other similar causes) and for which we are not responsible. If such events make delivery or performance substantially more difficult or impossible for us and the interruption is not only of a temporary nature, we shall be entitled to withdraw from the contract. In the event of an interruption of temporary duration, the delivery periods shall be extended or the delivery dates

postponed by the period of the interruption plus a reasonable start-up period. If the buyer cannot reasonably be expected to accept the delivery as a result of the delay, he may withdraw from the contract by immediate written declaration to us.

8. We are entitled to make partial deliveries, if
- the partial delivery can be used by the buyer within the scope of the contractual purpose,
 - the delivery of the remaining ordered goods is ensured, and
 - the buyer does not incur any significant additional work or additional costs as a result of this (unless we agree to bear these costs).

V. Characteristics of the Products – Modifications

1. Any information or data relating to features and/ or specifications of our products contained in price lists, catalogues and similar documents are indicative and not binding.
2. We reserve the right of making any change to the products, which, without altering their essential features, appear to be necessary or suitable. We will alert the Buyer in due time that changes have been made. The Buyer may, at its sole discretion, examine possible legal implications of those changes and implement according legal steps whenever necessary.
3. Any costs or expenses due to any extra-catalogue change of the product or subsequent to the approved structural project, as requested by the buyer and considered feasible by us, will be payable by the Buyer, unless expressly otherwise agreed in writing.
4. The Buyer will pay also any other modification, integration, service or costs and expenses requested by the Buyer and not expressly included in the order confirmation.
5. The Buyer is allowed to deliver the products to third parties only in the unchanged original bottle, with the Seller's labels and not blended with other goods, unless relabeling is required by law in the sales territory.

VI. Reservation of Title

1. Until all debts (including all current account debit balances) due to us from the Buyer for whatever legal reason now or in the future are paid, we are entitled to ask for securities that shall be provided to us and which we will release upon request as selected by us if their value consistently exceeds the existing debts by more than 10 %.
2. Title to the goods shall be retained by the Seller. The Buyer is revocably authorized to sell the goods in normal trade with reservation of title. Pledges and transfers of securities are not permitted. Claims with regard to such goods (including all current account debit balances) resulting from their onward sale or any other legal reason (including, but not limited to, claims resulting from an order for collection on receivables from an onward sale, insurance, tort) are hereby assigned in advance to us to their full extent for security purposes and without requiring any separate agreement in each case.
3. We hereby revocably authorize the Buyer to collect the debts assigned to us on account of and in the name of the Buyer. To safeguard this assignment of future claims, the Buyer shall invoice the onward sale of our goods separately from other goods. Sales of the goods by the Buyer shall only be effected subject to a retention of title vis-à-vis his own customers until such time that the purchase price has been paid by the latter in full. In the event of the attachment of the goods by any third party, Buyer shall point out that we retained title to the goods and shall notify us promptly.
4. In case it becomes apparent that our claim for the purchase price is endangered by a serious deficiency in Buyer's ability to perform, we may revoke the authorization to sell the goods and/or to collect the purchase price from sales to the Buyer's customers and may disclose the transfer of the Buyer's claims against third parties out of the onward sale or for other legal reasons and demand that payment be made directly to us. If our claim for the purchase price is endangered by a serious deficiency in Buyer ability to perform or a breach of Buyer's contractual obligations, we are entitled to declare the contract avoided and to take back the goods. The Buyer hereby consents that the persons appointed by us with taking back the goods have access to the site and the buildings, on or in which the goods are found, on foot or in a vehicle, for this purpose. The Buyer shall at any time give all required information and records to permit that claims from onward sale transferred in advance can be asserted.

VII. Quality and Compliance

1. The quality of the products will be consistent with our product specifications mentioned in the order confirmation. Upon delivery, the Buyer will handle and store the products in a way so as to ensure no deterioration in their quality, appearance or packaging.
2. The buyer is responsible for the compliance of the products with the laws and standards of the sales Territory.

VIII. Notice of defects, claims, damages

1. Only the Buyer is entitled to make claims under guarantee and liability and such claims shall not be assigned or transferred.
2. In the event of a defect of the delivered goods, we have the right to choose between to repair the defect or to supply another product (as ordered) which is free from defects at our discretion.
3. If we are entitled to refuse subsequent performance in accordance with the statutory requirements or if subsequent performance has failed or is unreasonable, there is a claim for withdrawal or reduction.
4. The Buyer shall promptly upon delivery inspect the product with due care. The delivered product shall be deemed to be approved by the Buyer unless the defect is notified to us (i) in case of any obvious defects within a period of (five) business days upon delivery or (ii) otherwise within five business days from the day when the defect has been identified.. The notification must include:
 - (1) Documentation and evidence of the alleged defect (incl. pictures)
 - (2) Type of claim or damage
 - (3) Brand and stock keeping unit (SKU)
 - (4) Best before date (as printed on concerned Product packaging)
 - (5) Lot mark/production date
 - (6) Date of delivery
 - (7) Concerned amount of products.
5. In addition, the Buyer must ensure that samples of the allegedly defective products are kept and made available for analysis upon request and stored in appropriate conditions until the procedure set out in this Section has been concluded.
6. We will send a preliminary statement to the Buyer not later than 4 weeks after receipt of the complete information of the defect. Within this period, we shall be entitled to send an expressly authorized person to the relevant warehouse in order to evaluate the legitimacy of the claim. It is acknowledged that the final assessment of the claim may take longer than 4 weeks.
7. In the course of the claim proceeding, the Buyer shall comply with any reasonable instructions by us. The Buyer will bear any expenses related to the examination of the allegedly defective products. In the event the defect of the product is bindingly proved to be our responsibility, we will compensate such expenses.
8. Once the claim has been accepted by us, the concerned defective products will be destroyed by the Buyer according to the instructions and at our costs, unless agreed otherwise.

9. If it can be proven the defect was our responsibility and the products have been destroyed or dealt with as agreed, we will replace those products free of cost. Alternatively, we may choose to compensate by financial equivalents.
10. It is agreed that all used or emptied goods may not be used for any other products or any other purpose than agreed.

IX. Liability

1. In the event that we are liable for damages pursuant to the applicable law or these Conditions, other than as a result of intention or gross negligence, our liability is limited as follows: liability may be invoked only in case of a fundamental breach of agreement and shall at all times be limited to the typical damage foreseeable at the time of the conclusion of the contract. In this context a "fundamental breach" is a breach of contract where the offending party fails to complete a contractual term that was so fundamental to the contract that it has serious consequences for the injured party, meaning it permits the distressed party to terminate performance of the contract, in addition to entitling that party to sue for damages.
2. This limitation shall not apply in the event of an injury to human life, body or health. In the event the damage is covered by an insurance of the Buyer (with the exception of an insurance of fixed sums) and recoverable under such insurance, we shall be liable only for any costs of the Buyer resulting thereof, in particular increased insurance premiums or interest until compensation is received from the insurance.
3. Liability is excluded for damages (with the exception of injuries to human life, body or health) caused by a slight degree of negligence. Furthermore we shall not be liable (on whatever legal grounds) for indirect or consequential damages which may not reasonably be foreseen, assuming a normal use of the goods.
4. Our liability pursuant to the product liability law, malicious concealment of a defect, risk of procurement or an explicit guarantee shall not be affected.
5. In case of a guarantee we shall be liable only to the extent that such guarantee intended to indemnify the Buyer against such damage.
6. In the event of the application of CISG, we shall not be liable for damages, if we are exempt from liability under Art. 79 CISG or if we can prove that an impediment in our sphere has intentionally or negligently neither been caused nor failed to overcome by us or an employee of us.
7. To limit any claims under product liability, the Buyer shall promptly pass on to us any information he receives which may indicate the presence of product defects (in particular customer complaints) and to promptly and comprehensively support us in the case of any action of recall.

X. Intellectual Property Rights

1. The Buyer expressly recognizes that trademarks, commercial names or other distinctive marks on the products are our exclusive property and will not be altered, changed removed or cancelled in any manner. The Buyer has the limited right to use trademarks, commercial names or other distinctive marks, as well as other industrial exclusive right or Know-how (productive or commercial) associated with the products – which nonetheless remain in our exclusive property– to the limited purpose of the resale of the products to the final consumer. Any other utilization of our Intellectual Property by the Buyer, if not expressly granted by us in writing, will be considered an infringement of the exclusive rights of the seller, and a breach of contract, and will be therefore prosecuted.
2. The Buyer will notify us in writing without undue delay of any attempt made by any third party to use without right the Intellectual Property Rights and will join us, if required, in taking such steps as we may consider advisable.
3. The Buyer will not do anything which may adversely affect the Intellectual Property Rights. Also, the Buyer will not register, by itself or through any third party, within or outside the Sales Territory, any trademark, trade name or other symbol of us, or any symbol or name that is a translation of or otherwise resembles any of us. If such rights are registered on behalf of Buyer or an affiliate of Buyer, Buyer shall ensure that they are assigned to us without undue delay and free of charge, without entitlement to any compensation. Should the Buyer desire to make use of our brand names or any of its Intellectual Property Rights (including advertisements, films etc.) in the internet, especially in social media, such use is subject to our prior written approval. In such use, the Buyer will always comply with the laws of the Territory and will hold us free and harmless in case its use breaches the rights of any third party. The Buyer will consult us on a regular basis to ensure that the use continues to be in line with our approval.
4. In the event of any export of the products by the Buyer or his customers into territories outside the Federal Republic of Germany or a country other than agreed to in writing, we assume no liability if industrial or other intellectual property rights of third parties are infringed by our products. The Buyer shall compensate us for all damages caused to us due to the export of goods not explicitly supplied by us for export to such countries and territories. In case we export goods to a country outside the Federal Republic of Germany we only warrant that we have no actual knowledge of any third parties' intellectual property rights in such country.

XI. Data Processing

1. The Buyer declares that he consents and is aware that all data regarding him arising from the business relationship, including personal data in the sense of the General Data Protection Regulation GDPR (EU VO 2016/679), will be stored in our electronic data processing system.
2. Information on the processing of personal data can be found in our General Privacy Policy. This can be accessed, printed and saved on the Internet at <https://www.henkell-freixenet.com/en/privacy-information.html>. Upon request, we will also be pleased to send you the General Data Protection declaration by mail. Please contact Henkell & Co Sektkellerei KG, Biebricher Allee 142, 65187 Wiesbaden, Germany, E-mail: datenschutzservice@henkell-freixenet.com.

XII. Governing Law and Jurisdiction

1. The legal relationship between the Seller and the Buyer shall be governed by German law with the inclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. A dispute arising between the Parties that cannot be settled first by amicable negotiation, as to any transaction between them, shall be submitted to the competent courts and/or arbitration under the terms set forth hereinafter.
3. For Buyers in the EU/EEA: The place of jurisdiction is Frankfurt am Main, Germany. Alternatively, the Seller may take action at the Buyer's place of business.
4. For Buyers outside the EU/EEA: All disputes will be finally settled in accordance with the rules of the Swiss Chambers' Arbitration Institution of Arbitration in effect at the time of arbitration. The matter shall be settled by the Basel Chamber of Commerce ("Industrie- und Handelskammer Basel", www.hkbb.ch) in Switzerland. The arbitration will be conducted in the English language. There will be 3 arbitrators who will be nominated according to the arbitration rules. At least the chairman of the arbitral tribunal will be a lawyer. The award of the arbitral tribunal will be final and binding upon the Parties.
5. In the event that any of the provisions of these Conditions were declared null or ineffective, this will not affect the validity and effectiveness of the remaining provisions, and that provision that has been declared invalid or becomes ineffective should be replaced by another provision that, being valid and effective, the more it approaches the economic purpose pursued by the parties through the provision that would have been declared invalid or would have become ineffective.

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