

General Terms and Conditions of Business

§ 1 Scope

- (1) The goods and services of Julius Kleemann GmbH & Co.KG are offered, performed and delivered in legal relations with commercial enterprises exclusively on the basis of the following General Terms and Conditions of Business. They are an integral component of all contracts Julius Kleemann GmbH & Co.KG concludes with its contractual partners. They shall also apply to all future contracts between the contracting parties, even where not expressly agreed again separately.
- (2) Terms and conditions of the contractual partner or third parties shall not apply, even if no separate further explicit reference is made to their inapplicability elsewhere by Julius Kleemann GmbH & Co.KG. Even if Julius Kleemann GmbH & Co.KG refers to correspondence which contains terms and conditions of the contractual partner or third party, this shall not constitute agreement to the validity of such terms and conditions.

§ 2 Offer and Agreement of Contract

- (1) All offers of Julius Kleemann GmbH & Co.KG are non-binding and without engagement, unless they are expressly designated as binding or contain a specific deadline for acceptance. Agreements and orders shall only be deemed to be binding for Julius Kleemann GmbH & Co.KG when they have been confirmed in writing.
- (2) The legal relationship between Julius Kleemann GmbH & Co.KG and the contractual partner shall be governed exclusively by the contract concluded in writing, including these General Terms and Conditions of Business. The contract fully reflects all agreements between the contracting parties concerning the object of the contract. Verbal assurances made by Julius Kleemann GmbH & Co.KG prior to the conclusion of this contract shall not be legally binding, and any verbal agreements made between the contracting parties are replaced by the written contract.
- (3) Supplements and amendments to the agreement reached, including these General Terms and Conditions of Business, require the written form in order to be effective. With the exception of managing directors or authorised signatories, no employees of Julius Kleemann GmbH & Co.KG are authorised to make any verbal agreements which differ from the above provisions. Transmission by fax or email shall be sufficient to meet the requirement for the written form. All correspondence shall be in German or English.
- (4) All information provided by Julius Kleemann GmbH & Co.KG about the goods or services to be supplied, as well as representations thereof, shall be deemed to be approximate characteristics only, unless the use of the supplied goods or services for the contractually agreed purpose depends on precise conformity. They do not constitute guaranteed qualities, but rather descriptions or features of the goods or service. Deviations which are customary in the trade and deviations pursuant to statutory regulations or which represent technical improvements shall be permissible as long as they not adversely affect usability for the contractually agreed purpose. Julius Kleemann GmbH & Co.KG has no duty to ensure that the goods can be placed on the market in other countries.
- (5) Julius Kleemann GmbH & Co.KG retains the ownership or copyright of all offers, quotations and cost estimates submitted by Julius Kleemann GmbH & Co.KG, and of all drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and aids made available to the contractual partner. The contractual partner is not permitted to make these objects or their contents accessible to third parties, to disclose them, use them or have them used or reproduced, either by himself or by third parties. On request by Julius Kleemann GmbH & Co.KG he must return these objects to it in full and, where applicable, destroy any copies made thereof, if they are no longer needed by him in the proper course of business or if negotiations do not result in the conclusion of a contract.

§ 3 Prices and Payments

- (1) Prices shall apply for all deliveries and services stated in the order confirmation. Additional or special services shall be charged separately. Prices shall be quoted in Euro in all cases, to which Value Added Tax, packaging, freight, customs duties, postage, insurance and other official levies must be added.
- (2) Julius Kleemann GmbH & Co.KG shall be entitled to apply recalculated prices in the event of retrospective price increases by its suppliers. For technical reasons, Julius Kleemann GmbH & Co.KG reserves the right to allow a tolerance of up to 10% from the ordered volume. For printed articles, Julius Kleemann GmbH & Co.KG shall deliver what the print run actually produces.
- (3) Orders for which fixed prices are not expressly agreed will be billed at the prices applicable on the day of delivery.
- (4) Bills of exchange and cheques shall only be accepted where this has been agreed, and only on account of performance and on condition that they are discountable. Discount charges shall be charged starting from the due date of the invoice amount. No responsibility for the timely presentation of checks and bills of exchange and for the protesting of bills of exchange shall be accepted. In the event of a delay in payment, Julius Kleemann GmbH & Co.KG shall be entitled to charge interest on arrears to the amount of the rate the bank charges it for current account overdrafts, but not less than 9 percent above the current base rate applicable at the time.
- (5) The invoice sum shall be due for payment 30 days after the invoice date on the invoice. The period for a discount deduction, if applicable, shall also begin on the invoice date. Deduction of discounts on new invoices shall not be permitted as long as older invoices have not been settled. If the contractual partner defaults in payment or if circumstances become known after conclusion of the contract which may cast the creditworthiness of the contractual partner into doubt and which threaten the payment of the outstanding claims of Julius Kleemann GmbH & Co.KG against the customer, all outstanding invoices shall become due for payment immediately, irrespective of the due date of any received bills of exchange. Julius Kleemann GmbH & Co.KG shall be entitled at any time to make outstanding deliveries or perform outstanding services subject to pre-payment only or in return for the provision of security. This shall apply in particular in case of default in payment.

§ 4 Long-term and Call-off Contracts, Price Adjustments

- (1) If, in the case of long-term contracts (contracts with a term of more than 12 months and unlimited contracts), important changes to the wage, material or energy costs occur, each party to the contract shall be entitled to demand an appropriate adjustment of the price taking these factors into consideration.
- (2) Where a binding order quantity is not agreed, Julius Kleemann GmbH & Co.KG's calculation shall be based on the non-binding order quantity expected by the contractual partner for a specific period of time (target quantity). In case of contracts for call-off deliveries, binding quantities must be notified to Julius Kleemann GmbH & Co.KG at least 2 months before the call-off delivery date, unless agreed otherwise. Extra costs which are caused by a delayed call-off or subsequent changes to the call-off with regard to the time or quantity by the contractual partner shall be borne by the contractual partner.

§ 5 Delivery and Delivery time

- (1) Delivery is ex works on account of and at the risk of the receiver.
- (2) The time for delivery begins on the date of the order confirmation, but not before clarification of all implementation details (such as the issue of colour approvals, agreement of technical implementation details, new décors, lithography approvals, etc.). Deadlines and dates stated by Julius Kleemann GmbH & Co.KG for the delivery of goods and the performance of services are always approximate only, unless a fixed deadline or date has been expressly assured or agreed. If consignment has been agreed, delivery deadlines and dates refer to the time of transfer to the forwarder, carrier or other third party contracted to transport the goods.
- (3) Notwithstanding any rights arising out of or in connection with delay by the contractual partner, Julius Kleemann GmbH & Co.KG shall be entitled to demand an extension of periods for the delivery of goods and the performance of services or the postponement of the delivery of goods and the performance of services for a period of time equivalent to that for which the contractual partner fails to fulfil its contractual duties towards Julius Kleemann GmbH & Co.KG.
- (4) Claims for damages against Julius Kleemann GmbH & Co.KG on the grounds of non-fulfilment or delayed delivery are excluded, except in cases of intent or gross negligence. The contractual partner shall not be entitled to refuse partial deliveries.
- (5) Where force majeure or other events that were not foreseeable at the time of the completion of the contract cause a major obstacle to delivery for Julius Kleemann GmbH & Co.KG, or make delivery impossible, and the obstacle is not just temporary, Julius Kleemann GmbH & Co.KG shall be entitled to withdraw from the contract. In case of obstacles only of a temporary duration, the deadlines for the delivery of goods and the performance of services shall be extended or the times for the delivery of goods and the performance of services shall be postponed by the period of the obstruction plus an appropriate lead time.
- (6) In case of call-off contracts, the goods shall be taken in partial quantities in accordance with the agreed time frame. Printed or other customer-specific packaging shall be delivered at the latest six months after order confirmation, and printed sheet metal products which have not been processed by this time shall be invoiced. Julius Kleemann GmbH & Co.KG shall also be entitled in the case of call-off contracts to charge for goods which are not called after the expiry of nine months after order confirmation and to dispatch them. Julius Kleemann GmbH & Co.KG also reserves the right in the aforementioned cases to charge storage costs in accordance with § 6 (5). Where delivery by instalments is agreed, each delivery shall be treated as independent for payment purposes.

§ 6 Place of Fulfilment, Shipment, Packaging, Passing of Risk, Acceptance

- (1) Unless agreed otherwise, Karlstein shall be the place of fulfilment for all contractual obligations.
- (2) The mode of shipment and the packaging shall be according to the professional judgement of Julius Kleemann GmbH & Co.KG. Shipment is not prepaid. Julius Kleemann GmbH & Co.KG accepts no liability for timely transportation. Where no specific instructions have been defined regarding shipment in the order, transportation shall be effected according to the best judgement of Julius Kleemann GmbH & Co.KG without any responsibility for the cheapest means of transportation.
- (3) Risk shall pass to the contractual partner at the latest when the object of delivery is handed over (as defined by the start of loading) to the forwarder, carrier or other third party assigned to transport the goods. This shall also apply where partial deliveries are made or where Julius Kleemann GmbH & Co.KG also takes responsibility for other performances such as, e.g. the consignment costs or transportation and installation. If shipment or hand-over is delayed as a result of circumstances for which the contractual partner is responsible, the risk shall pass to the contractual partner on the day on which the object of delivery is ready for shipment and Julius Kleemann GmbH & Co.KG has notified the contractual partner thereof.
- (4) Goods ready for shipment must be called off without delay. If not, Julius Kleemann GmbH & Co.KG shall be entitled, in accordance with § 4 (6), to store the goods at the contractual partner's expense and to invoice the goods as if delivered.
- (5) Any storage costs arising after the passing of risk shall be borne by the contractual partner. If the goods are stored by Julius Kleemann GmbH & Co.KG, the storage costs shall be 0.25% of the invoice sum for the goods in storage per full week. This is without prejudice to the right to claim for additional storage costs or request proof of lower storage costs. Julius Kleemann GmbH & Co.KG shall, however, be entitled, after the setting and fruitless expiry of a reasonable deadline, to make alternative dispositions concerning the object of delivery item and to deliver to the contractual partner within a reasonably extended deadline instead.
- (6) Consignments shall be insured by Julius Kleemann GmbH & Co.KG only at the express request of the contractual partner and at the latter's expense against theft, breakage, damage in transit, by fire and water, and against any other insurable risk.
- (7) If an acceptance inspection is required, it shall govern the passing of risk. Acceptance shall be deemed to have taken place even if the contractual partner delays in accepting the goods. The merchandise shall be deemed to have been accepted if delivery has been completed, Julius Kleemann GmbH & Co.KG has notified the contractual partner thereof, together with notification in accordance with § 6 herein that acceptance shall be implied if no action is taken, and has requested the contractual partner's acceptance and twelve working days have passed since delivery, or if the customer has started to use the merchandise and in this case six working days have passed since delivery, and the contractual partner has failed to declare acceptance within this period for any reason other than a defect that significantly impedes or prevents the use of the merchandise of which Julius Kleemann GmbH & Co.KG has been notified.

§ 7 Warranty, Material Defects

- (1) The warranty period shall be one year from the date of delivery or, if acceptance is required, from the date of acceptance. See § 6 (7) on acceptance.
- (2) The contractual partner or a third party nominated by the contractual partner shall examine the delivered goods immediately after delivery. They shall be deemed to have been accepted if Julius Kleemann GmbH & Co.KG has not received written notification of defects pertaining to obvious defects or other defects visible in the course of a prompt, thorough examination within seven working days following delivery of the object of delivery, or otherwise within seven working days of discovery of the defect or any time before that at which the defect became evident to the contractual partner in the normal utilisation of the object of delivery without closer examination. Otherwise claims based on defects shall be precluded and performance shall be deemed to have been accepted. This shall also apply in relation to absence of assured properties. The defining date for the above notification shall be the date on which notification is received by Julius Kleemann GmbH & Co.KG by post or fax. Julius Kleemann GmbH & Co.KG shall be granted the opportunity to assess the defect.

At the request of Julius Kleemann GmbH & Co.KG, the object of delivery which is the subject of complaint shall be returned to Julius Kleemann GmbH & Co.KG free of delivery charges. In case of a justified complaint about defective goods, Julius Kleemann GmbH & Co.KG shall reimburse the costs of the most economical means of shipment. This shall not apply if the costs increase because the object of delivery is at a different location than that of the intended use.

- (3) The quality of the goods shall be defined exclusively by the agreed technical conditions of supply. If Julius Kleemann GmbH & Co.KG is required to supply in accordance with drawings, specifications, samples, etc., provided by its contractual partner, the latter shall assume the risk that the goods are suitable for the intended use. The date of the passing of risk pursuant to § 7 (1) of these General Terms and Conditions of Business shall be the effective date for determining the condition of the goods as per contract.
- (4) Julius Kleemann GmbH & Co.KG shall not be responsible for material defects which result from unsuitable or incorrect use, faulty assembly by the contractual partner or third party, common wear or tear, faulty or negligent handling, nor for the consequences of improper alterations by the contractual partner or third party carried out without the authorisation of Julius Kleemann GmbH & Co.KG. The same shall apply to defects which only result in a trivial reduction in the value of the goods or their suitability for use.
- (5) The contractual partner shall, in particular, observe the respective specifications and DIN regulations; otherwise, the warranty shall become void.
- (6) No liability shall be accepted for corrosion damage to metal packaging which is untreated on the inside and is caused by the influence of the weather and/or climate on stored empties.
- (7) In the event of material defects to the delivered goods, Julius Kleemann GmbH & Co.KG shall be at first entitled to provide remedial performance in the form of repair or replacement within a reasonable time, the choice being at the discretion of Julius Kleemann GmbH & Co.KG.
- (8) The warranty shall become void if the contractual partner alters the delivered goods or allows a third party to alter the delivered goods without the prior consent of Julius Kleemann GmbH & Co.KG and if such alteration of the delivered goods prevents or makes the remedying of defects unreasonably difficult. In all cases the contractual partner shall bear the additional costs caused by the alteration or remedying the defects.

§ 8 Liability for Compensation for Damages for Fault

- (1) The liability of Julius Kleemann GmbH & Co.KG for compensation for damages, regardless of legal grounds, in particular due to impossibility, default, defective or incorrect deliveries, breach of contract, infringement of duties during contract negotiations and torts, insofar as it is at fault in each case, shall be excluded, unless otherwise provided for in § 8 below.
- (2) Julius Kleemann GmbH & Co.KG disclaims liability for ordinary negligence on the part of its executive bodies, legal representatives, employees or other persons employed in performing an obligation, unless this involves a breach of material contractual obligations. Material contractual obligations include the obligation to deliver and install in a timely fashion goods that are free of material defects, advisory, protective, custodial and duty of care obligations that enable the contractual partner to use the item delivered in the contractually prescribed manner or whose purpose is to protect the lives and health of the customer's personnel or to protect his property against serious damage.
- (3) Where Julius Kleemann GmbH & Co.KG furnishes technical information or acts in an advisory capacity and where these activities do not fall within its contractually agreed scope of performances, it shall do so free of charge and to the exclusion of any liability.
- (4) Where Julius Kleemann GmbH & Co.KG is liable for damages on the grounds of and in accordance with § 8 (2), such liability shall be limited to damages which Julius Kleemann GmbH & Co.KG had foreseen as possible consequences of an infringement of the contract when concluding the contract, or which it should have foreseen with the exercise of normal commercial diligence. Indirect and consequential damages resulting from defects in the delivered goods shall furthermore only be subject to compensation if such damages could typically be expected when using the delivered goods in accordance with the intended use.
- (5) Julius Kleemann GmbH & Co.KG shall not be liable for loss of profit and non-pecuniary damages and consequential damages caused by semi-finished products manufactured and/or processed without any involvement of Julius Kleemann GmbH & Co.KG and/or where the characteristics of which cannot be influenced by Julius Kleemann GmbH & Co.KG.
- (6) In all other respects the level of compensation for damages for late delivery or non-delivery shall be limited to 0.5% for each full week of delay, up to a maximum of 5%, and for other breaches of obligations is limited to 100% of the value of the performance not fulfilled in accordance with the contract.
- (7) The foregoing exclusions of liability and limitations of liability shall apply to the same extent to the executive bodies, legal representatives and employees of Julius Kleemann GmbH & Co.KG and to other persons employed in performing an obligation for Julius Kleemann GmbH & Co.KG.
- (8) The restrictions of liability contained in the provisions of § 8 herein shall not be applicable to the liability of Julius Kleemann GmbH & Co.KG in respect of malicious acts, guaranteed qualities, loss of life, physical injury or damage to health or claims based on the Product Liability Act (Produkthaftungsgesetz).

§ 9 Retention of Title

- (1) The following conditions on retention of title are designed to safeguard all current and future claims of Julius Kleemann GmbH & Co.KG against the contractual partner arising from or in connection with contracts for the delivery of goods or services between the contractual parties, including all unsettled current account balances. Julius Kleemann GmbH & Co.KG shall be entitled to take back the merchandise if the contractual partner is in breach of the contract – in particular if he is in default of a claim for payment - .
- (2) Julius Kleemann GmbH & Co.KG shall retain ownership of the goods supplied to the contractual partner until all secured receivables have been paid to Julius Kleemann GmbH & Co.KG in full. The goods and any goods covered by the retention of title taking their place in accordance with the following provisions shall hereinafter be referred to as "conditional commodities".
- (3) The contractual partner shall hold the conditional commodities in safekeeping for Julius Kleemann GmbH & Co.KG at no charge. The contractual partner shall be duty-bound, until such time as ownership has transferred to the contractual partner, to handle the merchandise with due care and to insure it at its own expense against theft, fire and other damage. The contractual partner shall herewith assign to Julius Kleemann GmbH & Co.KG all claims due to the contractual partner arising out of an insurance claim.

- (4) The contractual partner shall be entitled, in the normal course of business, to work the conditional commodities into a new form until such time of the enforcement of the retention of title. Pledges and transfers by way of security shall not be permitted.
- (5) If any work is undertaken by the contractual partner on the conditional commodities to work them into a new form, it is agreed that such work is undertaken in the name of and on account of Julius Kleemann GmbH & Co.KG as the manufacturer and that Julius Kleemann GmbH & Co.KG shall acquire the direct ownership or – if the working involves materials supplied by a number of owners or the value of the worked object exceeds that of the conditional commodities – the co-ownership (fractional share ownership) of the new object thus manufactured, the share of ownership being commensurate with the value of the conditional commodities relative to the newly manufactured object. In the event that Julius Kleemann GmbH & Co.KG does not acquire such ownership rights, the contractual partner herewith transfers its future ownership or, in the aforementioned proportion, its co-ownership of the newly manufactured item to Julius Kleemann GmbH & Co.KG as security. If the conditional commodity is combined with other objects to form a combined object or is inseparably commingled, and if one of the other objects must be regarded as the main object, Julius Kleemann GmbH & Co.KG shall, if the main object is the property of Julius Kleemann GmbH & Co.KG, transfer co-ownership of the combined object to the contractual partner in the proportion stated in clause 1.
- (6) The contractual partner shall be entitled, in the normal course of business, to sell the conditional commodities in its own name and on account of Julius Kleemann GmbH & Co.KG. However, he shall not be entitled to pledge the conditional commodities or transfer them by way of security. In the event that the conditional commodities are resold, the customer shall hereby transfer the resulting claims due from the purchaser – or in case of co-ownership of Julius Kleemann GmbH & Co.KG of the conditional commodities in proportion to the share of co-ownership – to Julius Kleemann GmbH & Co.KG by way of security. The same applies to other claims which take the place of the conditional commodities or arise otherwise with regard to the conditional commodities such as, e.g. insurance claims or claims in tort in case of loss or destruction. Julius Kleemann GmbH & Co.KG grants the contractual partner the revocable right to collect all claims assigned to Julius Kleemann GmbH & Co.KG in his own name. This is without prejudice to the right of Julius Kleemann GmbH & Co.KG to collect the claims itself. Julius Kleemann GmbH & Co.KG shall, however, refrain from enforcing the claim as long as the contractual partner continues to meet his payment obligations from the proceeds obtained, as long as the contractual partner does not fall into arrears with payment and, in particular, as long as no application is made for the initiation of insolvency proceedings and the purchaser does not stop payments.
- (7) In the event of the seizure of the conditional commodities by a third party, in particular by way of attachment, the contractual partner shall immediately inform this third party of the Julius Kleemann GmbH & Co.KG's ownership of the goods and immediately inform Julius Kleemann GmbH & Co.KG in order to enable Julius Kleemann GmbH & Co.KG to enforce its ownership rights. If the third party is not in a position to reimburse Julius Kleemann GmbH & Co.KG the legal or out of court expenses incurred, Julius Kleemann GmbH & Co.KG's contractual partner shall be liable for such expenses.
- (8) Julius Kleemann GmbH & Co.KG shall release the conditional commodities and any objects or claims taking their place if their value exceeds the amount of the secured receivables by more than 50%. The choice of the objects to be released shall be at the discretion of Julius Kleemann GmbH & Co.KG

§ 10 Property Rights and Tools

- (1) The contractual partner shall be liable for any infringements of third party property rights where objects are produced and supplied by Julius Kleemann GmbH & Co.KG in accordance with particulars provided by the contractual partner. The contractual partner undertakes to immediately indemnify Julius Kleemann GmbH & Co.KG against any claims for compensation for damages arising out of any such infringements of third party property rights.
- (2) All drafts, lithographs, printing blocks, printing plates, embossing dies and tools are only charged on a pro rata basis and therefore remain the property of Julius Kleemann GmbH & Co.KG after payment of these amounts. They may only be used as samples for third parties with the explicit consent of Julius Kleemann GmbH & Co.KG. Drafts and drawings shall be billed if no contract is awarded.

§ 11 Set-off

The contractual partner shall not be entitled to any rights of set-off with counter-claims or the retention of payments because of any such claims, unless its counter-claims have become legally effective or are uncontested and are in the same currency.

§ 12 Packaging

The pallets and mesh boxes shall be returned in well-maintained condition without delay to Julius Kleemann GmbH & Co.KG, to the supply plant shown in the shipping documents, free of delivery charges.

§ 13 Closing Provisions, Place of Jurisdiction, Applicable Law

- (1) Place of jurisdiction for all disputes shall be Alzenau/Aschaffenburg. Julius Kleemann GmbH & Co.KG shall also be entitled, however, to take legal action at the registered place of business of the contractual partner.
- (2) The laws of the Federal Republic of Germany shall apply. International sale of goods law shall be excluded. This also expressly applies to the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- (3) If any provision has been inadvertently omitted from the contract or from these General Terms and Conditions of Business, the resulting gap shall be filled with such valid provision as most closely reflects what the parties to the contract, in consideration of the commercial intent and purpose of the contract and the purpose of these General Terms and Conditions of Business, would have agreed upon had they been aware of the omitted provision from the outset.