

GENERAL TERMS AND CONDITIONS V.2021-11-03

1. General Terms and Conditions

All services performed by Kiwa ("the Assignment") shall first and foremost be subject to the terms and conditions set out in the agreement between Kiwa and the customer ("the Agreement"), and secondly to these General Terms and Conditions, and thirdly to applicable accreditation standards or conditions by the issuer of the standards/regulations. In addition hereto, Swedish law shall apply.

In these General Terms and Conditions, Kiwa shall mean Kiwa Certification AB and all companies in the Kiwa-group in Sweden, regardless of which of these companies is the contracting party.

The Assignment shall be performed according to the terms and conditions set out in the Agreement. In case the Agreement does not address a specific issue at hand, Kiwa shall act in the way that it deems right and appropriate in order to perform the Assignment.

Kiwa is entitled to amend these General Terms and Conditions. Such amendments shall enter into force one month after the publication of the amendments on Kiwa's website, www.kiwa.com.

2. Kiwa's Undertakings

Kiwa shall perform the Assignment in a professional manner and with the care and attention required considering the scope, complexity and purpose of the Assignment. Kiwa is responsible for supplying the labour, materials and equipment required to perform the Assignment unless the customer expressly is responsible for this pursuant to the Agreement or what is stated in section 3 below.

Kiwa is entitled to engage subcontractors to carry out the Assignment. In such cases, Kiwa shall be liable for the performed work as if the Assignment was performed in its entirety by Kiwa.

Kiwa shall perform the Assignment according to the regulations and instructions issued by the relevant accreditation agency or standard. Kiwa shall make sure that Kiwa is accredited with relevant accreditations and that the accreditation methods are used when making decisions on certifications in relation to the customer.

3. The Customer's Undertakings

The customer is responsible for providing Kiwa with appropriate conditions for Kiwa to be able to complete the Assignment. The customer shall in due time inform Kiwa of any and all circumstances relevant to the Assignment and provide Kiwa with all necessary documents in order to perform the Assignment and, if applicable, supply Kiwa with an appropriate location for the performance of the Assignment.

The customer is responsible for the work safety when performed at the customer's premises and/or work involving the customer's property. The customer shall, for example, co-ordinate safety measures and inform Kiwa's staff of all applicable safety regulations prior to the commencement of the Assignment. Moreover, the customer shall perform comprehensive safety measures to ensure that the working conditions are safe and meet relevant legislative requirements.

The customer confirms that it has the correct understanding for how the Assignment shall be performed and that it is informed about the relevant regulations/standards that apply to the Assignment. The customer shall ensure that applicable certificates-requirements are met and that these General Terms and Conditions are followed.

The customer undertakes to keep itself informed about amendments to conditions, regulations and standards that may affect the issued certificates. The customer also undertakes to keep itself informed about restrictions in the validity of the specifications that the certificate is based upon and, if necessary, make changes in certificated product, system to meet the amended requirements. The Customer understand and agree that an observer from authorities, scheme/standard owner or Kiwa can participate when the assignment is performed.

The customer shall inform Kiwa of any changes in its operation or products that may affect the compliance of the certificate requirements applicable to the certification on hand.

The customer shall not act in a way that may harm Kiwa, nor use or make announcements about the certification in a way that may be misleading.

The customer must follow Kiwa's instructions regarding how logos and trademarks may be used in connection with a granted or a revoked certificate.

The customer shall pay for the Assignment and for the maintenance of the granted certificates according to the prices, fees and procedures decided by Kiwa and/or the issuer of the standard.

The customer acknowledges that Kiwa may publish certificates, or parts of its contents, on Kiwa's website and on other stipulated places in accordance with applicable standards/regulations.

The customer confirms that the information provided by them in connection to the certification, maintenance of certification or otherwise, is correct and that no important information for the above has been left out.

4. Liability

Kiwa is liable for any direct damages incurred by the customer due to Kiwa's fault or negligence in its performance of the Assignment, in accordance with the Agreement and these General Terms and Conditions.

Kiwa is not liable for damages that are incurred by the customer as a result of amendments in legislation, accreditation standards or conditions by the issuer of standards/regulations, which are not within the control of Kiwa.

A granted certificate does not mean that Kiwa is responsible for ensuring that the certificated product or that the certified at each time follows or adheres to the conditions applicable to the certificate. The customer is responsible for ensuring that the certificate requirements are met at all times.

Kiwa's liability for damages is to be defined in the Agreement. If the Agreement does not contain such a condition, Kiwa's liability shall in no case exceed 500 000 SEK per occasion of damage. Kiwa shall not be liable for any indirect losses, such loss of production or loss of profit.

5. Pricelist

Unless otherwise agreed in the Agreement, Kiwa's has a pricelist which includes the general prices for its services. Kiwa is entitled to change its prices. Price adjustments will enter into force one month after they have been communicated with the customer if nothing else has been agreed upon.

6. Payment

Unless otherwise agreed, invoices shall be paid within thirty (30) days after the date of invoice. In case part of the invoice is disputed between the parties, the undisputed part of the invoice shall be paid. In case of late payment, a yearly interest on overdue payment will be charged corresponding to the reference rate plus eight (8) percentage points.

If not otherwise stated in applicable standard or agreed between the parties, application and registration fees shall be paid prior to the commencement of the Assignment. The application or registration fees will not be repaid in case of cancellation by the customer or in case certificate cannot be granted and reason hereto is due to the customer.

Invoicing will primarily be made after fulfilment of the Assignment. However, if the customer does not deliver requested information in due time, Kiwa may invoice monthly for performed work.

The customer will be charged for extra costs incurred by Kiwa due to late payment, such as payment reminders, debt collection or other legal actions.

In case of anticipated non fulfilment of payment by the Customer Kiwa may request security or collateral in the customer's property. If such security or collateral is disputed by the customer, Kiwa has the right to terminate the Assignment and revoke all granted certificates.

7. Term and Termination

Unless otherwise stated in applicable standard or agreed between the parties, the Agreement can be terminated by both parties with a two (2) months' notice period. If the Agreement is terminated, all granted certificates will automatically be revoked. Notice of termination must be given in writing.

Renewal of a certificate is conditioned upon Kiwa's review and approval. If the customer does not fulfil the conditions set out for the renewal of the certificate, and no correction is been made within the stipulated time, the Agreement will automatically be terminated, and the customer will liable for the costs of the audit.

Both parties have the right to immediately terminate the Agreement in case of material breach of the Agreement by the other party if no rectification has been made within thirty days from receiving written notice from the damaged party. The damaged party will be entitled to receive compensation from the other party corresponding to the damages the damaged party has incurred as a result of the breach.

If the Agreement is terminated or cancelled, Kiwa shall have the right to payment for any performed work. Payment shall be made according to the, from time to time, applicable pricelist for the Assignment. In addition to above, Kiwa shall have the right to additional payment for costs and expenses related to the Assignment, such as travel costs and accreditation fees.

8. Amendments and Revoked Certificates

Kiwa may, in accordance with applicable standard/regulations, revoke, adjust or amend a granted certificate:

- if inaccuracies in a granted certificate are found,
- in case of amendments in applicable law, accreditation requirements or conditions from issuer of standards/regulations,
- if incorrect information is communicated at the time the certificate is issued which leads to misinterpretations or misunderstandings in the certificate, the content, extent and prerequisites thereof,
- if the customer does not uphold its obligations when performing the works under the certificate on hand,
- if the customer in any other way is in breach of the conditions set out for the certificate,
- if the customer fails to make payment, enters into bankruptcy, enters into liquidation, has assigned the business or otherwise can be considered insolvent, or
- has failed to make payment of a fee.

If the Agreement is terminated or a certificate is revoked, regardless the reason thereof, the customer shall immediately cease to (i) market or otherwise state that the customer, its production or its products is certified by Kiwa, (ii) refer to certifications covered by the Agreement, and (iii) refer to the certificates or logotypes related thereto. Kiwa is not liable for any damages which may be incurred by the customer as a result of the termination of the Agreement or revocation of the certificates.

9. Personal Data

To be able to fulfil its obligations towards its customer's, Kiwa will collect and process personal data. Kiwa's personal data policy provides more information regarding what personal data Kiwa collects, how Kiwa processes such personal data and which rights apply to the data subject.

Kiwa's personal data policy will at all times be available on Kiwa's website, www.kiwa.com

10. Confidentiality

Neither party may disclose to any third-party information about the other party's business situation, operations, services or products. This provision does not however, apply to information which is in the public domain or of public knowledge, is made known with the approval of the other party, is made known as a result of legal imposition or ordinance or is made known as a result of conditions of accreditation or notification.

The client is obligated to, and obligated to make sure that its employees, refrain from disclosing to third parties any information pertaining to methods related to the Assignment delivery, and undertakes to not use any information obtained by the customer for any purposes other than those specifically related to the customer's own business operations.

11. Force majeure

If Kiwa is prevented from fulfilling its obligations pursuant to the Agreement due to circumstances beyond Kiwa's control and which Kiwa could not reasonably have foreseen when entering into the Agreement, such circumstances shall be considered grounds for discharges with regard to postponement of the performance and discharges against any and all consequences of such.

If the Assignment cannot be performed within a period of six (6) months, either party shall be entitled to terminate the Agreement with immediate effect. In the event the customer terminates the Agreement, Kiwa shall be entitled to payment for performed work and for extra costs and expenses related to the work.

12. Intellectual Property Rights

Unless otherwise agreed, Kiwa holds the title and the copyright to all issued certificates.

13. Amendments

Amendments or additions to the Agreement must be made in writing and duly signed by both parties to be valid.

14. Assignments

Kiwa may, without obtaining prior consent from the other party, assign or otherwise transfer its rights or obligations under this Agreement to another company within the Kiwa group.

The customer may not, in whole or in part, assign or otherwise transfer its the rights or obligations under this Agreement to any third party without the prior written consent of Kiwa.

15. Klagomål

Klagomål mot Kiwa meddelas med fördel skriftligt till lokalt kontor eller till Kiwa's kvalitetsavdelning. Mer information om hur Kiwa hanterar klagomål eller överklaganden finns att tillgå på Kiwa's hemsida, www.kiwa.se.

16. Appeal Procedure

More information on Kiwas appeal procedure regarding certificate decisions is available on www.kiwa.se.

17. Governing Law and Jurisdiction

These General Terms and Conditions shall be governed by the substantive law of Sweden. Any and all disputes, with a dispute value of less than 250 000 SEK, shall be decided by the district court in accordance with the applicable legislation. In case the value of the dispute is 250 000 SEK or more, the dispute shall be finally settled by arbitration in accordance with the Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce. The seat of arbitration shall be Stockholm, Sweden.

Kiwa

Box 7178
170 07 Solna
Tel: 010-479 30 00

Besöksadress

Råsundavägen 12
169 67 Solna

