

# ***General Terms & Conditions for the services of the companies of the Kiwa Deutschland Gruppe***



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## **1. General**

- 1.1. These General Terms and Conditions (hereinafter referred to as "GTC") apply to all contracts between Kiwa and the customer (Kiwa and the customer hereinafter also referred to as "party" and collectively as "Parties") regarding the provision of services
- 1.2. These GTC are used by several companies of the Kiwa Group. In the context of the GTC, "Kiwa" therefore means that company of the Kiwa Group which has referred to these GTC in the context of a contract concluded by it for the provision of services. "Customer" means the other party to such a contract, i.e. the party that has entrusted Kiwa with the performance of services.
- 1.3. Insofar as a contract is concluded between the customer and Kiwa, the customer acknowledges the validity of these General Terms and Conditions as binding for itself. Deviating, conflicting or supplementary general terms and conditions of the customer or oral ancillary agreements shall not become part of the contract, unless Kiwa expressly agrees to their validity in writing. Kiwa's objection to the customer's general terms and conditions of sale and other terms and conditions shall also apply in particular to the extent that Kiwa provides a service without reservation in knowledge of the customer's deviating or supplementary general terms and conditions of sale and other terms and conditions, as well as to the extent that the customer's general terms and conditions of sale and business have a regulatory content that goes beyond the regulatory content of these GTC.
- 1.4. Unless otherwise agreed in writing or text form between the parties, the contractual relationship exists exclusively between the customer and Kiwa. No contract is concluded for the benefit of third parties or with protective effect for third parties by which Kiwa can be bound vis-à-vis these third parties, unless and to the extent that otherwise follows from the contract and/or these GTC.
- 1.5. General terms and conditions of individual business units of Kiwa applicable to a contract (e.g. general certification conditions or general test conditions) shall take precedence over these GTCs. In the event of a conflict between such applicable general terms and conditions and these GTC, the provisions of the applicable general terms and conditions shall prevail.
- 1.6. These GTC exist in a German and an English version. In the event of any inconsistency between the German and English versions, the German version shall prevail.
- 1.7. When these GTC speak of "written form" or "in writing", this means the written form according to Section 126 BGB (German Civil Code) and when "text form" is mentioned, this means the text form according to Section 126b BGB (German Civil Code).

## **2. Conclusion of contract**

Contracts aimed at inspections and certifications of products, processes and services must be in writing or text form in the form of a contract signed by both parties in order to be effective. Otherwise, contractual relationships between Kiwa and customers can be established informally or verbally. Orders placed orally will be confirmed by Kiwa in writing, in electronic form or in text form. In this case, only this confirmation is

decisive for the content of the contractual relationships.

### **3. Services of Kiwa**

- 3.1. The scope of Kiwa's services is exclusively determined by the contractual provisions agreed between the customer and Kiwa and the purpose of the services to be provided by Kiwa as stated in the contract. Deviations from this require an express agreement in written or text form. The services to be provided by Kiwa do not include the services provided by the customer itself.
- 3.2. If an advance payment has been agreed between the customer and Kiwa, Kiwa will not start the services until the advance payment has been received in the agreed amount.
- 3.3. Kiwa provides its services with the necessary care in accordance with the contractual agreements. In doing so, it will take into account specific and contractually agreed instructions from its customer.
- 3.4. Insofar as Kiwa receives documents relating to any contractual relationships between the customer and third parties or documents from third parties, such as inspection and test reports, product descriptions, data sheets, etc., these shall be deemed to be information only, unless otherwise agreed, without extending or restricting Kiwa's scope of duties or agreed obligations.
- 3.5. The customer acknowledges that by providing its services, Kiwa does not enter into the position of the customer or any third party, nor does it release the customer from any obligations or otherwise assume, restrict, waive or otherwise release the customer from any obligations towards third parties or third parties towards the customer.
- 3.6. If the customer provides Kiwa with work results of third parties as the basis for the services to be provided by Kiwa, Kiwa shall use these results as a basis for its service provision without verification. Unless otherwise expressly agreed in written or text form, it shall not examine these work results of third parties; nor is it obliged to do so. In these cases, Kiwa also assumes no liability for the accuracy and completeness of the work results created by third parties and any consequences in the event of errors, unless otherwise expressly agreed in written or text form. This also applies to the extent that these errors may have a detrimental effect on Kiwa's services or even render them unusable.
- 3.7. Insofar as the preparation of reports is part of Kiwa's scope of services, Kiwa shall provide them in written, electronic or text form. The customer accepts that messages and reports sent in electronic form (in particular via the Internet) may be lost, altered or falsified with or without the intervention of third parties.

It is agreed between the customer and Kiwa that communication with each other can also take place electronically, in particular by email. The customer agrees that emails are not protected against access by third parties. Special protection in the form of encrypted communication is only provided if this has been expressly agreed with the customer.

- 3.8. Kiwa is entitled – subject to another agreement made with the customer or, if applicable, subject to any restrictions on services that fall under DIN EN ISO/IEC 17020 and 17065 – to assign services to be provided to the customer in whole or in part to a subcontractor. The customer authorises Kiwa to disclose to the subcontractor all information subsequently required for the performance of the transferred services.

### **4. Prices; payment**

- 4.1. The prices for Kiwa's services (including ancillary costs, travel expenses, etc.) result from the contract concluded between the parties. The price is determined transparently for the customer according to objective standards.
- 4.2. All prices are subject to the applicable statutory sales tax. This is itemised separately in invoices. Unless otherwise agreed, the costs of travel for Kiwa employees, other expenses, costs for packaging, transport and storage of samples, test items and test material as well as their disposal or of any customs duties and other import taxes incurred will be invoiced separately and shall be paid or reimbursed by the customer.
- 4.3. Kiwa may, unless otherwise agreed, demand advance payments from the customer for services

already provided in accordance with the contract in the amount corresponding to the value of the services provided compared to all services to be provided under the contract. The value added tax must be itemised separately in an instalment invoice.

- 4.4. Insofar as Kiwa has provided self-contained and independently usable parts of a contractually accepted service and these have been accepted, Kiwa can also invoice these services independently with a partial final invoice.
- 4.5. Kiwa is entitled to demand advance payment of up to 100% of the expected price for the performance of its services.
- 4.6. Unless otherwise agreed, invoices are due immediately upon receipt.
- 4.7. The customer can only offset against Kiwa's claims if the customer's counterclaim is undisputed or has been legally established. A setoff is also permissible if the customer wants to offset claims for defects aimed at monetary payment against Kiwa's remuneration claims arising from the same contractual relationship.
- 4.8. The customer may assert a right of retention against claims of Kiwa if the customer's counterclaim has been established undisputed or legally binding and is based on the same contractual relationship. In addition, the customer may assert a right of retention of remuneration claims of Kiwa insofar as the counterclaim is based on the rights of defects to which the customer is entitled.

Section 4.8 does not apply if the customer is a consumer within the meaning of Section 13 BGB (German Civil Code). For a customer who is a consumer within the meaning of Section 13 BGB (German Civil Code), there are no restrictions on the assertion of rights of retention. A consumer according to Section 13 BGB (German Civil Code) is any natural person who concludes a legal transaction for purposes that can predominantly be attributed neither to their commercial nor self-employed professional activity.

- 4.9. As far as
  - the customer is based outside Germany and has a VAT identification number or a business certificate for itself, or
  - the customer is based outside Germany, the place of performance is not in Germany and the object of the order awarded to Kiwa is a scientific service (e.g. preparation of scientific reports without an advisory function) or the assessment of a movable tangible object (in this case, in particular, the examination of the physical condition to estimate the value, to evaluate the work to be carried out or to determine the extent of the damage), or
  - the customer is based in the territory of a third country and the subject of the contract awarded to Kiwa is economic or technical advice or the services of an expert/engineer (including the preparation of an expert opinion to decide a specific technical or economic issue), or
  - the service commissioned to Kiwa is to be carried out in connection with a property that is not located in Germany,

the following shall apply primarily to the above provisions in Section 4.2 sentences 1 and 2 and Section 4.3 sentence 2:

- All prices and costs for services provided by Kiwa are exclusive of taxes. This includes, but is not limited to, sales taxes or equivalent charges, taxes, in particular import duties, stamp duties, ancillary costs or withholding taxes. Nor do they include any related liabilities charged to customer under applicable national law (collectively, "taxes").
- Any payment made by the customer is free of and without withholding or deduction of any taxes. This does not apply if such a withholding or deduction is required on the basis of applicable law or applicable double taxation agreements. The customer shall promptly provide Kiwa with evidence of such payment and copies of all documents provided with each such payment.
- Irrespective of the above provisions, foreign taxes and duties of any kind are to be determined, borne and paid locally by the customer, insofar as an obligation to deduct tax is provided for under foreign law. The customer or any deviating invoice recipient shall be jointly and

- severally liable for the correct determination and payment of foreign taxes and shall indemnify Kiwa against any damages resulting from Kiwa's culpable non-fulfilment of tax obligations of the remuneration debtor upon first request.
- Kiwa and the customer will use their best efforts to obtain a refund of any deductions or a refund of the respective tax. They shall support each other in their commitments in this regard. Taxes paid back will be refunded according to the amounts due.

## 5. Performance periods and deadlines for services

- Periods and deadlines for the provision of services by Kiwa are only binding if they have been expressly agreed in writing or text form in advance or confirmed by Kiwa in written or text form. Clause 5.1 does not apply if the customer is a consumer within the meaning of Section 13 BGB (German Civil Code). There are no formal requirements for the agreement of binding dates and deadlines between Kiwa and a customer who is a consumer within the meaning of Section 13 BGB (German Civil Code).
- If an agreed or confirmed date for the provision of services cannot be met for reasons for which the customer is responsible, the customer shall bear the costs incurred by Kiwa as a result.
- Compliance with agreed dates or deadlines or deadlines promised or confirmed by Kiwa requires the timely receipt of all documents, samples and test objects to be delivered or made available by the customer in accordance with the contractual agreement, as well as the timely fulfilment of all obligations by the customer required for the performance of Kiwa's services. An agreed or promised or confirmed period by Kiwa does not begin before these requirements are fulfilled. The customer's obligations to be fulfilled also include the timely payment of fees due, including any agreed advance payments. If the customer is in arrears with this, Kiwa is no longer bound by agreed or promised or confirmed appointments.
- Dates or deadlines agreed or confirmed or promised by Kiwa shall be extended and Kiwa shall not be in default to the extent that Kiwa is impeded in the provision of its services and the impediment is caused,
  - by a circumstance within the customer's area of risk (in particular because the customer culpably fails to comply with an obligation or obligation necessary for the provision of services).
  - by a lawful suspension of Kiwa's performance on the basis of Section 8 paragraphs 1 to 3 of these GTC.
  - by rights of retention to its own performance lawfully exercised by Kiwa, in particular due to non-payment of remuneration due.
  - by strike or a lockout ordered by the employers' professional association at Kiwa's company or in a company otherwise working for Kiwa.
  - force majeure or other circumstances unavoidable for Kiwa. This also applies to weather conditions, which normally would not have been expected when Kiwa agreed or confirmed or promised the date/deadline.
  - due to official or legal requirements or other official requirements with the consequence that Kiwa employees cannot perform the contractually assumed services to the extent originally planned.
  - through sanctions imposed by the Federal Republic of Germany, the European Union, third countries or international organizations against companies or states, insofar as Kiwa is to provide services for these companies or in these states or in compliance with the regulations of such states against which sanctions have been imposed, and these sanctions affect Kiwa's planned work processes for the contractually assumed service to the customer in terms of time impair or prevent.

The extension of appointments or deadlines agreed or confirmed or promised by Kiwa is calculated according to the duration of the hindrance with a surcharge for the resumption of work and taking into account the fact that it is by no means certain that a sufficient number of suitable personnel will be

immediately available again at Kiwa after the hindrance has been eliminated.

## **6. Additional costs in the event of disruptions**

- 6.1. If hindrances or disruptive circumstances occur for which the customer is responsible, the customer must pay Kiwa any necessary additional expenses incurred for the purpose of completing the agreed service of Kiwa compared to a disruption-free process. The additional expenses incurred are to be invoiced – as far as possible – according to the agreed contract prices (unit price, hourly rates, etc.); if nothing further has been agreed, a customary remuneration must be paid for this.
- 6.2. If the customer is also in default of acceptance in the event of a hindrance or any other extended execution period in accordance with Section 6.1, Kiwa's claim to compensation pursuant to Section 642 BGB (German Civil Code) shall remain unaffected by the provision of Section 6.1. However, any claim for compensation that then exists is to be offset against a parallel payment claim in accordance with Section 6.1.

## **7. Self-supply, force majeure**

- 7.1. If, for reasons for which Kiwa is not responsible, Kiwa does not receive deliveries or services from subcontractors or subcontractors, or receives these improperly or late, despite proper congruent coverage, i.e. despite a contractual agreement with the subcontractor with which the customer's performance claim can be fulfilled in accordance with the contract in terms of quantity, quality and performance period, or if events of force majeure, i.e. no-fault impediments to performance, arise with a duration of more than fourteen (14) calendar days, Kiwa will inform the customer in a timely manner.
- 7.2. In this case, Kiwa is entitled to postpone the services for the duration of the hindrance or to withdraw from the contract in whole or in part due to the part that has not yet been performed, provided that Kiwa has complied with its obligation to provide information and has not assumed the procurement risk or manufacturing risk and the impediment to performance is not only of a temporary nature, i.e. lasts less than fourteen (14) calendar days.
- 7.3. Force majeure includes strikes, lockouts, official interventions, shortages of energy and raw materials, epidemics and pandemics, no-fault transport bottlenecks, no-fault operational obstructions, for example due to fire, water and machinery damage, and all other hindrances that have not been culpably caused by Kiwa from an objective point of view.
- 7.4. If a performance date or a performance period has been bindingly agreed and the agreed performance date or the agreed performance period is exceeded by more than four (4) weeks due to events in accordance with the above clauses 7.1 to 7.3, or if adherence to the contract is objectively unreasonable for the customer in the case of non-binding performance dates, the customer is entitled to withdraw from the contract due to the part that has not yet been fulfilled. The customer has no further rights, in particular claims for damages, in this case.

## **8. Power to stop; last-minute risk assessment**

- 8.1. Kiwa provides its services in compliance with the “power to stop” principle. This principle of “power to stop” gives all Kiwa employees the right and responsibility to interrupt an activity immediately if a safety hazard is detected or suspected. This is intended to identify risks at an early stage and prevent accidents or damage. After a work stoppage, the situation is assessed by Kiwa, appropriate measures are taken to eliminate the hazard and only then does the activity continue safely.
- 8.2. Prior to the implementation of certain services, Kiwa employees will carry out last-minute risk assessments (LMRA) to check possible risks at short notice. In doing so, the person carrying out the work checks whether the working environment is safe, whether all necessary protective measures have been taken and that no Kiwa life-saving rules (LSR) are being violated. LMRA is mandatory for Kiwa employees, in particular for activities with increased risk, and must be carried out by them. If a risk is identified, work is interrupted, the responsible safety officer is informed and the procedure set

out in Section 8.1 sentence 4 is applied.

8.3. Kiwa provides all its services in compliance with Kiwa's life-saving rules. These define binding Kiwa safety standards for critical activities and must be strictly adhered to by all Kiwa employees. Kiwa's life-saving rules can be found on the website under: <https://www.kiwa.com/de/de/uber-uns/agb-regularen-und-formulare/>.

## 9. Secrecy / advertising

9.1. During the term of the contract, the customer shall be obliged to keep confidential all confidential information of Kiwa or its affiliated companies within the meaning of Section 15 of the German Stock Corporation Act (AktG) of which the customer becomes aware within the scope of the contract and shall use this information only for the purpose of the execution of the contract.

9.2. Confidential information means all technical, commercial, business and other information, including know-how, formulas, samples, data, analysis results and other work results of Kiwa or any of its affiliates within the meaning of Section 15 AktG, regardless of the method of transmission and in particular both in writing and electronically or orally, which is communicated to the customer by Kiwa or an affiliated company within the meaning of Section 15 AktG or made available in any other manner ("confidential information").

9.3. The customer may pass on confidential information to its own employees insofar as this is absolutely necessary for the performance of the contract. The customer must oblige its own employees to maintain secrecy in a manner permissible under labor law.

9.4. There is no obligation of confidentiality,

- if Kiwa agrees to the disclosure of the information in advance in writing or in text form;
- for information which is demonstrably generally known or published at the time of disclosure or is part of the common general knowledge or the general state of the art;
- for information that becomes generally known after the time of disclosure without any action by the customer in violation of the non-disclosure agreement;
- for information that is individually disclosed to the customer by third parties, without such third parties violating any obligation of confidentiality with regard to the information disclosed;
- for information that is independently identified or developed by the customer and independently of the confidential information;
- for information announced to the public after the date of disclosure by Kiwa, from the date of announcement to the public;
- for information for which the customer is entitled to disclose by law or directly on the basis of a law (e.g. AMLA, HinSchG);
- for information that the customer is required to disclose or report to authorities or courts due to a legal obligation; and
- for information that was individually known to the customer at the time of disclosure.

The customer shall inform Kiwa immediately of any prior individual knowledge in writing or in text form.

9.5. If the customer receives a judicial or regulatory request to disclose confidential information, the customer will promptly notify Kiwa in writing or in text form, to the extent permitted by law.

9.6. The customer shall return the confidential information and all copies thereof to Kiwa upon request by Kiwa and at the latest upon expiry of the confidentiality obligation. This does not apply to copies of electronically exchanged confidential information that has been routinely made as a backup copy, nor to confidential information or copies thereof that must be kept by the customer due to mandatory legal provisions, provided that such confidential information is subject to an unlimited obligation of confidentiality.

9.7. After termination of the contract, the confidentiality obligation pursuant to Section 8.1 above shall continue to apply for three (3) years.

9.8. Kiwa is entitled to publish the company names of customers who operate a business, as well as their contact details and the subject of the commission, e.g. in the form of reference lists and on its

website. The customer gives its consent to this.

## **10. Copyright**

- 10.1. Existing copyrights to the services provided by Kiwa, in particular to documents and reports created – insofar as they are suitable for this purpose – remain in place. The customer may not change or misrepresent the content of Kiwa's services in any form. The customer may only reproduce these for internal purposes. Duplicates for external use will be made available to the customer upon request for a fee.
- 10.2. For all illustrations, drawings, calculations, technical information and other documents transmitted by the customer to Kiwa, the customer assures that the transmission and use of these by Kiwa does not infringe or impair any rights of third parties (in particular, that they are free of copyright, patent, trademark and design rights) and that any company names, trademarks or business names on products comply with legal requirements. The same applies to all test objects that it makes available to the contractor for the provision of commissioned services or which Kiwa itself can take as samples on site with its consent. In the event of a culpable breach of the above obligation, the customer shall indemnify Kiwa against all possible claims by third parties in this regard.

## **11. Claims for defects**

- 11.1. Unless otherwise agreed, Kiwa shall provide its services solely on the basis of the information, documents and/or samples, test items or test material provided by or on behalf of the customer. They serve exclusively for the benefit of the customer and, unless otherwise agreed, are intended exclusively for the customer.
- 11.2. The customer is responsible for drawing the necessary conclusions from the services provided by Kiwa.
- 11.3. The customer shall notify Kiwa in writing or in text form of any defects in services rendered that were already recognizable to the customer upon acceptance of Kiwa's services within thirty (30) calendar days of acceptance, and any defects that were not yet recognizable at the time of acceptance of Kiwa's services to the customer within thirty (30) calendar days of discovery. If the customer fails to meet this deadline for reporting defects, Kiwa shall not be liable for defects for such defects that have not been reported.  
Section 10.3 does not apply if the customer is a consumer within the meaning of Section 13 BGB (German Civil Code). For a customer who is a consumer within the meaning of Section 13 BGB (German Civil Code), there are no deadlines for reporting defects.
- 11.4. Claims for defects in a service provided by Kiwa shall become statute-barred in one (1) year from the date of acceptance of such service.
- 11.5. Section 10.4 does not apply to the extent that the law prescribes indispensable longer periods pursuant to Section 438 (1) no. 2 BGB (German Civil Code), Section 445b BGB (German Civil Code) and Section 634 a (1) no.2 BGB (German Civil Code) or the Product Liability Act, in the event of an intentional or grossly negligent breach of duty by Kiwa, in the event of fraudulent concealment of a defect, in the case of a guarantee of quality or durability, in the event of default by Kiwa in the event of an agreement on a fixed date for delivery/performance and in cases of injury to life, body or health.

## **12. Limitation of liability**

- 12.1. Kiwa's contractual and/or statutory liability is generally excluded, unless otherwise agreed below.
- 12.2. Kiwa's exclusion of liability pursuant to Section 11.1 does not apply:
  - for damage caused by Kiwa intentionally or through gross negligence;
  - if and to the extent that Kiwa is liable in accordance with the mandatory provisions of the Product Liability Act;
  - if and to the extent that Kiwa has issued a guarantee of quality or durability and damages have

- arisen from the breach of the warranty;
- in the event of default by Kiwa in the case of an agreement on a fixed delivery/performance date;
- in cases of culpable injury to life, body and health.

12.3. In cases of slight and simple negligence on the part of Kiwa, Kiwa shall only be liable for the breach of material contractual obligations – provided that it is not already liable for damages in accordance with Section 11.2. Material contractual obligations are all obligations whose fulfilment is essential for the proper execution of the contract and on the compliance with which the customer regularly relies and may rely. Kiwa's liability shall then be limited to the damage typical of the contract and foreseeable for Kiwa at the time of conclusion of the contract.

12.4. All possible claims for damages based on slight and simple negligence on the part of Kiwa in accordance with the above provision in Section 11.3 shall become time-barred in accordance with the provision in Section 10.4 of these GTC. Notwithstanding this, the statutory provisions apply to the commencement of the limitation period for claims that are not defect warranty claims.

12.5. The above exclusions and limitations of liability also apply to Kiwa's liability for its organs, employees and vicarious agents as well as the personal liability of Kiwa's organs, employees and vicarious agents.

12.6. The above provisions in Section 11 do not change the burden of proof to the detriment of the customer.

### **13. Termination of the contract**

13.1. The provisions on ordinary termination result from the contract concluded between the customer and Kiwa.

13.2. Termination of the contract concluded between the customer and Kiwa for good cause is possible without restriction. Likewise, both parties may terminate a contract if reasons for which neither Kiwa nor the customer are responsible lead to Kiwa not being able to perform, continue or start the contractually assumed services for at least a period of twelve months (including with regard to any ancillary services) or if the performance of the contractually assumed services is interrupted for this period.

13.3. In particular, Kiwa may terminate a contract concluded with the customer for good cause if:

- (1) the customer persistently and significantly fails to fulfil contractual obligations or otherwise violates them; or
- (2) it turns out during the provision of the service that the complete provision of the service is impossible for factual, economic or legal reasons (official or statutory requirements, other binding requirements or relevant sanctions) and Kiwa is not responsible for this impossibility.

13.4. Termination pursuant to Section 12.2 sentences 1 and 12.3 (1) by Kiwa requires that Kiwa gives the customer a period of thirty (30) calendar days in advance to fulfill the contract or to take the omitted action incumbent on the customer, within which the disputed circumstances are not remedied by the customer and Kiwa has declared that it will terminate the contract after the fruitless expiry of the period. In the cases of Section 323 (2) nos. 1 and 2 BGB (German Civil Code), a deadline may not be set in accordance with this clause and an intended termination is also possible without setting a deadline, especially if the customer seriously and definitively refuses to perform or if there are other special circumstances that justify immediate termination after weighing up the interests of both parties.

13.5. For termination by the customer pursuant to Section 12.2 sentence 1, the provisions of Section 12.4 shall apply accordingly.

13.6. Any termination must be declared in writing. Deviating from this, customers who are consumers within the meaning of Section 13 BGB (German Civil Code) can also declare a termination in text form.

13.7. In the event of termination in accordance with the above provisions, the services provided up to the effective date of termination shall be invoiced according to the contract prices and shall be paid for by the customer.

- 13.8. In the event of termination by the customer in accordance with Section 648 BGB (German Civil Code), Kiwa may demand the entire agreed remuneration. However, it must allow the set-off of that amount which it saves in expenses as a result of the termination of the contract or which it acquires or maliciously fails to acquire through other use of its labour.
- 13.9. After an extraordinary termination, the customer must bear the costs that Kiwa has already incurred for the completion of the contractually agreed services and that Kiwa will no longer have reimbursed after termination. Any further claims by Kiwa (in particular for damages, compensation claims pursuant to Section 642 BGB (German Civil Code) for the period of default of acceptance) remain unaffected.

## 14. Economic sanctions

- 14.1. The customer shall continually review and warrant, with respect to economic and trade sanctions imposed by the European Union, the United Nations, the United States of America or any other state, that:
  - the customer is not subject to economic and trade sanctions;
  - the customer is not, to the best of its knowledge, controlled by or benefiting from any natural or legal person who is subject to economic and trade sanctions;
  - the customer complies with all economic sanctions laws applicable to it; and
  - the customer is not involved in proceedings or is the subject of official investigations due to (alleged) violations of economic sanctions laws applicable to it.
- 14.2. The customer shall indemnify Kiwa against all losses, liabilities, damages, fines, costs (including but not limited to legal fees) and expenses incurred or imposed on Kiwa as a result of any culpable breach of this Section 13 by the customer.
- 14.3. If the customer violates this Section 13, Kiwa may, without prejudice to any other rights or remedies, terminate the contract with immediate effect. The customer is then not entitled to compensation.
- 14.4. For the purposes of Section 13:  
**Economic and trade sanctions:** any economic sanctions, restrictive measures or trade embargoes adopted by the UN Security Council, the European Union, the United States of America or any other sovereign government.  
**Economic sanctions laws:** any laws, ordinances, or resolutions imposing economic sanctions.

## 15. Data protection

Kiwa stores and processes personal data exclusively for the purpose of conducting business relationships with the customer. The customer agrees to the electronic storage and use of its data and documents in Kiwa's data processing system in this regard. For further details on the handling of customer data, its storage and processing as well as deletion, the provisions of Kiwa's privacy policy, which can be accessed on Kiwa's website, apply with precedence. These provisions also become part of the contractual agreement concluded between Kiwa and the customer.

## 16. Applicable law

These GTC are subject to the application and interpretation of the law of the Federal Republic of Germany to the exclusion of German Conflict of Laws regulations and the UN Convention on Contracts for the International Sale of Goods (CISG).

## 17. Place of performance

The place of performance is at Kiwa's registered office.

## 18. Waiver of rights

The waiver by Kiwa or the customer of the assertion of any rights arising from these GTC or the contract concluded between the parties shall not constitute a waiver of these rights nor shall it result in their forfeiture.

## **19. Validity and amendment of the GTC, tacit consent**

- 19.1. The GTC come into force on 1<sup>st</sup> January 2026.
- 19.2. Future amendments to these GTC will be offered to the customer in text form no later than six (6) weeks before the proposed date of their effective date.
- 19.3. Changes that affect essential components of the contract, i.e. components that regulate the identity of the parties, the services to be provided by Kiwa and the consideration of the customer, must be expressly agreed upon by the Customer after receipt of the offer in accordance with Section 18.2 so that they are effectively agreed from the proposed date. If the customer does not agree, the previous GTC will continue to apply without the changes offered by Kiwa. Kiwa will respond to the above in its offer pursuant to No. 18.2.
- 19.4. Changes that do not affect any essential components of the contract must be objected to by the customer in text form within six (6) weeks of receipt of the offer in accordance with Section 18.2. If the customer fails to do so, its silence shall be deemed to be acceptance of the changes offered by Kiwa and the proposed changes shall be effectively agreed as of the proposed date. If the customer declares its objection in text form within the above declaration period, the previous GTC shall continue to apply without the changes offered by Kiwa. With the offer pursuant to Section 18.2, Kiwa will expressly inform the customer of the above deadline for declaration and the consequences of its silence and objection. The above declaration period for the customer only begins to run if Kiwa provides the customer with the information in accordance with the above sentence in its offer pursuant to Section 18.2.
- 19.5. If the customer rejects the offer to amend these GTC in accordance with No. 18.3 or the customer objects to the offer to amend these GTC in accordance with No. 18.4, each party shall have the right to terminate any concluded contract with a notice period of three (3) months to the end of the then current month within one (1) month of receipt by Kiwa of the declaration of rejection or objection. Section 12.6 shall apply to the form of termination.

Hamburg, 1<sup>st</sup> January 2026

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