

Terms & Conditions

[As of: 29.11.2024]

of KIMW Prüf- und Analyse GmbH

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I. Scope and Conclusion of Contract

GTC Validity

These terms and conditions govern the contractual relationship between the client of tests, expert opinions, analyses and problem solutions and KIMW Prüf- und Analyse GmbH, Karolinenstraße 8, 58507 Lüdenschied, Commercial Register: HRB 7886 AG Iserlohn, represented by the Managing Director Dipl.-Ing. Jörg Günther and the authorized signatory Martin Doedt B. Sc. (hereinafter referred to as "Institute" or "KIMW-P").

They shall be deemed to have been accepted by the Client in their entirety if the Institute has not received an objection to them within seven calendar days of the order being placed, calculated from the date of the postmark.

Deviating general terms and conditions and other regulations of the participant are not valid. This also applies if we execute the order without reservation in knowledge of terms and conditions that conflict with or deviate from our Terms and Conditions.

The execution of an order in accordance with the Client's terms of delivery and payment shall require the express prior written recognition of the Institute. Silence regarding the terms and conditions of delivery and payment sent by the Client shall not be considered as acknowledgement.

The object of the company is the provision of services in the field of testing and analysis technology as well as the preparation of expert reports in connection with plastics and plastic products.

Form

The acceptance of an order by KIMW-P must be in writing. Additions or changes to the order must also be confirmed in writing by KIMW-P. Force majeure or unavoidable events release KIMW-P in whole or in part from the execution of the order. Verbal, telephone or employee agreements, assurances, information or ancillary agreements must be confirmed in writing by a body of the institute authorised to represent the institute in order to be effective. Test results shall only be valid in relation to the Client and any third parties if they have been signed in writing or digitally signed by an authorised representative body of KIMW-P.

Offers are formulated specifically for the respective order and take into account the information available from the client at the time of preparation. Upon submission of further information, there may be changes to the offer. They must be in writing.

Tests that are not listed in the offer are carried out by the client.

Transmission of test material/costs

Test material must be sent to the institute carriage paid. The material not used in the execution of the order becomes the property of the Institute, unless it is reclaimed within 4 weeks of the announcement of the test result (date of the postmark), which must be indicated when the order is awarded. The Institute may freely dispose of the test material used in an examination or other material sent to it directly, unless otherwise agreed. If any rights are asserted against the Institute by a third party with regard to the test material, the Client shall indemnify the Institute against claims of any kind and extent at its own expense. The costs of returning test material shall be borne by the Client.

Exception for courts/public prosecutor's offices

The above conditions do not apply to test material sent by courts and public prosecutors' offices. This will be agreed separately.

Exclusion of liability for transport

The institute assumes no liability for the transport. During the retention period, the Institute shall only be responsible for the care which it is accustomed to exercise in similar matters of its own.

Standards used; Exceeding the scope of the examination

The contracting authority must specify the desired standard as part of the order if it wishes to be tested in accordance with special standards and wishes to receive an offer for this purpose. The standards must then be attached to the order.

If the standards according to which the test is to be carried out are not correctly designated, or if they are not intelligible, not recognizable or not enclosed, the KIMW-P will designate the output stock of the standards in the offer after it intends to test. KIMW-P assumes no liability and no guarantee for the up-to-dateness of the standards used for testing. The Client declares its consent to a waiver of the reclaim of the contract fee if KIMW-P submits an offer that contains a standard status that deviates from the customer's will, if the Client has not clearly identified and enclosed the standards according to which the test is to be carried out when the order is placed.

The Institute may extend or restrict the examination as it deems necessary for the proper conduct of the commissioned examination. If the inspection exceeds the scope expected by the client, the scope and price of the works will be communicated in advance for approval.

Test result/costs of the re-examination/warranty

During the research by the contractor, it is not excluded that there are other procedures and similar materials that may also meet the client's requirements. The specification of the procedures and the material does not exempt the Client from carrying out further suitable tests to verify the procedures and material parameters determined by the Contractor in the test result, in particular with regard to the use of the test result and the purpose of the use of the material. KIMW-P therefore assumes no liability for the test result. Section 675 (2) of the German Civil Code (BGB) applies.

The result of the examination is usually communicated in writing. If the client raises objections to the test result communicated, the institute will review the result, the test equipment and, if necessary, the test procedure. If this confirms the test result complained of, the costs of the repeated test shall be borne by the client. Otherwise, the disputed test result will be corrected free of charge. If the repair is not carried out within a reasonable period of time or if the rectification fails, the client can demand the rescission of the contract (conversion) or the reduction of the fee (reduction). The warranty claim expires if the defects are not reported to the Institute in writing immediately after discovery.

If, despite all the measures taken, the customer still doubts our test result or assessment, another option is to contact a recognised, preferably accredited, independent third party to verify the test results. Depending on the result, either the customer or we have to bear the costs of the inspection. This procedure is discussed with the customer before initiation and communicated in writing.

Confidentiality

The Institute shall treat all information and test results received from the Client as confidential as a matter of principle within the scope of the intended purpose of the commission. No publication or disclosure to third parties will take place, unless otherwise agreed in writing. Exceptions apply only to information which is demonstrably generally known at the time of disclosure, has been published, is part of the common general knowledge, is general prior art.

If disclosure is required by law and there is a contractual authorization to disclose Confidential Information, the customer or person concerned must be informed of the information provided, unless prohibited by law.

Furthermore, data must be passed on, without which the institution would not be able to enter into business relationships. This is data for the following purposes: planning, execution and management of the (contractual) business relationship between the Institute and the business partner, e.g. to process the order of products and services, to collect payments, for the purposes of accounting, billing and debt collection and to carry out deliveries, maintenance activities or repairs. The latter third-party service providers are also subject to confidentiality.

II. Terms of payment

The terms of payment depend on the respective order and the offer submitted (see above under I.).

Cost

Stagger

For offers with a net sum of less than € 3,000.00, the invoice amount is due 14 days net after invoicing and is to be paid plus VAT, currently at the rate of 19%.

If the offer is over € 3,000.00 net, 30% is due for payment before the start of the order and 70% at the end of the order after invoicing.

Billing via hourly pool:

If billing by means of **an hourly pool** has been agreed, the payment term is based on the respective order. The applicable payment terms for billing according to hourly pools are listed again in the offer.

As a rule, 30% of the invoice payment amount up to - in individual cases - 50% of the invoice payment amount before the start and 50% - 70%, or the remaining sum of the invoice payment amount at the conclusion of the last individual item after invoicing, must be paid.

Payments are based on the progress of the project in the case of audits that last several months until the end of a year or several years. A monthly invoice is then issued that takes into account the progress of the project.

In the case of inspections that take several months/years, the current price list is decisive, which will be informed in the event of price adjustments.

The following applies to all invoices:

The invoice payment amount is to be transferred net, stating the invoice number, to the account of the **Sparkasse an Volme und Ruhr, IBAN: DE72 4505 0001 0000 3878 37, BIC: WELADE3HXXX** after invoicing without deductions.

All prices are exclusive of the statutory sales tax of currently 19%. The statutory value added tax is not included in our prices and will be shown separately in the invoice in the legally applicable amount.

Ancillary costs/costs when billed according to the hourly pool

All ancillary costs (e.g. hotel, etc.) will be billed directly according to expenditure, unless otherwise agreed in individual cases.

Travel expenses of a KIMW-P employee will be invoiced separately at € 1.65 per km after presentation of the receipts, according to expenditure, unless otherwise stated in the offer.

If, in exceptional cases, meetings are held at the client's premises by agreement with the client, KIMW-P will charge a flat rate per trip, which will be agreed on a case-by-case basis and will be shown in the respective offer.

In the event of a deviation in the scope of services that exceeds the offer, KIMW-P is entitled to invoice the actual expenditure incurred, which can be seen from the supporting documents.

If billing is agreed by means of hourly pools, only the hours actually spent will be invoiced against proof. For this purpose, a detailed list of hours with a short description of the use of the hours is provided. Unused hours that are listed and calculated in the quote as expected to be necessary for the processing of the order, but that have not been consumed, will not be charged.

III. Processing costs

Examination costs

The test costs are calculated according to the "Price overview of KIMW-P" (see www.kunststoff-institut.de/preise), unless special test costs have been specified for certain tests.

Worth

ZSEG for courts and STA for courts and public prosecutor's offices, the calculation of the audit costs is carried out in accordance with the Act on the Compensation of Witnesses and Experts (ZSEG), unless otherwise agreed.

Early termination of the exam

If an inspection or investigation is not completed for reasons for which the Client is responsible, the expenditure incurred up to the time of the interruption shall be invoiced.

IV. Liability

The Institute shall be liable for damages in accordance with the statutory provisions if a material contractual obligation has been culpably breached; even in this case, however, the obligation to pay damages is also limited to the foreseeable, typically occurring damage.

Liability is limited to the order value in each case. It is also limited to the sum insured by our liability insurance. The institution is prepared to grant access to the liability insurance policy at the request of the client.

Liability for culpable injury to life, limb and health remains unaffected.

All claims for damages beyond this are excluded. This also applies to damage caused during repairs. The warranty rights of the client under I. remain unaffected.

Unless otherwise stipulated above, liability is excluded.

Limitation period

Claims for damages that are not subject to the short limitation period of §634a BGB expire after 3 years. The limitation period begins with the receipt of the expert opinion by the client.

V. Intellectual Property Rights

Copyrights

Insofar as the services provided are eligible for copyright, the Institute reserves the copyright. In this respect, the Client may only use the expert report with all the lists and other details and the results of the investigation for the purpose for which it is intended as agreed. The Client is only permitted to use the text in any other way and to change or shorten the text with the consent of the Institute. This also applies in the event that the expert report or the results of the investigation are passed on to third parties.

Prior consent in the event of disclosure

In addition, any publication or disclosure of the expert report or the results of the investigation requires the prior consent of the institute. Reproductions are only permitted within the scope of the purpose of the expert report or the test results.

Deadline for publication/consent

Expert opinions, examination certificates and reports may only be published or reproduced unchanged within 2 years of issue and only in terms of form and content without the prior consent of the Institute. If the standards or other technical guidelines on which the tests are based have changed, the Institute's prior approval must always be obtained.

Other intellectual property rights

The examination for applicable patent specifications or third-party property rights is carried out by the client.

Unless otherwise agreed, inventions eligible for intellectual property rights are vested in the contractual partner who or his employees made the invention.

Both parties to the contract are jointly entitled to joint inventions. The registration of property rights to such inventions and the granting of licenses to third parties will be regulated separately by mutual agreement between the contracting parties.

VI. Applicable law

German law applies exclusively, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG; United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980.

VII. Destination of the service

The destination for general cargo is Lüdenschied main station.

VIII. Place of jurisdiction

Place of jurisdiction and place of performance is Lüdenschied. This also applies to legal entities under public law, special funds under public law and if the client is a merchant within the meaning of the German Commercial Code (HGB)

B. General Terms and Conditions for Online Retail / Online Shop

KIMW Prüf- und Analyse GmbH maintains an online shop for products on its homepage www.kunststoff-institut.de under the register heading SHOP.

The following special provisions to the above General Terms and Conditions apply to these groups. In the case of orders, they take precedence over the above-mentioned terms and conditions (lex specialis).

The respective T&Cs are displayed when confirming membership of the respective customer group in the online shop and must be clicked on by button. If the customer chooses untruthfully or incorrectly, this is at his expense by way of a prima facie power of attorney.

The user is KIMW Prüf- und Analyse NRW GmbH. The scope of application is the fact of a legally valid order by an entrepreneur or consumer in the online shop, i.e. the worldwide online purchase of a product or a digital product.

I. Merchants/Entrepreneurs (Business to Business)

KIMW Prüf- und Analyse GmbH offers merchants, i.e. entrepreneurs, goods and digital content for sale worldwide in its online shop. A number of valuable aids for coping with everyday business practice, including databases.

1. Goods

a. Conclusion

The contract is concluded after the following conditions **are cumulatively** met:

1. The customer affiliation entrepreneur or consumer is confirmed by clicking a button. The respective T&Cs are made available for acceptance and confirmed by a button after reading.
2. A product category has been selected from the six (6) available categories by clicking on it.
3. The listed product prices are gross prices and are displayed according to the Price Indication Regulation.
4. A product is selected from the displayed products by clicking on the "Add to cart" button and placed in the shopping cart.
5. The desired quantity of the product is entered with an Arabic number of
6. In the case of other options, such as selecting "Language" of the Fault Advisor, the desired language version of the Guide must be confirmed by clicking on the corresponding language version or by selecting the relevant selection ticks provided by the Online Shop.
7. Finally, the customer calls up the shopping cart in which all selected goods are displayed and then clicks on the button "Continue to checkout".

8. The customer fills out the form now displayed with his customer data, enters his correct address, his VAT ID, his contact details and the delivery address. The legal provisions apply to false information.
9. The customer accepts the separately displayed terms and conditions and cancellation policy
10. The customer completes the order by clicking on the "Buy now" button.

If the requirements 1-10 are cumulatively met, the contract for the online purchase is concluded.

b. No revocation; Exclusion of withdrawal

Entrepreneurs are not entitled to a right of withdrawal. It is expressly excluded. A contractual right of withdrawal is also expressly excluded.

c. Payment

Payment is made after invoicing the company – as described under A.II.

d. Default of payment and default of acceptance

The legal provisions apply to this.

e. Retention of Title

The company retains ownership of the goods until full payment has been made.

f. Delivery or Delivery Restrictions

The company only delivers to countries outside Germany after receipt of the payment amount by way of advance payment.

Goods that are subject to the Dangerous Goods Ordinance will be packed at the customer's expense in accordance with the rules for dangerous goods and the shipping costs and the effort will be invoiced.

g. Warranty

The statutory warranty is excluded as far as legally possible.

h. Warranty

No guarantees are given.

i. Liability

The Institute shall be liable for damages in accordance with the statutory provisions if a material contractual obligation has been culpably breached; even in this case, however, the obligation to pay damages is also limited to the foreseeable, typically occurring damage.

Liability is limited to the order value in each case. It is also limited to the sum insured by our liability insurance. The institution is prepared to grant access to the liability insurance policy at the request of the client.

Liability for culpable injury to life, limb and health remains unaffected.

All claims for damages beyond this are excluded. This also applies to damage caused during repairs. The warranty rights of the client under I. remain unaffected.

Unless otherwise stipulated above, liability is excluded.

2. Digital content

The company offers software as digital content, e.g. the K-KAdvisor and for download. The provisions of C.I. 1.a. up to h. analogous with the following special features:

Rights of use

The right to non-exclusive use is acquired with the purchase of the respective Digital Product by the Buyer. The right to use the software is thus granted to the buyer for his own use per purchased license of the respective product. There will be no further transfer of the right of use. Disclosure to third parties and/or use by third parties who have not purchased the product is prohibited. Claims for damages in the event of infringement are reserved.

II. Business to Consumer

KIMW Prüf- und Analyse GmbH offers consumers, i.e. private individuals, goods and digital content for sale worldwide in its online order shop.

a. Goods

The company offers the goods under C.I.1. consumers.

b. Cancellation

When the customer calls up the shopping cart in which all selected goods are displayed, he then clicks on the button "Continue to checkout". At this point, the customer selects his affiliation to merchants/entrepreneurs or consumers.

Then, by confirming the "Consumer" button, a revocation instruction is given by instructing the customer about his right to revocation.

If the customer chooses untruthfully or incorrectly, this is at his expense by way of prima facie power of attorney.

A letter of instruction appears with the following content:

Cancellation policy on the purchase of goods in distance selling via the right of withdrawal

Withdrawal

You have the right to withdraw from this contract for ordering in our online shop within fourteen days without giving reasons.

The right of withdrawal is fourteen days from the day of conclusion of the contract (see below under "Conclusion of Contract", analogous to C.I.1.a. and C.I.1.c. to i.).

In order to exercise your right of withdrawal, you must inform KIMW Prüf- und Analyse NRW GmbH, Karolinenstraße 8, 58507 Lüdenscheid, Department of Products, Tel: 02351-1064-119, E-Mail: mail@kunststoff-institut.de, Fax: 02351-1064-190, of your decision to withdraw from this contract by means of an unequivocal statement (e.g. a letter sent by post, fax or email). You can use the attached model withdrawal form for this, but it is not mandatory.

You can also download the sample withdrawal form or any other clear statement on our website.

www.kunststoff-institut.de/widerrufsformular/Verbraucher

electronically. If you make use of this, we will immediately send you (e.g. by e-mail) a confirmation of receipt of such revocation.

In order to comply with the withdrawal period, it is sufficient that you send the notification of the exercise of the right of withdrawal before the expiry of the withdrawal period.

Consequences of revocation

If you withdraw from this contract, we must reimburse you all payments we have received from you, including delivery costs (except for the additional costs resulting from the fact that you have chosen a type of delivery other than the cheapest standard delivery offered by us), without undue delay and at the latest within fourteen days from the day on which we received the notification of your withdrawal from this contract. We will use the same means of payment for this refund that you used in the original transaction, unless otherwise expressly agreed with you; in no case will you be charged any fees for this repayment.

In the case of advance payment, we will retain the goods and do not ship them at all when you cancel your withdrawal.

If we have already dispatched the goods, you must immediately return the goods to us at your own expense or hand them over to the company's registered office at the latest within fourteen days from the day on which you inform us of the revocation of this contract. The deadline is met if you send the goods before the expiry of the fourteen day period.

Contract

The contract is analogous to C.I.1.a.1.-11. if the cumulative requirements of points 1-10 listed above are met.

2. Digital content

The company provides services under C.I.1. consumers.

a. Cancellation

When the customer calls up the shopping cart in which all selected goods are displayed, he then clicks on the button "Continue to checkout". At this point, the customer selects his affiliation to merchants/entrepreneurs or consumers.

Then, by confirming the "Consumer" button, a revocation instruction is given by

instructing the customer about his right to revocation.

The cancellation policy analogous to C.II.1.a. with the following proviso:

Digital data - if it has already been downloaded - must be deleted immediately after revocation.

Upon receipt of the revocation, you lose the right of use.

In the event of a revocation in the case of digital content, the company is entitled to compensation in the amount of the price of the software, as no lower proportion can be determined that justifies a reasonable amount for downloaded software.

b. Conclusion of Contract

The contract on digital content comes in the same way as C.I.1.a.1.-11. if the cumulative requirements of the above-mentioned points 1.-11. are met, whereby the cancellation policy under C.II.1.a. which applies to consumers but not to entrepreneurs.

3. Dispute resolution by means of online dispute resolution (ODR)

As a consumer, you can use the European Online Dispute Resolution Forum. For this purpose, the European Commission provides a platform for online dispute resolution (ODR), which you can find under the following link:

<https://ec.europa.eu/consumers/odr/>.

This link is also designed in our imprint of the homepage as a clickable link that you can use.

However, we are not obliged and are not willing to participate in dispute resolution proceedings before a consumer arbitration board.

Lüdenschied, 29.11.2024