

1. Scope of application

These General Terms and Conditions (GTC) apply to all agreements concluded by KRIWAN Testzentrum GmbH (hereinafter referred to as KTZ) with its clients, insofar as there are no deviations in the individual contracts and no public law regulations take precedence. Deviating, contradictory or supplementary conditions of the Client shall not be considered part of the Agreement, unless KTZ agrees to their validity in writing. If any part of these GTC is invalid, this shall not affect the remainder of the GTC.

2. Deadlines

KTZ hereby undertakes to comply with the deadlines agreed in each individual contract. If it is not able to comply with terms and deadlines, contrary to expectations, it shall inform the Client of this. Merchants, legal persons under public law and public law special funds cannot assert default damages or other claims for damages if deadlines are not met.

3. Transportation risk, testing materials, storage

The risk and costs for freight and transportation of testing materials to and from KTZ shall be borne by the Client. The costs of disposal measures required for testing materials shall be invoiced to the Client. Destroyed or otherwise worthless testing materials shall be disposed of freely by KTZ, unless otherwise agreed. Testing materials that have not been destroyed will be stored by KTZ a maximum of 4 weeks after testing is completed. If longer storage is desired, KTZ shall charge a reasonable storage fee. During storage, KTZ shall only be liable for showing the due diligence it is required to apply in its own business matters.

This approval applies to all new orders, unless the Client objects to it in writing.

4. Data transmission

Test reports, measurement protocols, measurement data, etc. are transmitted to the Customer electronically. If the Customer wants another method of delivery, they must note this in their order by the latest and this must be agreed to in writing.

5. Publication authorization

Only the Client is entitled to publish and use testing results and expert opinions. It is only entitled to do so using the original wording and in the original version. This also applies to the right to use a specific brand which is granted by contract. Illustrations which are changed beyond simply changing the scale shall always require the approval of KTZ. If this requirement is violated, KTZ is entitled to assert claims for damages for 40% of the agreed compensation without individual verification. Any further claims for compensation shall remain unaffected.

6. Confidentiality

6.1 Confidential information in the sense of this Agreement is all information, documents, images, drawings, know-how, data, samples and project documents provided, transferred or otherwise disclosed by one of the parties ("disclosing party") to the other party ("receiving party") during the term of this Agreement. This also includes copies of this information in paper and electronic form.

6.2 All confidential information transmitted in written form shall be marked by the disclosing party with a confidentiality notice before transmission to the receiving party; this also applies to confidential information sent via e-mail. The party must be informed in advance if information transmitted orally is confidential.

6.3 All confidential information transmitted or otherwise made accessible by the disclosing party to the receiving party under this Agreement

a) may only be used by the receiving party to fulfill the respective contractual purpose, unless there is a deviating express written agreement with the disclosing party,

b) may not be duplicated, distributed, published or otherwise transmitted by the receiving party, unless this is necessary to fulfill the contractual purpose of KTZ is obligated under official or statutory provisions to disclose confidential information, test reports and documentation to official agencies or third parties involved in fulfilling the contract.

c) must be treated as confidential by the receiving party in the same manner as they treat their own confidential information, and in no case may be treated with less care than the objectively necessary level of care.

6.4 The receiving party shall only make the confidential information received from the disclosing party accessible to those employees who require it to perform their services within the framework of the purpose of this Agreement. The receiving party shall obligate these employees to confidentiality in the same manner as stipulated in this confidentiality agreement.

6.5 Confidential information in the sense of this Agreement is not information for which the receiving party can verify that

a) the information was already publicly known at the time of publication or became publicly known without a violation of this agreement or

b) the receiving party had received the information from a third party who was entitled to provide it to them, or

c) the information was already in the receiving party's possession before transmission by the disclosing party, or

d) the receiving party independently developed the information independent of transmission by the disclosing party.

6.6 Confidential information shall remain the property of the disclosing party. The receiving party hereby grants its approval to return all confidential information in accordance with, including all copies thereof, to the disclosing party at any time upon request by the disclosing party, and at the latest (without requiring a request to do so) after the termination or expiration of this Agreement, or to destroy the confidential information, including all copies thereof, in accordance with upon request by the disclosing party, and to provide the disclosing party a written confirmation of this destruction.

Excluded from this are copies that are required for statutory documentation obligations. Also excluded are archived and encrypted backup copies of electronic data traffic, as well as backup copies due to internal compliance guidelines of the receiving contractual partner. Also excluded are the reports and certificates created for the client exclusively for the fulfillment of the contractual obligations under this contract, which remain with the client. However, KTZ is entitled to keep copies of the confidential information that forms the basis for the preparation of reports and certificates for its files to prove the correctness of its results and for general documentation purposes.

6.7 The receiving party shall maintain strict confidentiality for the confidential information for 3 years after the end of the Agreement, not making it accessible to any third parties and not using the confidential information itself.

7. Guarantee, fault correction

KTZ performs its services using its own specialists or carefully selected and monitored subcontractors. In every case, it carries out its services carefully and conscientiously. The relevant regulations of the German Civil Code apply to fault correction, whereby conversions or reductions can only be requested after an attempt by KTZ to make repairs or deliver replacement parts has failed.

8. Liability

KTZ shall not be liable for lost profits. Claims for damages are restricted to 1% or a total of 10% of the order total for each full week of delay. Claims for damages in place of the service are limited to 10% of the order total. If KTZ is obligated to pay claims for damages, this obligation shall always be restricted to the damages foreseeable when the contract was concluded.

These limitations of liability shall not apply if a fixed commercial transaction has been agreed to, when KTZ is responsible for intentional actions or gross negligence or the violation of cardinal contractual obligations, or for injuries to life, body and health, or if liability is required by law. Claims due to breaches of duty under the contractual obligation shall expire with the same term as warranty rights, unless they relate to cardinal contractual obligations. Claims due to a negligent failure to clarify negative material properties of KTZ products are excluded, unless this results in material defects. The statutory liability of KTZ under the Product Liability Act shall remain unaffected by the above regulations.

KTZ's liability for the loss or modification of data shall be restricted to typical restoration expenses that would be incurred if backup copies were made regularly according to the risk involved.

9. Acceptance

9.1 KTZ can submit each completed section of the services under the contract for acceptance as a partial service. The Client is obligated to accept such services promptly.

9.2 Services from KTZ shall be considered accepted in the sense of the service contract if the Client does not object to them within 10 days after handover in writing, including grounds.

10. Price changes

Changes to prices, in particular due to a new version of the agreed KTZ pricing list, shall be taken into consideration.

For merchants, legal persons under public law and public law special funds: when the pricing list comes into effect.

11. Due date, payment method

KTZ is entitled to collect, at its discretion, advance payments, request down payments and issue partial final invoice. The invoiced amount shall be due when the invoice is received, and shall be transferred without discounts and free of charge to the recipient, including the invoice number, to one of the KTZ accounts indicated on the invoice. Banking fees for payments in foreign currencies shall be borne by the Client.

12. Place of Jurisdiction

The place of jurisdiction is Heilbronn, if the Client is a

- merchant
- legal person under public law
- public law special fund or
- does not have a general domestic domicile.

13. Final clause

The following apply to the conclusion and handling of the contractual relationship

- the individual contractual agreements
- these General Terms and Conditions
- the law of the Federal Republic of Germany, in particular the provisions on work and service contracts in the German Civil Code.

In the event of a discrepancy between the German text and the English text, the German text shall prevail.

Should a provision of the contract or a supplementary agreement to the contract be or become invalid, this shall not affect the validity of the remaining provisions.

Unless otherwise expressly stated in the contract, the place of performance shall be Forchtenberg.