

Terms and Conditions

Service-specific terms

Two documents supplement the General Terms and Conditions below. They apply in addition to them and prevail where they differ – for the measurements we run on your samples, and for the cryostats you rent in our Characterization Lab.

[Measurement as a Service terms and conditions](#) →

[Characterization Lab terms and conditions](#) →

General Terms and Conditions

kiutra GmbH

1) Scope

1.1 Only these General Terms and Conditions (“GTCs”) shall govern the delivery of goods and services from kiutra GmbH, Flößergasse 2, 81369 Munich, Germany (“kiutra”) to its customers. Other contractual provisions, including general terms and conditions, of the customer shall not apply, even if kiutra did not expressly reject them or if it knowingly accepted or implemented them.

1.2 These GTCs apply to both online and off-line transactions. These GTCs apply to goods and services that are delivered to business enterprises, to quasi-governmental independent legal entities and to special public sector funds. Under these GTC a “business enterprise” is any individual or legal entity or any partnership with legal capacity that is engaging in its trade or independent professional activity when it utilizes the goods and services delivered by kiutra.

2) Contract

2.1 Offers made by kiutra that are not expressly characterized as binding by kiutra are non-binding.

2.2 Any purchase orders must be placed by the customer in writing or in text form (which includes email or facsimile) or, at the latest, when kiutra executes the purchase order.

2.3 Subsequent to the placement of a purchase order, the customer may receive a confirmation of receipt via email or facsimile. This confirmation of receipt, along with any subsequent status reports, does not constitute an acceptance of the offer by kiutra. Rather, it serves as a means of communication to apprise the customer of the order's progress. The individual contract will be concluded when kiutra dispatches the order confirmation to the customer or when it delivers the ordered products and informs the customer thereof via email. If kiutra does not accept the purchase order within five weeks following receipt thereof, then the customer is entitled to revoke its purchase order prior to receiving the order confirmation or the execution of delivery.

2.4 When initiating online purchase orders, customers are required to first select their desired products. Following product selection, customers input their order details, including the delivery address. Subsequently, a comprehensive review of all entered information is facilitated, affording customers the opportunity to make any necessary corrections. Should any entry errors be identified, the customer can rectify them by utilizing the “back” button before finalizing the order by clicking the “place binding order” or “buy” or “purchase” button. It is important to note that, by clicking the “place binding order”, or “buy” or “purchase” button, the customer is formally presenting a purchase order with the intent to conclude a contract. This purchase order remains binding for a stipulated period of five weeks subsequent to kiutra’s confirmation of the purchase order receipt. Following the placement of the purchase order, customers will promptly receive a confirmation via email, acknowledging the receipt of their order. This confirmation of receipt, along with any subsequent status reports, does not constitute an acceptance of the offer by kiutra. Rather, it serves solely as communicative updates for the customer. The individual contract will be concluded when kiutra dispatches the order confirmation to the customer or when it delivers the ordered products and informs the customer thereof via email.

2.5 Whenever an order confirmation is issued by kiutra, then it will govern exclusively the subject matter and scope of performance for the individual contract.

3) Products

3.1 The agreed product qualities and conditions, if any, of any hardware or software goods (“Products”) have to be set forth expressly as agreed product qualities or conditions in the individual contract. kiutra commits to guarantees only when they are clearly labeled as such in the individual contract, and the specific terms of kiutra’s responsibilities under the guarantee are explicitly outlined in the individual contract. In no case does kiutra assume any guarantee or obligation to comply with an expected use of the Products by the customer.

3.2 Any published values and possible applications, particularly those found in Product specifications or advertising, brochures and other documents, do not qualify as an agreed condition or quality. kiutra cannot assume any guarantee or obligation to comply with the values and possible applications. Such an obligation will arise only if the individual contract expressly provides that the information constitutes a representation about the quality or condition. If the individual contract does not expressly provide any limits or parameters for deviations, then the deviations customary in the industry will be allowed in any case.

3.3 Any and all information and advice in connection with the Products are given on the basis of kiutra's previous experiences. Any and all values and data provided in this regard – including performance information and references to technical standards and norms (e.g., the DIN standards) as well as images, sketches and technical information – represent average values established in trials conducted under ordinary laboratory conditions.

3.4 That export licenses are going to be issued by the German Federal Office of Economics and Export Control (Bundesamt für Wirtschaft und Ausfuhrkontrollen) are not an agreed condition or quality of the Products. The individual contract will not be impacted by any missing or rejected export license for Products included in the purchase order. The parties are free to negotiate and agree on a price reduction if an export license is rejected or omitted.

4) Development work

4.1 If kiutra performs development work with respect to the Products (“Development Work”) and such activity is agreed expressly in the individual contract between kiutra and the customer, then the provisions under this section shall also apply. Unless the individual contract provides otherwise, only the results of the Development Work (i.e., a product or other outcome to be developed for the customer in accordance with the stipulations stated in the individual contract – such as a product specifically in the form of a component or a construction element (“Development Outcome”)) will be provided to the customer. The customer will not receive the actual Development Work itself, including its documentation and the relevant materials, and will not acquire any rights related thereto. The Section “Intellectual property rights” will remain unaffected thereby.

4.2 Development Work is performed as a service.

4.3 The customer is required to actively cooperate in the implementation of kiutra’s Development Work. As part of this commitment, the customer must appoint, at a minimum, a contact person and a representative, ensuring that appointments are kept up-to-date throughout the entire duration of the Development Work. To the extent required to create the Development Work, the customer is responsible for providing all necessary technical and other relevant information. For the purpose of executing and documenting kiutra’s Development Work, both kiutra and the customer may collaboratively create and maintain a scope of work document or performance specifications.

4.4 Any sketches, documents (including digital formats), devices, tools, objects, or other operational materials or resources provided by kiutra to the customer for the purpose of conducting the Development Work (“Provisions”) are offered on a loan basis. The customer is obliged to handle these Provisions with care and, at its own expense, to insure them against the risks of fire, water damage, and theft. The Provisions are intended solely for achieving the contractual purpose and must, unless otherwise specified in writing in the individual contract, be returned to kiutra without charge and in a clean condition. This obligation remains applicable even if the Provisions have been adapted or modified, and it becomes particularly pertinent once the contractual purpose has been fulfilled or when the contract concludes.

4.5 While fulfilling their responsibilities related to the Development Work, each party may propose changes to the agreed-upon tasks, including the substance, timing, and quantity of these duties, through a written recommendation known as a “Change Request.” When a Change Request is submitted by either party, both parties will share information regarding the impacts on contract administration, specifically addressing pricing, scheduling, and technical feasibility. If the suggested change significantly affects the planned approach, the parties will engage in mutual discussions and may reach a written agreement on the duration and costs of a thorough evaluation, a preliminary estimate regarding feasibility, and the resulting consequences. Written consent from both parties in the form of an amendment (“Addendum Agreement”) is required for these changes.

4.6 Unless explicitly specified in writing, the execution of the Development Work should not be construed as a commitment or representation by kiutra that the Development Work is inherently suitable for the purpose envisioned by the customer.

4.7 kiutra retains the right to terminate individual contracts related to Development Work for substantial reasons or to modify the contract in the event of a frustration of the contractual purpose. This particularly applies if the objective of the Development Work cannot be realized, or can only be achieved with an unreasonably high investment of time and financial resources.

5) Intellectual property rights

5.1 In the context of these GTC, the term “Intellectual Property Rights” encompasses all rights to any Development Work, Product, kuitra software or service, whether registered or not. This includes, but is not limited to, patents, rights to inventions, copyrights or copyrighted rights of use, along with related intellectual property rights, utility models, designs, trademarks, other logos, business secrets, and know-how. It encompasses the entirety of non-patentable practical experiences acquired by kiutra or over which it may exert control through its work, experience, or experimentation, as well as any other rights related to intellectual and industrial property.

5.2 kiutra will retain ownership of all Intellectual Property Rights, including any that existed before the initiation of the Development Work and those unrelated to the specific Development Work (referred to as the “Existing IP Rights”). Even if kiutra utilized these Existing IP Rights to achieve the objectives of the Development Work, such as integrating them into the Development Outcome or if the Development Outcome is based on these Existing IP Rights, kiutra will continue to be the owner of these Existing IP Rights. Upon the complete settlement of all claims arising from the business relationship, kiutra may grant the customer a nonexclusive (simple), restricted right to utilize the Existing IP Rights if this is, in kiutra’s sole discretion necessary, for the purposes of using the Development Outcome. Unless otherwise stated in writing in the individual contract, any processing or further development of the Development Outcome by the customer is prohibited. The customer is not authorized to issue sublicenses to the granted rights without kiutra’s prior written consent.

5.3 kiutra is entitled to any and all Intellectual Property Rights that arise either after the commencement or during the performance of the relevant Development Work (referred to as the “New IP Rights”). Upon the complete settlement of all claims arising from the business relationship, kiutra may grant the customer a nonexclusive (simple), restricted right to utilize the New IP Rights if this is, in kiutra’s sole discretion necessary, for the purposes of using the Development Outcome. Unless otherwise expressly stated in writing in the individual contract, any processing or further development of the Development Outcome by the customer is prohibited. The customer is not permitted to issue sublicenses to the granted rights without obtaining kiutra’s prior written consent.

5.4 kiutra may use the customer’s name and logo in its advertising materials unless the customer informs kiutra otherwise.

5.5. kiutra may use the customer’s feedback about its Products and services to improve its Products or services.

6) Pricing

6.1 Only prices listed in the order confirmation from kiutra or in the individual contract are binding.

6.2 All prices are listed as net prices and without any taxes (such as value-added tax), which the customer must also pay in the amount required by law (as amended from time to time).

6.3 Unless otherwise expressly agreed, kiutra’s prices are listed in each case ex works kiutra (EXW per Incoterms 2020). The customer is responsible for paying any and all freight costs, packaging costs, public charges (including withholding tax) and customs duties.

7) Payment terms

7.1 The payment dates and payment periods agreed to in the individual contract apply. Unless otherwise stipulated in the individual contract, payments are to be made on a net basis within 14 days from the date of the invoice.

7.2 In the event that payment is not received on or before the specified due date, kiutra reserves the right to demand default interest at the legally prescribed rate. This interest will begin accruing from the day following the payment due date, without the need for an additional formal dunning notice. This action is taken without prejudice to the ability to pursue claims based on higher actual damages.

7.3 The customer is entitled to withhold payments or set off counterclaims against payments only if these counterclaims are undisputed or have been conclusively adjudicated in a final judgment.

7.4 If the customer's financial condition poses a risk to the performance of existing or future payment obligations, kiutra reserves the right, at its discretion, to withhold any performance until the prices are settled or until adequate security is provided.

8) Delivery

8.1 Unless expressly agreed otherwise, kiutra shall deliver ex works (EXW per Incoterms 2020). At the customer's request, kiutra may arrange the shipment for the customer. In that case, the risk shall pass to the customer as soon as the Product to be delivered is physically delivered to the person executing the transport.

8.2 Delivery dates become binding only after explicit written confirmation by kiutra.

8.3 In cases where delivery periods and dates are not explicitly confirmed as binding in the order confirmation, the customer may, four weeks after these dates or after the expiration of the specified period, establish a reasonable grace period for delivery. kiutra can be deemed in default of performance (Verzug) only if it is at fault, after the expiration of this grace period.

8.4 The customer will be considered in default with regard to its duty of formal acceptance, if the customer fails to accept the contractually conforming deliveries prior to the expiration of a binding delivery period or on or before a binding delivery date. In cases of nonbinding delivery periods or dates, kiutra has the option to inform the customer about the readiness for delivery. The risk of any accidental deterioration or loss will transfer from kiutra to the customer upon the notice of shipment readiness. If, within two weeks from the receipt of such notice, the customer fails to accept the delivery, it will be considered in default.

8.5 Notwithstanding kiutra's rights based on the customer's default, the delivery dates and delivery periods will be extended by the period of time during which the customer is unable to discharge the obligations it owes to kiutra. kiutra will be entitled to demand compensation for any expenses or damages it incurs. The customer shall bear the storage costs starting on the date the default begins.

8.6 kiutra has the right to carry out installment deliveries if it is reasonable for the customer, especially when the delivery of the remaining Products or services is still feasible afterwards, and the customer does not encounter significant additional effort or expenses. Each permissible installment delivery may be billed separately.

8.8 If delivery periods and dates are not explicitly specified as fixed, the customer has the right to terminate the contract after two reasonable grace periods have elapsed without receiving a conforming performance. However, this right to terminate the contract does not apply if kiutra is not responsible for the delivery hindrance, the impediment is temporary, and the postponed delivery date is appropriate for the customer.

8.9 If the customer has a contractual or statutory right of rescission and kiutra provides the customer with a reasonable grace period to exercise that right, the right of rescission will expire if the customer does not declare the rescission before the end of that grace period.

9) Installation

9.1 If the installation, commissioning, and testing of kiutra's Products by kiutra are specified in the individual contract, kiutra will carry out these tasks in accordance with the terms outlined in that individual contract and subject to any technical support and other information kiutra required from customer in its reasonable discretion.

9.2 The installation, commissioning and testing of kiutra's Products is performed in each case as a service.

9.3 If no details regarding the installation, commissioning and testing are stipulated in the individual contract, kiutra shall perform such service at its own discretion.

9.4 Upon kiutra's request, the Products must undergo inspection and acceptance process. The customer is obliged to participate in this inspection and acceptance if the Products meet the condition and qualities agreed upon in the individual contract. If deemed appropriate and/or in line with industry standards, kiutra may also request inspection and acceptance for Products delivered in installments. In cases where there are only minor defects, the customer does not have the right to refuse inspection and acceptance. If the customer does not participate in inspection and acceptance or refuses to accept Products where there are only minor defects, acceptance shall be deemed to have occurred within 14 days of kiutra's notice of the date for inspection and acceptance.

9.5 Even in case of inspection and acceptance, the risk shall pass to the customer as soon as the Product to be delivered is physically delivered to the person executing the transport.

10) Retention of title

10.1 kiutra will maintain ownership of all delivered Products ("Secured Products") until all claims and receivables arising from the business relationship between kiutra and the customer, regardless of their legal grounds, are fully satisfied. In the case of an ongoing account relationship, kiutra will retain ownership of the Products until all payments are received from all acknowledged account balances.

10.2 The customer is under an obligation to handle the Secured Products with care. Additionally, at their own expense, the customer must insure the Secured Products against the risks of fire, water damage, and theft, and the insurance coverage should correspond to the invoiced value of the goods (including value-added tax). The customer is entitled, solely as part of its business operations and as long as it is not in default of performance, to further process, combine, or commingle the Secured Products with other items of property.

10.3 If the customer engages in any processing, combining, or commingling of the Secured Products, such actions will be considered as carried out on behalf of kiutra. In the event that the customer processes, combines, or commingles the Secured Products with items of property not owned by kiutra, kiutra shall be entitled to co-ownership of the resulting new item in proportion to the invoice value of the Secured Products (including value-added tax) in relation to the value of those third-party items. The regulations that apply to the Secured Products will also apply to any newly formed item of property. If kiutra's ownership is extinguished due to processing or inseparable combination or commingling, the customer is required to immediately transfer ownership rights in the newly combined item or the item of property to kiutra, up to the extent of the invoice value of the Secured Products (including value-added tax). The customer must hold these items free of charge and in safe custody for kiutra.

10.6 In the case of compulsory attachment, seizure, or any other infringement of the ownership interests, the customer is obligated to indicate and signal that kiutra is the owner of the Secured Products. Any seizure or attachment of the Secured Products by third parties must be promptly reported to kiutra in writing. The customer is responsible for covering all intervention costs, to the extent that they cannot be recovered from the third party.

10.7 If the value of the collateral securing kiutra exceeds the secured receivables by a total of more than fifty (50) percent, then at the request of the customer, kiutra shall be obliged, at its choosing, to release part of that collateral.

10.8 If kiutra enforces its retention of title, such enforcement will not be considered a rescission of the contract unless kiutra explicitly declares such rescission in writing.

11) Rights to software

11.1 With the exception of backup copying purposes, any and all software, programs, documentation, images, sketches, subsequent updates, calculations, and other written documentation (hereinafter referred to as “kiutra software”) may not be disclosed to any third parties, copied, or duplicated for any purpose without kiutra’s prior written consent. The use of kiutra software for purposes other than the contractual purposes outlined herein is strictly prohibited.

11.2 kiutra possesses the copyrights and any other industrial property rights associated with the kiutra software and its corresponding documentation. kiutra grants the customer a revocable, nonexclusive right of use, which may not be sublicensed, for the software and corresponding documentation provided, for the internal operation of the kiutra Products for which the software and documentation are made publicly available. This right of use is restricted to operating the kiutra Products, and copies may be created solely for this purpose and only to the extent necessary for such operation. The customer is allowed to use the software and documentation exclusively for the number of Products specified in the individual contract. The customer's right of use is non-transferable.

11.3 Source codes will not be made available, unless their transfer is carried out on the basis of a separate written agreement or required by the applicable laws.

11.4 kiutra software is provided as is and without any warranty. In particular, kiutra does not warrant that the kiutra software does not contain any open source components.

12) Warranty

12.1 The customer's exercise of warranty rights regarding the Products is contingent upon promptly inspecting the Products upon delivery and duly reporting any discovered defects. Products may not be declined if the defects are insignificant deviations from the Product specifications.

12.2 The customer is required to submit defect notifications, specifically identifying the defect, in writing or in text form (which includes email or facsimile). The product with the identified issue must be made available to kiutra for inspection in its original packaging. If the original packaging is no longer accessible, kiutra will provide such packaging to the customer in exchange for a fee, with the customer covering the associated shipping costs.

12.3 The customer will not be entitled to any warranty rights if the Product has been damaged by accident, misuse or due to modifications of the Product or its accessories by persons other than kiutra's personnel or: in the following cases: (a) if the defects resulted from ordinary wear and tear, (b) for Products sold as downgraded or used, or (c) if the customer failed to comply with kiutra's operating or maintenance instructions, made alterations to the Products, exchanged parts, or used consumable materials that do not conform to the original specifications. However, this exclusion will not apply if the customer can demonstrate that the defect is not attributable to any of the circumstances described above under (a) through (c).

12.4 If the defect notifications are valid and promptly submitted, kiutra agrees to address the defects through subsequent performance, which can involve either rectifying the defect or delivering a non-defective (conforming) Product. For electronic remote support the customer must provide an internet connection to allow the instrument to be accessed by kiutra's support team. For repairs that require the lifting of heavier loads, suitable hoisting equipment must be provided by the customer. kiutra can supply mobile hoisting equipment if required; however, the shipping cost for such equipment shall be borne by the customer. kiutra retains the right to reject subsequent performance if it is objectively impossible or disproportionate. Additionally, kiutra may decline subsequent performance if the customer does not submit the defective Products for inspection within a reasonable period following kiutra's request. It is important to note that providing subsequent performance does not imply an acknowledgment of any legal obligation.

12.5 If the enforcement of defects is found to be illegitimate, the customer shall bear the reasonable costs incurred by kiutra, unless such failure is not attributable to its fault. The same rule applies if kiutra mistakenly provides subsequent performance without having been required to do so.

12.6 In the event of subsequent improvement, the remaining portion of the original prescription (limitation) period will continue to run when the improved Products are returned to the customer. The same applies in the event of a subsequent delivery.

12.7 In the event of defects, the customer has the right, in accordance with statutory provisions, to either rescind the contract or demand a price reduction. However, for delivery periods and dates not expressly set in an individual contract, these remedies may only be exercised after at least two grace periods reasonably set by the customer for subsequent performance have elapsed without successful or conforming performance, unless setting the deadline for subsequent performance is deemed legally superfluous under applicable statutory provisions.

12.8 To the extent permissible under the applicable laws, no additional defect remedy rights of any kind exist.

12.9 The prescription period for any defect remedy claims is one year from the date of delivery. However, this limitation does not apply in the following circumstances: (i) if a defect has been intentionally concealed, or (ii) if a guarantee has been made regarding the conditions and qualities of the Product (i.e., representation by the seller that the Product has a condition or quality at the time when the risk passed and that the seller will strictly and absolutely guarantee the Product for the consequences of a missing condition or quality), provided that the guarantee expressly covers the applicable condition or quality. In the case of compensatory damage claims by the customer, this limitation also does not apply in the following situations: (i) when liability is based on the German Product Liability Act; (ii) in the event of injury to life, body, or health; (iii) for intentional acts or omissions; and (iv) when officers, directors, or managing employees of kiutra were grossly negligent in their acts or omissions.

13) Customer's duties

13.1 The sale, resale, and disposition of Products, as well as any technology or documentation related thereto, may be subject to the export control laws of Germany, the European Union, or the United States, and in certain instances, the export control laws of other countries. Reselling to countries under embargoes, prohibited individuals, or those who may use the Products for military applications, nuclear, biological, or chemical weapons, or nuclear technology may require approval. The customer is obligated to (a) adhere to such laws and regulations, (b) ensure that the Products are not directly or indirectly delivered to countries where the export or import of kiutra Products is prohibited or restricted, (c) obtain all necessary permits or licenses for export or import, and (d) comply with all applicable statutory provisions and regulatory requirements concerning kiutra Products. kiutra is entitled to request the customer to provide the necessary documentation.

13.2 kiutra retains the right to refrain from fulfilling its duties if such actions would result in a violation of the aforementioned laws. Should the customer fail to fulfill the specified duties or do so untimely, the performance periods will be extended, and performance dates deferred, for a reasonable additional start-up period. If the customer's delay persists for two or more weeks, kiutra may rescind the specific individual contract in question.

14) Services

14.1 If the individual contract stipulates any works and services, such as orientation briefings and instruction on the use of the Products or handling related tools ("Other Services"), then this section will be applicable.

14.2 Unless otherwise expressly stipulated in the individual contract, kiutra shall provide the Other Services as services.

14.3 kiutra shall provide the Other Services in accordance with the terms of the expressly specified in the individual contract. To the extent no details regarding the Other Services are stipulated in the individual contract, kiutra will provide the Other Services in its own discretion.

14.5 The customer shall pay the agreed price for the Other Services in accordance with the terms of the individual contract and the Section "Payment Terms" above.

15) Liability

15.1 kiutra will only be liable in case of a breach of material contractual duties, which the individual contract, by its content and purpose, imposes particularly on kiutra or the performance of which is necessary for the proper execution of the individual contract and on which the customer routinely relies or should be allowed to rely. In such cases, kiutra's liability will be limited to the typical damages that were foreseeable at the time of contract conclusion. This limitation of liability to typical damages foreseeable at the time of contract conclusion also applies to damages caused by the gross negligence of kiutra's employees or agents who are not statutory representatives or managing employees.

15.2 In cases where kiutra is liable under section 15.1, the liability will be limited to: (a) the price of the respective Product or service, in connection with which the damages arose, (b) in the case of damages caused by a delay, 5% of the invoice value (including value added tax), as agreed to with kiutra, attributable to the delayed portion of the delivery or service, and (c) in the case of a loss or change of data caused by the delivered software, the extent that would have been unavoidable even if the customer had complied with its obligation to back up the data at adequate intervals, but at least daily, unless this is not possible due to kiutra's fault. If, in the cases set forth in section 15.1 above, the damages are covered by an insurance policy (excluding fixed-sum insurance policies), executed by the customer for the relevant loss event, kiutra will be liable only for the customer's detriment related thereto; for example, higher insurance premiums or interest charges until the claim is settled (adjusted) by the insurance carrier.

15.3 In the cases set forth in section 15.1, kiutra will not be liable for any indirect damages, consequential damages and lost profits.

15.4 The prescription (limitation) period for compensatory damage claims based on defects is governed under section 12.9. In the other cases set forth in section 15.1, the prescription period will be two years following the date on which the claim arose and the customer gained knowledge of the circumstances giving rise to the claim. Notwithstanding the customer's knowledge, the claim will be barred by prescription three years after the event triggering the damages.

15.5 Notwithstanding the foregoing limitations on liability, kiutra will continue to remain liable (a) for any bad faith concealment of a defect, (b) for defects on the basis of having provided an express guarantee regarding a condition or quality (in this regard, the liability provision or prescription period stipulated in the guarantee itself could apply), (c) for any claims based on the German Product Liability Act, (d) for damages from injuries to life, body or health, (e) damages based on an intentional act or omission, or (f) damages based on gross negligence on the part of kiutra's statutory representatives or managing employees.

15.6 The foregoing limitations of liability also apply to the customer's compensatory damage claims against the statutory representatives, managing employees, employees or agents of kiutra.

16) Force majeure

16.1 If kiutra is hindered from performing its duties and/or from delivering Products or services due to a force majeure such as war, terrorism, riots, natural disasters, fire, pandemics or other unforeseeable circumstances for which kiutra is not responsible – e.g., strikes or lawful lockouts, operational or transport disruptions, difficulties in procuring raw materials or lack of supply by suppliers or lack of performance by subcontractors – then the agreed performance dates and delivery dates or the agreed performance and delivery periods shall be postponed or extended in each case by the duration of the hindrance plus a reasonable period. kiutra shall also not be responsible for the aforementioned circumstances even if they occur during an already existing delay on the part of kiutra. kiutra shall inform the customer as soon as possible about the beginning and the expected end of such circumstances.

16.2 If the individual contract can no longer be performed for the foreseeable future due to such hindrance, then both kiutra and the customer may rescind the individual contract by written notice given to the respective other contracting party.

17) IP infringement

17.1 In the event that claims are raised against the customer due to an alleged infringement of an Intellectual Property Right arising from the contractual use of kiutra's Products, kiutra reserves the right, at its own discretion, to secure the customer's continued use of the Products. This may involve obtaining the necessary rights for the customer or modifying the Products to eliminate any infringement. To avail of this remedy, the customer is required to promptly and in writing notify kiutra of any third-party infringement claims. Additionally, kiutra retains the authority to oversee the defense and handle any out-of-court proceedings related to such claims.

17.2 If kiutra selects the approach outlined in section 17.1, then the customer will not be entitled to any more extensive claims, subject to compensatory damage claims as limited under section 15 above.

18) Product disposal

18.1 The customer is obliged to adhere to kiutra's guidelines for Product disposal and ensure that the Products are appropriately and legally disposed of in accordance with relevant statutory provisions.

18.2 The customer is required to bear the costs associated with the disposal of the Products. In the event of legal resale, the customer must pass on this disposal obligation to the subsequent buyer.

19) Confidentiality

19.1 Unless expressly agreed in writing or otherwise stipulated in the GTCs, the information provided to kiutra by the customer in connection with the purchase orders will not be deemed confidential, unless the confidentiality of that information is obvious.

19.2 The parties mutually agree to maintain confidentiality and not disclose, except to employees bound by confidentiality obligations, the agreed-upon pricing, fees, commercial terms, the Products, kiutra software and all business, technical, and other information that the other party identified as confidential or that should be deemed confidential from the circumstances at the time of the provision to the party. This obligation extends as long as such information has not become publicly known without fault of the recipient or is mandated for disclosure by legal or regulatory requirements.

19.3 If the confidential information is no longer needed, then such information and any and all copies thereof must be either deleted or returned to the other party (deletion or return at the latter's option).

19.4 The parties agree to comply with the applicable data protection laws.

20) Subcontractors

kiutra is entitled, in its own discretion, to engage subcontractors to perform the contract.

21) Assignment

The claims held against kiutra may not be assigned to third parties.

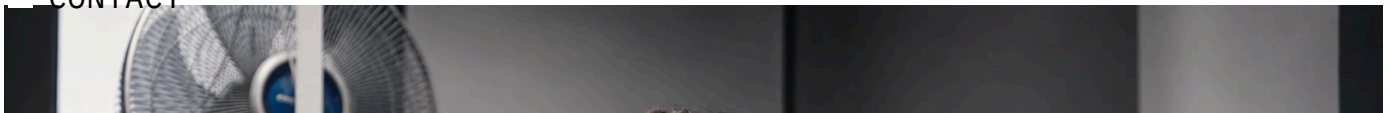
22) Miscellaneous

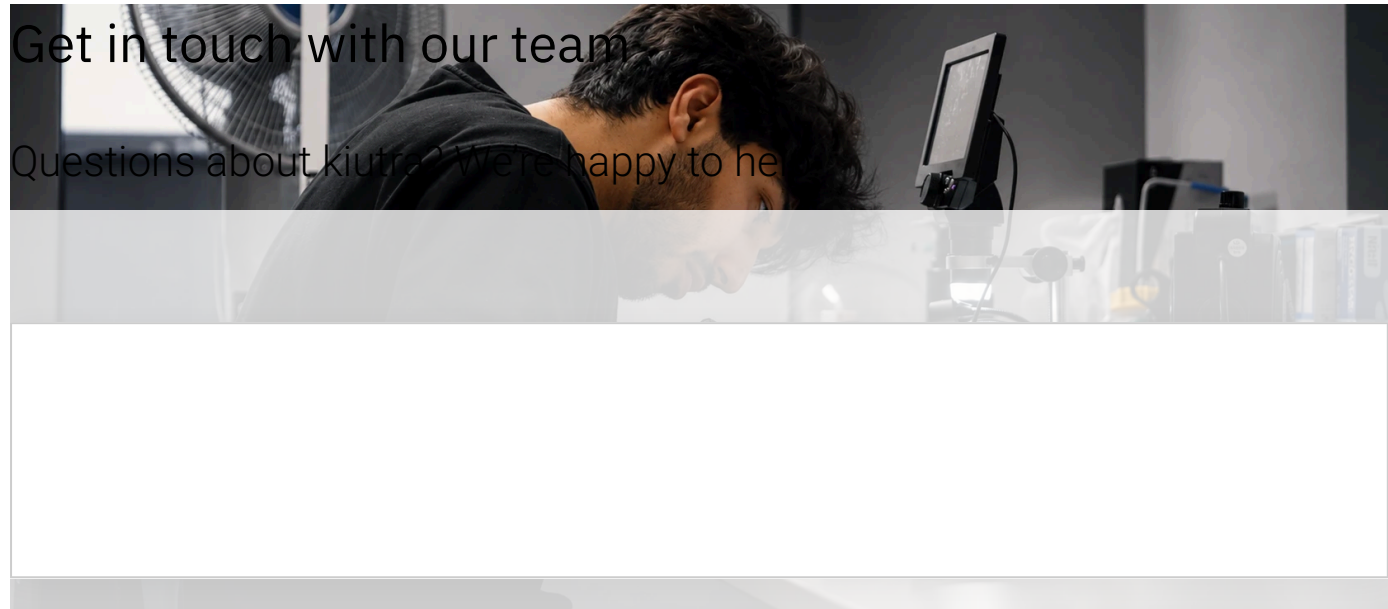
22.1 Exclusive jurisdiction and venue shall lie with the competent courts of Munich. kiutra is nevertheless also entitled to enforce any claims against the customer at the customer's registered place of business.

22.2 Only German law applies, to the exclusion of the UN Convention on Contracts for the International Sale of Goods and to the exclusion of the rules on conflict of laws (private international law) that are applicable in Germany.

22.3 At kiutra's option, the contract language may be either German or English. In the event there are any discrepancies between the German and English versions, the German version will prevail.

CONTACT





Get in touch with our team
Questions about kiutra? We're happy to help

Cryostats and cryogenic services for quantum technologies, from fast characterization systems to scalable cooling architectures for quantum computing.

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