

Terms and Conditions for Doka Planning Software

1. General Provisions

- 1.1. These Terms and Conditions (hereinafter referred to as “*GTC*”) regulate the contractual relationship between Doka GmbH (hereinafter referred to as “*Doka*”) and the *Licensee* with regard to the licensing and use of *Doka*’s technical software products in the respective version (e.g. Doka Software Installer, Tipos, Piecelist Editor, Beam Statics, DokaCAD for AutoCAD, DokaCAD for Revit, Software Configuration) as well as incorporated or standalone data such as BIM article libraries (hereinafter referred to as the “*Software*”).
- 1.2. “*Licensee* is (i) for entrepreneurial use in the sense of § 1 Abs 2 Consumer Protection Act (KSchG) the company or the educational institution for whose purposes the user downloads and/or uses the software; or (ii) for consumers in the sense of § 1 Abs 1 Z 2 KSchG (“*Consumer*”) the user of the software.
- 1.3. “*Authorised User*” is the person who, in the case of entrepreneurial use, has been authorised by the *Licensee* to use the *Software* on behalf of the *Licensee*. *Authorised Users* can be employees or representatives of the *Licensee* or third parties, on the condition that they use the service solely (i) on behalf of the *Licensee*, (ii) for the internal use of the *Licensee* and (iii) in accordance with these *GTC*. *Authorised Users* must be registered by name. The *Licensee* is responsible for all actions or omissions of *Authorised Users* as for its own actions or omissions and shall indemnify and hold Doka harmless in this regard.
- 1.4. The *Licensee* declares its agreement with the unrestricted applicability of these *GTC* with the predating from the download of the *Software* and the registration of the *Licensee* and entirely renounces the application of its own contractual conditions, which are invalid and without effect, even if *Doka* does not expressly object to such conditions. In the case of consumers, these *GTC* shall in any case only apply upon actual knowledge and acceptance.
- 1.5. The *Licensee* acknowledges and agrees that these Terms and Conditions are binding upon it with respect to the entire use and handling of the *Software*.
- 1.6. Changes, variations, side agreements and supplements from or to these Terms and Conditions require the explicit written consent of *Doka*. The applicability of section 8 remains unaffected by this. Explanations given by employees of *Doka* or other persons acting on behalf of *Doka* are valid only when confirmed by *Doka* in writing.

2. Copyright and Scope of the License

- 2.1. The *Licensee* acknowledges that the *Software* is protected by copyright. *Doka* owns the *Software*, including the copyright to the *Software*.
- 2.2. The *License* does not include any transfer to the *Licensee* of *Doka*'s ownership of the *Software*, such as copyrights or, as applicable, patent rights.
- 2.3. Subject to compliance with these GTC, the *Licensee* is granted the restricted, revocable non-exclusive, non-transferable and non-sub-licensable right to use the *Software* ("*License*"). No rights are granted or implied on the basis of waiver or forfeiture.
- 2.4. The *Licensee* may use, access, display, run or otherwise interact with one copy of the *Software*.
- 2.5. The use of the *Software* is restricted as follows:
 - 2.5.1. for use within the scope of entrepreneurial activity (§ 1 Abs 2 KSchG) or the teaching and research activities of educational institutions: to the internal use within the *Licensee*'s entity or educational institution and for *Doka* formwork and/or scaffolding products and is restricted to the installation of the *Software* for one *Authorised User* or computer per *License* only;
 - 2.5.2. for *Consumers*: to the *Licensee*'s non-entrepreneurial use and to the *Doka* formwork and/or scaffolding products and is restricted to the installation of the *Software* for one User and/or computer per *License* only.
- 2.6. With the exception of the right of use, the *Licensee* shall not be granted any rights to the *Software* or other associated materials. No further rights shall be granted, including, but not limited to the exclusion of rights in all registered and unregistered present and future intellectual property rights, related protective rights and other rights of any kind, regardless of whether they are currently known about or will be acknowledged under any future legal system – in particular, all patent, utility model, copyright, trademark and design rights as well as rights to databases and know-how.
- 2.7. In particular, the *Licensee* must not perform the following actions itself or allow a third party to perform them: (i) sub-license, assign or otherwise transfer rights under the *License* or these *GTC* to another legal entity; (ii) modify, edit, translate or create works derived from the *Software*; (iii) reverse engineer, recompile, decompile, decode, decrypt, disassemble or otherwise attempt to derive a source code of the *Software* underlying the service, regardless of whether this is temporary or permanent in nature or happens in full or in part; (iv) duplicate the *Software* in a way that deviates from clauses 2.8 and 2.9; (v) transfer, license, lend, pledge, sell, publish or make the *Software* accessible in any other way; (vi) use the *Software*, which is licensed for a certain device, regardless of whether physical or virtual, on another device; or (vii) remove, modify or conceal product

identifiers, information on rights of intellectual property or other identifiers embedded in the *Software*.

Contents that are generated through *Software Contents* pursuant to clause 7.3 of the GTC by the *Licensee* are not covered by the restrictions mentioned above.

- 2.8. With the exception of one (1) back-up copy for safety reasons, the *Licensee* is not allowed to make copies of the *Software*.
- 2.9. The *Licensee* can save or install a copy of the *Software* on a data storage device, e.g. a network server, which is used solely for the operation of the *Software* on other devices of the *Licensee* via an internal network; however, the *Licensee* must purchase and assign a *License* for every single device that can access the *Software* from the data storage device or register each Authorised User.
- 2.10. The *Licensee* must put in place routine procedures and control functions so that the number of devices that are able to access the *Software* does not exceed the number of *Licenses* granted to the *Licensee*. On request, the *Licensee* must enable *Doka* to check compliance with the number of *Licenses* and grant *Doka* insight into the processes and functions for this purpose.
- 2.11. If the *Licensee* sends comments, ideas, suggestions or other feedback about the *Software* (“*Customer Feedback*”), the *Licensee* shall grant *Doka* an unlimited, irrevocable, worldwide, non-exclusive, transferable, sub-licensable right to use and commercially exploit the *Software* in any manner deemed appropriate by *Doka*; this right shall be fully compensated for through the provision of the service.

3. Delivery

- 3.1. The *Software* is provided for download free of charge unless agreed otherwise. *Doka* does not owe the *Licensee* any form of installation services, technical support, maintenance activities or other supplemental services.
- 3.2. For the purpose of installation and use of the *Software*, *Doka* provides online information and online help included in the *Software*. The *Licensee* has no right to any further support or training. Any assistance provided by *Doka* on a voluntary basis may be charged to the *Licensee* by *Doka* and has to be agreed on a case by case basis. With respect to *Consumers*, this is done only following explicit prior reference to associated costs.
- 3.3. *Doka* reserves the right to regularly check the version of the *Software* (e.g. by using an API). *Doka* further reserves the right to update, modify, reconfigure the *Software* at any time and to make the following available to the *Licensee*, among other things: updates, upgrades, modifications, reconfigurations, patches, bug fixes, etc. (e.g. via a web server) for regular automatic or manual download by the *Licensee* (“*Updates*”), to inform the *Licensee* of the current version status of the *Software* or to request the *Licensee* to discontinue use and uninstall the *Software*. *Licensee* is obligated to regularly inform

himself about Updates and to install such Updates immediately after they have been made available. Should the Licensee fail to install an update provided by *Doka*, the Licensee understands that this may cause the Software to become unusable or exhibit some malfunctions; this is the sole responsibility of the Licensee. *Doka* shall not be liable for any improper use of the Software, costs or damages resulting from Licensee's failure to install the updates in a timely manner.

- 3.4. It is the sole responsibility of the Licensee to regularly check whether an updated version of the Software is available. It is hereby explicitly mentioned that the Licensee is not entitled either to demand an updated version of the service or to demand that this version is free of charge, if an updated version is available at any point in time.

4. Use of the Software

- 4.1. The *Licensee* may use the service solely in accordance with these GTC and is responsible for all actions taken and data entered under its login.
- 4.2. The *Licensee* may only use the *Software* in accordance with any technical or other instructions (e.g. operating instructions, user or operator information, drawings, etc.) provided by *Doka*, otherwise any claims of the *Licensee* shall be excluded.
- 4.3. The *Licensee* must make it clear that *Software Contents* pursuant to clause 7.3 do not originate from *Doka*. The *Licensee* is not authorised to insert, show or use *Doka's* letterhead in connection with such outputs and documents or use it in any other way without the written permission of *Doka*.
- 4.4. The *Licensee* is not permitted to use the *Software* in connection with formwork or scaffolding products other than *Doka* formwork or scaffolding products.

5. Warranty and liability

- 5.1. It is the sole responsibility of the *Licensee* to acquire the necessary operating system(s), licenses and software that enables and/or enable the *Licensee* to lawfully use the *Software*.
- 5.2. The *Licensee* shall notify *Doka* about obvious defects immediately after discovery thereof.
- 5.3. In its notification about a defect, the *Licensee* is obliged to provide *Doka* with verifiable documentation of the type and occurrence of the defects and to collaborate in isolating any errors. The *Licensee* itself is responsible for securing its own data.
- 5.4. Although *Doka* has created the *Software* with utmost diligence and expert knowledge, the *Licensee* recognises that it is not possible to produce software programs which are completely error-free. *Doka* therefore does not guarantee, inter alia, that the *Software* will function without interruption or be error-free, that errors can be completely eliminated or that the *Software* is compatible with other programs, etc. of the *Licensee*.

- 5.5. The *Licensee* is aware that *Doka* provides *Software* free of charge and therefore agrees that *Doka* shall not accept any liability for any damage arising in connection with the *Software*, excluding damage caused by the wilful intent or gross negligence of *Doka*.
- 5.6. The *Licensee* is aware that sufficient technical knowledge on its part is an essential prerequisite for using the *Software*. The *Licensee* acknowledges and agrees that all information generated by the *Licensee using the Software* must be properly checked and verified before a decision can be taken on the basis of this information. *Doka* does not accept any liability for damage resulting from decisions that are taken on the basis of information generated by the *Software* without this information having been checked and explicitly verified by *Doka* in writing beforehand. Any liability for this reason shall in any event also be subject to the restrictions of this section.
- 5.7. The sole responsibility for *Software Contents* rests with the *Licensee*. The *Software* does not provide any information for the safe use of the formwork solutions planned with this program. The output and documents created with the *Software* must - without exception - take into consideration *Doka's* User Information, operating and installation instructions for the respective formwork system and/or formwork component and any other legally required technical information for the respective *Doka* formwork and/or scaffolding product. The *Licensee* is responsible for the structural safety and compliance with occupational health and safety regulations. *Doka* does not assume any liability in this regard.
- 5.8. *Doka* is not aware of any rights of third parties which oppose the utilisation of the *Software* by the *Licensee*. *Doka* shall not be liable for the licensed *Software* being free of the rights of third parties.
- 5.9. The *Licensee* shall bear the risk of any damage to or loss of the *Software* during the entire period of use of the *Software*.
- 5.10. The *Licensee* is required to indemnify and hold *Doka* harmless in respect of all claims and demands of third parties as well as the associated costs (including the costs of appropriate legal representation and/or the costs of experts) and to support *Doka* in the defence of such claims and demands, to the extent the claims/demands can be traced back to any use of the *Software* by the *Licensee* (or third parties that are attributable to the *Licensee*) that is improper or in breach of contract.

6. Duration and Termination

- 6.1. The *License* is granted voluntarily and can be terminated by *Doka* at any time without giving reasons or complying with deadlines. It also ends automatically in case the *Software* is uninstalled by the *Licensee*.
- 6.2. Where possible, however, *Doka* will notify the *Licensee* about the planned total or partial termination in good time. The immediate suspension of the service or blocking of the *Licensee's* access without prior notification is considered effective termination of the

service. The *Licensee* itself is therefore responsible for ensuring that all data stored in the service are secured in some other way.

- 6.3. With the exception of the unfounded, unjustified and unannounced suspension of the service or the blocking of the *Licensee*'s access – in each case with intent to cause damage to be proven by the *Licensee* – any claims of the *Licensee* against *Doka* in connection with the termination of the service shall be excluded. A suspension or blocking based on the breaches of the *Licensee*'s obligations, in particular due to breaches of these GTC, is not deemed to be unfounded.
- 6.4. Should *Doka* decide not to provide a certain module of the *Software* any more, *Doka* will announce this where possible in good time on the website www.doka.com and the *Licensee* will have no right to compensation in this case. *Doka* is in any event entitled to terminate the *License* and hence the right to use the *Software* with immediate effect and without any right of compensation for the *Licensee* in particular – but not exclusively - in the following cases: the *Licensee*
- violates any intellectual property right of *Doka* regarding the *Software* or
 - decompiles or alters the *Software*, or
 - violates the confidentiality obligation set out in clause 7, or
 - conducts any activities which could be detrimental to *Doka*'s business interest, goodwill or reputation.
- 6.5. Return of the Software: In case of termination of the *License*, regardless of the reason for such termination, the *Licensee* shall immediately stop using the *Software* and remove it from all devices (with the exception of copies archived by the *Licensee* in accordance with applicable law). In connection therewith, the *Licensee* shall confirm in writing that it has fully complied with this obligation.

7. Non-disclosure and permitted use of *Software Contents*

- 7.1. The Parties undertake to not to disclose confidential information. Confidential information in the context of these GTC is deemed to be information, technical data or know-how that one Party acquires knowledge of when collaborating with the other Party, regardless of whether such information is labelled “confidential” or not (“*Confidential Information*”), also after expiry of the *License* under these GTC.
- 7.2. The obligations contained in these GTC do not apply to information if (i) the receiving Party was already in possession of the information before the information was communicated by the other Party and received the information without the obligation of non-disclosure; (ii) the information is public knowledge; (iii) the receiving Party received the information from a third party, as long as the third party has not violated its own obligation of non-disclosure; (iv) the receiving Party has developed the information itself, independently of *Confidential Information*; (v) the information is irrelevant, obvious or trivial; or (vi) the information is disclosed on the basis of a statutory obligation, by order of the courts, or by an administrative authority (in this case, the respective other Party

must be informed without delay and prior to the disclosure and in case of doubt as to the legality of a corresponding request for disclosure to take all possible steps to keep the *Confidential Information* confidential, in agreement with the other Party). The receiving Party bears the burden of proof for the existence of an exemption of the non-disclosure obligation.

- 7.3. “*Software Contents*” are all contents, including *Confidential Information* as well as materials protected by intellectual property rights which the *Licensee* inputs, records or creates in the *Software* when using it. In particular, *Software Contents* include plans, drawings, models and project data such as measurement, material, construction progress and order data.
- 7.4. Notwithstanding clause 7.3, the *Licensee* agrees to make *Software Contents* available to Doka for commercial exploitation, in particular for conducting data analysis (including the comparison with *Software Contents* of other licensees) as well as to further develop or improve existing and develop new products or services. To this end, the *Licensee* shall grant Doka the perpetual, irrevocable, worldwide, non-exclusive, transferable, sublicensable, royalty-free and fully paid-up license to use the *Software Contents* for the indicated purposes; this shall be fully compensated for through the provision of the service. Any disclosure of *Software Contents* by Doka to third parties shall take place in anonymised form only. Should *Software Contents* make reference to persons in the sense of the GDPR, Doka reserves the right to remove these for use of the *Software Contents* by means of anonymisation.
- 7.5. The *Licensee* warrants that the *Software Contents* are free from the rights of third parties, which are opposed to clause 7.4, and indemnifies and holds Doka harmless in this regard.

8. Amendments to these GTC

- 8.1. Doka reserves the right to amend these terms and conditions of use. The *Licensee* will be notified about these amendments two weeks before they come into effect by means of a message in the service/in the software or by separate email.
- 8.2. The *Licensee* declares its agreement with the amendments by continuing to use the *Software* after the expiry of a period of two weeks from the date on which the notification was sent. The notification about the amendment of the GTC will expressly draw the *Licensee*'s attention to the legal effect of the *Licensee* continuing to use the service. If the *Licensee* expressly objects to a change in the GTC, this contractual relationship ends with the actual receipt of the objection by Doka. In this case, the *Licensee* is obliged to stop using the *Software* immediately and to uninstall the *Software*. The rights and obligations of the contracting parties established until the actual receipt of the objection are not affected by the termination.
- 8.3. Doka reserves the right to exclude certain modules of the *Software* or applications regarding certain products from the *Licensee* at its sole discretion.

9. Final Provisions

- 9.1. Notifications: Any notification, request, approval or other declaration to be made by a Party under these *GTC* must be made in English or German and will be deemed valid and effective if (a) it is delivered to the other Party in person, (b) is sent in writing to the registered address/residence or workplace of the other Party, or (c) is sent by email to an email address expressly provided by the other Party for such declarations. *Doka* can also send the *Licensee* notifications through the *Software* itself. Changes of address are also to be notified in accordance with this provision.
- 9.2. Transfer of rights: *Doka* may assign and/or transfer its rights and/or obligations entirely or in part to an affiliated company. *Doka* will notify the *Licensee* about such an assignment or transfer. Furthermore, rights or claims to rights with regard to these *GTC* may only be assigned with the written consent of the other Party.
- 9.3. Waiver: as far as is possible under mandatory law, the *Licensee* and *Doka* shall waive the right to appeal against these Terms and Conditions as well as against agreements concluded between them and/or the right to demand the cancellation or amendment of the same. In particular, an appeal on the grounds of a mistake or abbreviation is excluded. This restriction shall not lead to the *Licensee* losing the protection provided by mandatory consumer protection legislation in its country of residence.
- 9.4. Severability clause: If, for any reason, one or more of the provisions of these Terms and Conditions or of any agreement between the *Licensee* and *Doka* is invalid or unenforceable, the validity of the remaining provisions shall be unaffected thereby. The Parties undertake to replace the ineffective or unenforceable provision with an effective provision that comes as close as possible to the intention of the Parties with regard to the provision to be replaced. The same applies in the event of an omission.
- 9.5. The place of performance for all obligations arising from or in connection with the *License* or these *GTC* between *Doka* and the *Licensee* shall be Amstetten, Austria.
- 9.6. Applicable law: Legal disputes between the *Licensee* and *Doka*, including the question of the validity of the *License* as well as its preliminary and subsequent contractual effects, shall be governed by, construed and enforced in accordance with the substantive laws of Austria, excluding application of its conflict of laws provisions as well of the Convention on International Sales of Goods (CISG). This clause shall not deprive a *Licensee* being a *Consumer* from the protection provided by mandatory consumer protection legislation in its country of residence.
- 9.7. Jurisdiction: All disputes between the *Licensee* and *Doka* arising from the *License* or these *GTC* shall, at the plaintiff's choice, be decided by the competent courts of Amstetten, or by arbitration pursuant to clause 9.8. *Consumers* may additionally may invoke any court competent under mandatory consumer protection legislation (e.g. at the place of domicile, habitual residence or employment).
- 9.8. Arbitration: If the plaintiff decides to submit a dispute to arbitration, the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) apply. The decision shall be made by one

arbitrator. The place of arbitration shall be Vienna, Austria, and the language of arbitration shall be German. The contractual Parties shall waive their right to appeal against the arbitration award, insofar as it is legally permissible to waive such a right. The arbitrator shall give the Parties a draft of the arbitration award to comment upon. This arbitration clause shall not apply to the detriment of *Consumers*.

ANNEX – DATA PROTECTION ADDENDUM

PROCESSING AGREEMENT

1. General

- 1.1. This Processing Agreement as an annex applies when the software is used by a company or educational institution as a licensee ("Customer") and this Customer authorizes its employees or third parties to use this license as authorized users on behalf of the licensee.
- 1.2. This Data Processing Agreement ("DPA") sets out the rights and obligations of Doka GmbH, its affiliated companies as processors (hereinafter referred to as "Processor") and the Customer as the Controller in the context of processing personal data on behalf of Doka GmbH.
- 1.3. This DPA applies to all activities in which the Processor or engaged sub-contractors (sub-processors) process the Customer's personal data.
- 1.4. Terms used in this DPA are to be understood in accordance with how they are defined under the EU General Data Protection Regulation ("GDPR").

2. Subject-Matter and Processing Content

- 2.1. The Processing is based on the contract concluded between the parties, according to which the Processor provides certain services to the Customer by means of a software, i.e. support services (support and maintenance) (the "Principal Contract"). In this context, the Processor will process personal data of the authorised users (usually employees of the Customer) for the purpose of providing the service and making the service available.
- 2.2. The following categories of data are processed on behalf of the controller: e-mail address, name, address, postal code, city, country, IP address, log data (date and time), data when requesting support services or maintenance.

- 2.3. The purpose of processing personal data is the performance of the activities that are specified as services in the Principal Contract or for which the Customer has subsequently given the Processor instructions.
- 2.4. The processing activities will last depending on the provisions of the Principal Contract, whereby further obligations may arise from statutory provisions.

3. Rights and Obligations of the Processor

- 3.1. The Processor shall process the personal data only on the basis of the Principal Contract, this Addendum and the documented instructions of the Customer – also the transmission of personal data to a third country or international organisation – unless required to do so by Union or Member State law to which the Processor is subject; in such a case, the Processor shall inform the Customer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- 3.2. The Processor shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 3.3. The Processor shall take all required measures within its control pursuant to Article 32 GDPR. These measures are subject to technical progress and the state of the art. Minor developments are carried out without agreeing thereon with the Customer.
- 3.4. The Customer shall grant the Processor permission to use sub-processors (in particular IT service providers). In doing so, it must be ensured that the sub-processor enters into the same obligations as those the Processor has hereunder. If the sub-processor does not comply with its data protection obligations, the sub-processor shall be liable to the Customer for compliance with the sub-processor's obligations.
- 3.5. The Processor undertakes to transmit personal data outside the European Economic Area only if adequate safeguards are in place to ensure compliance with applicable data protection laws (e.g. concluding standard contractual clauses).
- 3.6. The Processor will notify the Customer at least seven (7) days prior to using a new or replacing an existing sub-processor, whereby sending an e-mail to the Customer shall suffice, and hereby grants the Customer the right to object to the use of a new or replacement of an existing sub-processor, provided that such sub-processor verifiably fails to ensure the same or a reasonably comparable level of protection for processing personal data. The Customer's objection shall constitute good cause for the Processor to terminate the contract in accordance with the terms of the contract. An objection by the

Customer that does not meet the above requirements does not have to be given due consideration.

- 3.7. Taking into account the nature of the processing, the Processor will assist the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to requests for exercising the data subject's rights as stated in Chapter III GDPR. If the data subject contacts the Processor directly, the Processor will refer the data subject to the Customer, provided that the Processor is able to establish a connection between the data subject and the Customer on the basis of the information provided by the data subject. The Processor shall not be held liable in cases where the Customer does not respond fully, correctly or in time to the data subject's request.
- 3.8. After the completion of services relating to processing, the Processor shall render all personal data completely anonymous or erase them, unless an obligation to store personal data exists under Union or Member State law or the data is necessary for the establishment, exercise or defence of legal claims.
- 3.9. Prior to anonymisation or erasure, the Customer can receive the personal data in a commonly used electronic format selected by the Processor for which a reasonable fee may be charged.
- 3.10. Taking into account the nature of processing and the information available to the Processor, the Processor will assist the Customer in ensuring compliance with the obligations pursuant to Articles 32 to 36 GDPR.
- 3.11. The Processor shall make available to the Customer all information necessary to demonstrate compliance with the obligations laid down in this DPA and allow for and contribute to inspections in accordance with clause 4.5 hereunder. However, the Customer agrees that, at the discretion of the Processor, inspections under Clause 4.6 may be replaced by providing detailed documentation on the implemented data protection and security measures, relevant certifications, or reports by external auditors.
- 3.12. The Processor shall immediately inform the Customer if, in its opinion, an instruction given by the Customer infringes applicable data protection provisions.

4. Rights and Obligations of the Customer

- 4.1. The Customer alone is responsible for assessing the permissibility of the commissioned processing as well as for safeguarding the rights of data subjects and for the necessary

notifications to the Processor. The Customer shall inform the Processor of the person to contact regarding any questions arising from or in connection with this Addendum.

- 4.2. The Customer shall issue all orders, partial orders or instructions that deviate from or are an amendment to the Principal Contract in writing. In urgent cases, instructions may be issued verbally. The Customer shall confirm such instructions in writing immediately.
- 4.3. The Customer shall immediately inform the Processor if it discovers errors or irregularities in reviewing the results of processing.
- 4.4. The Customer will not process special categories of personal data without the written consent of the Processor. The Customer will not process data of persons under the age of 14.
- 4.5. Subject to clause 3.11 of this DPA, the Customer is entitled to inspect, on site, the compliance with the obligations set out hereunder itself or through third parties who are contractually or legally bound to secrecy, provided that they are not competitors of the Processor and its affiliated companies. Within the scope of such inspections, the Customer or a third party engaged by the Customer shall comply with the internal security requirements (in particular the applicable security and IT guidelines) of the Processor. Due to confidentiality or security requirements, on-site inspection of certain environments and information may be limited to the extent necessary (because of harm to third party rights or to protect business secrets). Environments that are irrelevant to the obligations laid down hereunder are expressly excluded from the Customer's right of inspection.
- 4.6. The Customer shall bear the costs for this audit. Inspections must be carried out with due care to business operations and during normal business hours. Unless otherwise indicated for urgent reasons the Customer must document, inspections shall be carried out with reasonable advance notice (of at least 30 working days), if possible over the course of no more than one day according to a mutually agreed schedule that minimizes the audit's impact on the Processor's operations, and not more often than once every 12 months.

5. Final Provisions

- 5.1. Changes and amendments to this DPA must be made in writing and must be expressly identified as such.
- 5.2. In the event of contradictory provisions, the provisions of this DPA shall take precedence over the provisions regarding data protection in the Principal Contract.

5.3. If individual provisions of this DPA are or become invalid or unenforceable, the validity of the data protection agreement shall not in any way be affected thereby. The parties undertake to replace such a provision with a valid one. The same shall apply in the event of a contractual loophole.

5.4. Austrian substantive law shall apply, excluding its conflict of laws rules and the UN Convention on the International Sale of Goods.