

## DOKA TERMS DIGITAL SOLUTIONS Doka GmbH

### I. OFFER.

Individually agreed between Doka and the Customer.

### II. PRODUCT-SPECIFIC TERMS

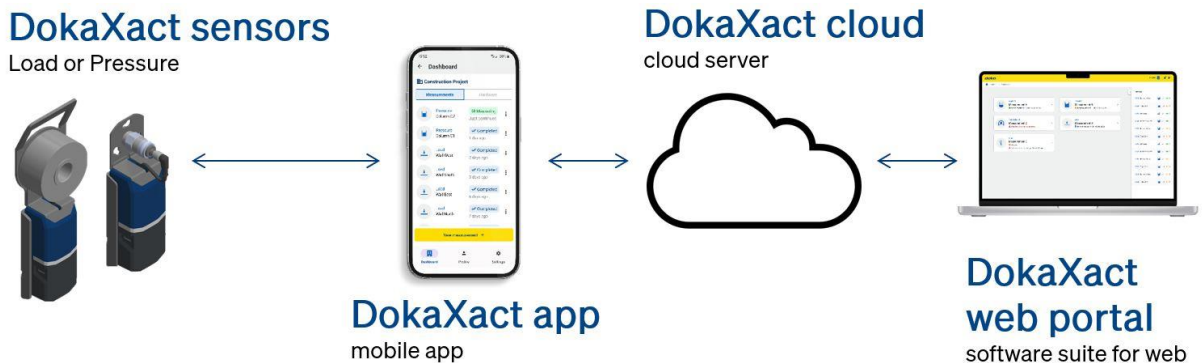
The respective product-specific terms only apply for those Digital Solutions that are covered by an Order between Doka and Customer.

#### A. DokaXact

#### 1. Description DokaXact

##### 1.1 About DokaXact

DokaXact is a web or app-based application (collectively the "**Software Application**" or the "**Application**") that uses the Hardware provided (including load or pressure sensors) to measure the formwork load ("**Load**") or concrete pressure ("**Pressure**") in real time and provides the user with information about it.



##### 1.2 Software Application and Hardware

The DokaXact hardware consists of measuring devices, in particular load and pressure sensors (collectively the "**Hardware**"). The Hardware can either be **rented or purchased**. Beyond the scope of the Offer, the Customer can purchase additional accessories (e.g., sensors, cables and batteries) on the basis of a separate offer.

Regardless of whether you choose the rental or purchase option, DokaXact includes the use of the Software Application as a web portal or mobile app, including data transfer between the Hardware and the Application and analysis of the data collected by the Hardware during the measurements. The technical data measured by the Hardware is transmitted via Bluetooth transfer to a mobile device of Customer and from that mobile device via mobile data transfer to a data centre used as an IoT platform and analysed with regard to formwork load and concrete pressure. The



analysis of the data recorded by the individual Hardware devices during the measurement is made available in the Application. This data analysis is aimed exclusively at technical information related to the Customer's project.

No installation is required to use the web application on the Customer's internet-enabled devices. If the Customer decides to use the mobile app, installation via the application store of the respective operating system is required (e.g., Play Store, AppStore etc.) under the conditions of the respective provider. Please refer to the respective application store to find out whether a mobile app is available for a specific operating system.

The product also includes operating instructions on the operation and functionality of the Hardware and a user manual for the Application. The documents listed above can be downloaded at any time from our website [www.doka.com/DokaXact](http://www.doka.com/DokaXact) and from the web portal at <http://DokaXact.doka.com>.

## 2. General

- 1.1. In the rental option, DokaXact is an inseparable package product. Hardware and Software are therefore inseparable and are only offered together as a package. The Customer is not permitted to (partially) withdraw from the Contract with regard to only part of the product.
- 1.2. In the purchase option, DokaXact is a separable product and can therefore be offered either as a package or separately.
- 1.3. Doka makes no recommendations regarding concrete technique (e.g., instructions regarding the composition or mixing of concrete). Insofar as Doka (including its employees) makes recommendations in this respect, these recommendations are non-binding and no liability is accepted.

## 3. Prices

- 3.1. The prices stated in the Offer apply only to the products and quantities contained in the Offer. In the course of the project, it may become necessary to increase the quantity/units agreed in the Offer or to extend the rental period; in this case, invoicing shall be based on the quantities/units actually delivered or the actual rental period, whereby the Doka price list valid at the time shall apply to all items not specified in the Offer.
- 3.2. Any accessories are charged in EUR/unit. The purchase of accessories is subject to an additional offer. The purchase price will therefore be charged to the Customer separately. In case of doubt, the prices according to the current price list valid at the time of delivery shall apply.

## 4. Cooperation of the customer

- 4.1. **Hardware.** The Customer is responsible for the careful use of the Hardware, e.g.:
  - a. Installation and removal of the sensors on or in the formwork.
  - b. Protection of DokaXact Hardware against heavy rain and other water ingress (e.g., when the formwork facing is resting on the floor)
- 4.2. **Software.** The Customer must enter data into the Application and carry out measurements autonomously.
- 4.3. **End devices.** The Customer must use suitable end devices:
  - a. Android smartphone model that is not older than three years and has access to the Google Play Store and a standard market data plan for downloads and installation of the DokaXact Mobile app.
  - b. A mobile charging station (e.g., battery power bank) is recommended for longer measurement processes.
- 4.4. The Customer must cooperate in accordance with Doka's written instructions (e.g., operating instructions, user manuals etc.). See among others: <https://www.doka.com/DokaXact>



## 5. Utilisation of the services

- 5.1. The Customer can use the Application as a user interface for data input and output. All data in the Application is entered exclusively by the Customer. Doka shall only enter data into the Application for the Customer on the basis of an express instruction to do so in an offer as a Professional Service against payment on site. Doka is not authorised to enter data or perform measurements remotely.
- 5.2. If the Customer wishes to save measurement results permanently, they must ensure at their own responsibility and expense that the data is exported in the manner offered in the Software and backed up separately. The Customer solely bears the risk of data loss; this also applies if data loss leads to delays in the project.
- 5.3. The Customer is solely responsible for the determination of the target values, the correct data entry and the correct utilisation of the services and bears the burden of proof with regard to these circumstances.

## 6. Scope of licence

- 6.1. **Licence period:** The customer has the right to use the Software to the following extent:
  - a. When renting Hardware: during the rental period of the Hardware;
  - b. When purchasing Hardware: for the duration of the Subscription in accordance with the Offer, provided the fee for the Subscription is paid.
- 6.2. **Licence metrics**

Unless otherwise agreed in the Offer, the customer owes the monthly licence fees per construction project for the entire licence period (see above) in accordance with the current DokaXact price list. The licence fee must be paid monthly in advance.

## 7. Professional services and other services

- 7.1. **DokaXact Site Training.**
  - a. DokaXact Site Training is offered as a flat-rate service for the number of hours stated in the respective item. The following services are included in this flat rate:
    - Explanation of the properties and correct installation of DokaXact sensors
    - Activation of the DokaXact sensors
    - Presentation of the mobile app and the web portal
    - Setting up the first measurement via the DokaXact app on the customer's smartphone
    - Web portal training (measurement, notification, reporting)
    - User-specific access to the web portal (administration and read authorisation)
  - b. Other services are not included in this flat rate (e.g., travelling expenses to/from the site, daily allowances, accommodation and meals for Doka employees, other expenses in connection with DokaXact Site Training etc.), but will be invoiced at our standard hourly rate.
- 7.2. **Transport services.** If explicitly stated in the Offer, the following transport services relating to the Hardware shall be provided to the extent specified in the Offer on the terms and conditions of a carrier to be determined by Doka at its own discretion. Doka shall make the relevant parts of the conditions available to the Customer free of charge on request:
  - a. Standard delivery (903301000)
  - b. Express delivery (903304000)
  - c. Standard return delivery (904301000)

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## B. myDoka | myMaterial plus

### 1. End Devices

- 1.1. The use of the "myDoka | myMaterial plus" web application (software) requires that the Customer has web-enabled user devices with the following specifications:
  - Desktop
    - Recommended network bandwidth Download:  $\geq$  2 Mbit/s
    - Supported browsers (<https://angular.io/guide/browser-support>):
      - Google Chrome: 2 latest versions
      - Microsoft Edge: 2 latest versions
      - Firefox: latest version and extended support version (ESR)
      - Safari: 2 latest versions
- 1.2. The sale or other provision of the necessary end devices is not part of the service offered by Doka. The Customer is solely responsible for procuring and maintaining the necessary end devices. Any liability of or claims against Doka resulting from the sale and/or use of these end devices are excluded.

### 2. Utilisation of the services

- 2.1. The customer can use the application as a user interface for data input and output. All data in the application is entered exclusively by the customer. Doka shall only enter data for the customer in the application on the basis of an express order for this in an offer as a professional service against payment on site. It is not intended that Doka enters data or perform measurements remotely.
- 2.2. If Doka offers a connection between the application and the online shop of Doka (or an affiliated company), the customer can only use this online shop if he also accepts the terms and conditions of the online shop and registers. The customer must grant his employees who fulfil orders via the online shop the necessary rights to do so. The customer must also ensure that he checks the correct acceptance and accuracy of the material list created with the application before placing a chargeable order in the online shop.
- 2.3. In the software, Authorised Users of the customer can share usage data marked in the software (e.g. plans, material lists) with other Authorised Users of the customer or with other customers. The provisions of this Agreement shall apply mutatis mutandis to all data transmitted or received (including the Customer's own control and quality assurance obligations and its responsibility for the legality of the data transmission).

### 3. Special provisions for the free version ("Free Version")

- 3.1. **Free Version – General:** The free version of myDoka is offered exclusively to entrepreneurs ("Customers"). Use by other persons (in particular consumers) is prohibited. Any natural person who registers for the Free Version must therefore have sufficient authorisation to complete the registration, use the application on behalf of the Customer and make declarations on the Customer's behalf. Doka reserves the right - but is not obliged - to make the conclusion of the contract dependent on the provision of appropriate proof of authorisation.
- 3.2. **Free Version – Contracting parties:** Even in the Free Version, the contract is concluded exclusively with the customer, i.e. with the (customer-) company and not with the individual end users.



In each case, this is a mutually business-related transaction (B2B) to which the GTC-DS apply with the following stipulations:

- these special provisions for the Free Version take precedence in the event of contradictions;
- the provisions of the GTC-DS for Authorised Users shall apply mutatis mutandis to End Users;
- Point 4.8 of the GTC-DS ("Brands and Marketing") does not apply to the Free Version.

- 3.3. **Free Version – Restrictions on use:** Our software and our products require specialised knowledge, professional handling and suitable tools. Employees must always be supervised by suitably qualified staff when using the software.
- 3.4. **Free Version – Changes of the contract:** Use of the Free Version is granted on revocation at any time, and Doka also reserves the right to amend these special provisions for the Free Version at any time, provided that this does not introduce any obligation on the part of the customer to pay a fee or provide comparable services. The customer will be informed of these changes two weeks before they come into effect by means of a notification in the software or by separate e-mail. By continuing to use the software after two weeks from the date of notification, the customer agrees to the changes. As part of the notification of the change to the special provisions for the Free Version, the customer shall be expressly informed of the legal consequences of his behaviour.
- 3.5. **Free Version – Exceptions to the licence:** Doka reserves the right to exclude certain modules of the software or applications relating to certain products from the authorisation of use at its sole discretion.
- 3.6. **Free Version – Exclusion of warranty and liability:** In the Free Version any warranty claims by the customer are excluded. Point 11.2 of the GTC-DS shall apply to any liability for damages, with the proviso that any liability on the part of Doka shall be limited to the amount of EUR 500.
- 3.7. **Free Version – Exclusion of services:** The application is made available free of charge. Unless otherwise agreed in writing, Doka does not owe the customer any installation services, technical support, maintenance measures or other additional services.
- 3.8. **Free Version – Cessation of services:** In the Free Version, Doka may terminate the provision of services at any time without giving reasons or observing deadlines. Doka will, however, inform the Customers of the planned complete or partial termination within a reasonable period of time. Immediate cessation of services or blocking of the customer's access without prior notice shall be deemed effective termination of the contract. The customer is therefore responsible for ensuring that all data stored in the software is backed up elsewhere. Any claims by the customer in connection with the termination of services by Doka are excluded.
- 3.9. **Free Version – Voluntary support services:** Doka reserves the right to provide voluntary assistance and support resources, for example for the purpose of installing and using the software, or to discontinue these again. The customer is not entitled to these voluntary support services or to any additional support or training.

## 4. Miscellaneous

- 4.1. Subject to the fulfillment of all obligations under the Contract (in particular the payment of all license fees), Doka shall use commercially reasonable efforts to provide technical support and application support for the operation of the Software.
- 4.2. Doka makes no recommendations with regard to concrete technology or material planning. Insofar as Doka (including its employees) makes recommendations in this respect, these recommendations are non-binding and no liability is accepted.
- 4.3. The Customer can use the Software as a user interface for data input and output. All data in the Software is entered exclusively by the Customer. Doka shall only enter data into the Software for

the Customer on the basis of an express order to do so in an offer as a Professional Service for a fee.

- 4.4. If the Customer wishes to save data from the Software permanently, it must ensure at its own responsibility and expense that the data is exported in the manner offered in the Software and backed up separately. The Customer alone bears the risk of data loss; this also applies if data loss leads to delays in the project.
- 4.5. The Customer is solely responsible for the correct entry of data and for the correct use of the services and bears the burden of proof with regard to these circumstances.
- 4.6. Doka reserves the right to carry out updates to the Software at any time, for which the Customer will not be charged a separate fee. However, the Customer has no right to demand that such updates be carried out; this is at Doka's sole discretion. In all other respects the rules of the T&C-DS on updates shall apply.
- 4.7. Even if an unlimited number of Authorized Users is agreed, the Customer is obliged to limit this to a number that is fair and reasonable under the circumstances. If a disproportionate number of profiles are created for Authorized Users (in particular if this involves an unreasonable burden for Doka), Doka may limit the number of profiles or charge an additional fee.

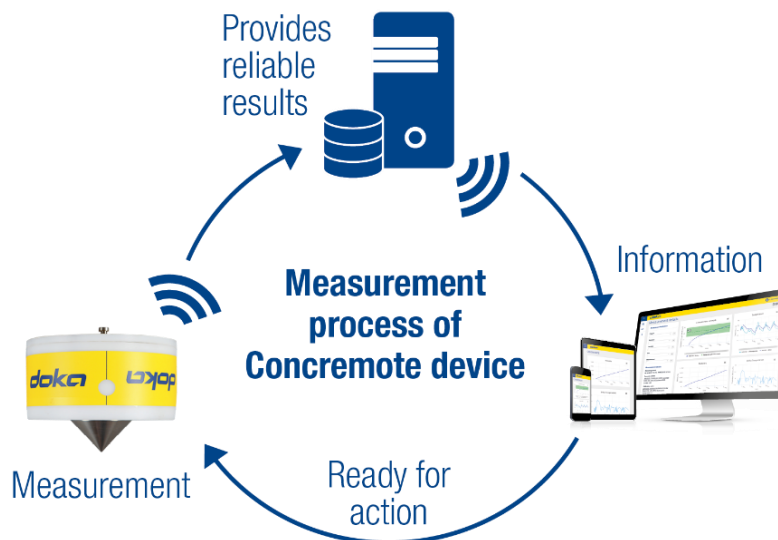
## C. Concremote

### 1. Description Concremote

#### 1.1. About Concremote

Concremote is a web or app-based application (collectively the "**Software**" or the "**Application**"), that uses the Hardware provided (including slab and cable sensors) to monitor the temperature or compressive strength (based on the maturity method) and provides the user with information about it.

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#### 1.2. Software and Hardware





As part of the Concremote system, we rent or sell measuring devices to our customers. These include slab sensors and/or cable sensors. In addition to the devices, we rent or sell our customers calibration boxes for calibrating the concrete mix designs used (the sensors and calibration boxes are hereinafter referred to collectively as “**Hardware**”). Each device has an individual serial number and an integrated GSM/GPS module, with which each device can be localized.

The Hardware can either be **rented or purchased**. In addition to the scope of the offer, the customer can purchase additional accessories (e.g. sensors, cables and batteries) on the basis of a separate offer.

Regardless of whether you choose the rental or purchase option, Concremote includes the use of the Software as a web portal or mobile app, including data transfer between the Hardware and the Application and analysis of the data collected by the Hardware during the measurements. The technical data measured by the Hardware is transferred directly from the sensors to the Concremote cloud and analyzed with regard to concrete strength. The analysis of the data recorded by the individual Hardware devices during the measurement is made available in the Application. This data analysis is aimed exclusively at technical information; personal data is not analyzed.

No installation is required to use the web application on the Customer's internet-enabled devices. If the Customer decides to use the mobile app, installation via the application store of the respective operating system is required (e.g., Play Store, AppStore etc.) under the conditions of the respective provider. Please refer to the respective application store to find out whether a mobile app is available for a specific operating system.

The product also includes operating instructions on the operation and functionality of the Hardware and a user manual for the Application. The documents listed above can be downloaded at any time from our website <https://www.doka.com/concremote> and from the web portal at <https://concremote.doka.com>.

## 2. General

- 2.1. In the rental option, Concremote is an inseparable package product. Hardware and Software are therefore inseparable and are only offered together as a package. The Customer is not permitted to (partially) withdraw from the Contract with regard to only part of the product.
- 2.2. In the purchase option, Concremote is a separable product and can therefore be offered either as a package or separately.
- 2.3. Doka makes no recommendations regarding concrete technique (e.g., instructions regarding the composition or mixing of concrete). Insofar as Doka (including its employees) makes recommendations in this respect, these recommendations are non-binding and no liability is accepted.

## 3. Prices

- 3.1. The prices stated in the Offer apply only to the products and quantities contained in the Offer. In the course of the project, it may become necessary to increase the quantity/units agreed in the Offer or to extend the rental period; in this case, invoicing shall be based on the quantities/units actually delivered or the actual rental period, whereby the Doka price list valid at the time shall apply to all items not specified in the Offer.
- 3.2. Any accessories are charged in EUR/unit. The purchase of accessories is subject to an additional offer. The purchase price will therefore be charged to the Customer separately. In case of doubt, the prices according to the current price list valid at the time of delivery shall apply.



## 4. Cooperation of the customer

- 4.1. **Hardware:** The Customer is responsible for the careful use of the Hardware, e.g.:
  - a. Installation and removal of the sensors on or in the formwork.
  - b. Protection of Concremote Hardware against heavy rain and other water ingress (eg., when the formwork facing is resting on the floor)
- 4.2. **Software:** The Customer must enter data into the Application and carry out measurements autonomously.
- 4.3. **End devices:** The Customer must use suitable end devices:
  - a. Android or IOS smartphone model that is not older than three years and has access to the Google Play Store or Apple App Store and a standard market data plan for downloads and installation of the Concremote Mobile app.
  - b. A mobile charging station (e.g., battery power bank) is recommended for longer measurement processes.
- 4.4 The Customer must cooperate in accordance with Doka's written instructions (e.g., operating instructions, user manuals etc.). See among others: [www.doka.com/concremote](http://www.doka.com/concremote).

## 5. Utilisation of the services

- 5.1. Apart from the customer (and its Authorized Users), only Doka and its vicarious agents are granted read and write access to the web portal/app. If the calibration service (i.e., a "Professional Service" within the meaning of the GTC-DS; see point 7.2) is requested, the concrete laboratory technician shall be granted access. In this case, the concrete laboratory technician can only access the data relating to concrete (concrete details, calibration curve).
- 5.2. The data recorded by an individual device can only be stored on the device for the respective battery duration. If the data transfer to the Concremote cloud is interrupted, the customer must therefore restore the connection before the battery runs out. Otherwise, the data on the device that has not yet been transferred to the Concremote cloud will be lost. If the battery fails, all data stored on the device will be lost. In addition, the device will not store any further data. The customer is therefore responsible for ensuring, at their own expense, that the devices have sufficient battery capacity at all times.
- 5.3. Unless otherwise agreed, Doka will store the data transferred to the Concremote Cloud for a period of 7 years. However, this data storage is exclusively for back-up purposes and without guarantee. Irrespective of the back-up storage, the customer shall therefore bear sole responsibility for separate data backup (e.g. through data export and local storage on customer devices) and the risk of data loss, in particular during data transfers, due to battery failure or other device errors and in the event of incomplete or expired cloud storage, at its own expense.
- 5.4. The results of the analysis are calculated values based on the measurement data stored by the devices and entered by the customer in the web portal/app at his own responsibility. The Customer is solely responsible for the determination of the target values, the correct data input, the correct calibration of the concrete (unless the calibration service is provided by Doka) and for the correct use of the devices and software and bears the burden of proof for these circumstances. When using Concremote, the customer must demonstrably comply with all specifications set out in the relevant technical standards and guidelines.
- 5.5. The customer must check the result of the analysis transmitted by Concremote without delay. If the customer discovers errors or incompleteness when checking the analysis result, he must inform our responsible Doka employee or technical support immediately in writing. It is the customer's responsibility to prove that it was not possible to detect the error or incompleteness at that time.

## 6. Scope of license

- 6.1. **License period:** The customer has the right to use the Software to the following extent:
  - a. When renting Hardware: during the rental period of the Hardware;





- b. When purchasing Hardware: for the duration of the Subscription in accordance with the Offer, provided the fee for the Subscription is paid.

## 6.2. License metrics:

Unless otherwise agreed in the Offer, the customer owes the monthly licence fees per construction project in accordance with the current Concremote price list. The licence fee must be paid monthly in advance.

## 7. Professional services and other services

### 7.1. Concremote Site Training:

- a. Concremote Site Training is offered as a flat-rate service for the number of hours stated in the respective item. The following services are included in this flat rate:
  - Explanation of the properties and correct installation of Concremote sensors
  - Activation of the Concremote sensors
  - Presentation of the mobile app and the web portal
  - Setting up the first measurement via the Concremote app on the customer's smartphone
  - Web portal training (measurement, notification, reporting)
  - User-specific access to the web portal (administration and read authorisation)
- b. Other services are not included in this flat rate (e.g., travelling expenses to/from the site, daily allowances, accommodation and meals for Doka employees, other expenses in connection with Concremote Construction Site Training etc.), but will be invoiced at our standard hourly rate.

7.2. **Calibration services:** For both the rental and the purchase option of the Concremote system, Doka offers on request the calibration of the concrete mix designs used as an optional service subject to additional charges (so-called Professional Service). This Professional Service is only available in certain countries.

- a. We organize and deliver the required calibration boxes and cover the costs for the calibration boxes and concrete test specimens (cubes or cylinders). The result is presented to the customer in the form of a calibration curve on the web portal and/or in the app.
- b. For this purpose, the customer must provide Doka with all information, e.g: Concrete manufacturer, concrete mixing plant, concrete recipes used, target value (strength), contact person at the concrete supplier.
- c. Any change to the composition, the manufacturer, the concrete mixing plant or the type of concrete after a calibration has been carried out by Doka is exclusively at the customer's own risk, and any liability on our part is excluded. The customer shall indemnify and hold Doka harmless against any claims for damages by third parties in this respect.

7.3. **Transport services:** If explicitly stated in the Offer, the following transport services relating to the Hardware shall be provided to the extent specified in the Offer on the terms and conditions of a carrier to be determined by Doka at its own discretion. Doka shall make the relevant parts of the conditions available to the Customer free of charge on request:

- a. Standard delivery (903301000)
- b. Express delivery (903304000)
- c. Standard return delivery (904301000)

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## D. Planning software (incl. EFP)

### 1. Description of the planning software (service offer)

#### 1.1 Web-based planning software (incl. Easy Formwork Planner)

Der Easy Formwork Planner („EFP“) is an application in the form of a web portal or mobile app for creating and managing formwork plans and material lists. In addition to the EFP (or as an add-on to it), Doka can also provide other web-based planning software (EFP and other planning software henceforth each referred to as "**planning software**" or "**application**"). This includes the use of the planning software as a web application or mobile app:

- c. No installation is required for the use of the web application on the customer's internet-enabled devices.
- d. If the customer decides to use the mobile app, installation is required via the application store of the respective operating system (e.g. Play Store, AppStore etc.) under the conditions of the respective provider. Please refer to the respective application store to find out whether a mobile app is available for a specific operating system.

#### 1.2 On-Premise planning software

Certain planning software products (e.g., DokaCAD for AutoCAD, DokaCAD for Revit, Doka Formwork Design Suite, Tipos, etc.) are provided by Doka as an on-premise version for download ("**on-premise version**"). Special provisions that are only relevant for the on-premise version are shown separately below.

#### 1.3 Free Version

Finally, planning software (web-based or on-premise) can also be offered as a free version ("**Free Version**"). In this respect, the special provisions for the Free Version (see point 7) take precedence over the other provisions in the event of contradictions.

#### 1.4 User restrictions

Both the Free Version and the paid version are available exclusively to entrepreneurs and educational institutions. Use by other persons (in particular consumers) is prohibited. Use by educational institutions is also restricted to educational purposes.

### 2. General

- 2.1. If planning software that was initially provided as an on-premise version is (additionally or exclusively) offered by Doka as a web-based version, and if the customer uses the planning software as a web-based version, the provisions for web-based planning software shall apply. Parallel use of planning software in an on-premise version and a web version is only permitted if Doka expressly agrees to this.
- 2.2. Doka makes no recommendations regarding the results produced with the planning software (e.g. concerning formwork and concrete technology). Insofar as Doka (including its employees) makes recommendations in this respect, these recommendations are non-binding and no liability is accepted.
- 2.3. Doka reserves the right to provide operating instructions for the operation and functionality of the application (e.g. in the form of onboarding-tips in the web application). If such instructions are provided, they are binding for the customer.



### 3. Prices

- 3.1. The prices stated in the offer apply only for the number of Authorised Users. In the course of the project, it may become necessary to increase the quantities agreed in the offer or to extend the duration of the subscription; in this case, invoicing shall be based on the quantities/units actually delivered or the actual duration of the subscription, whereby the Doka price list valid at the time shall apply to all items not specified in the quotation.
- 3.2. Any accessories are charged in EUR/unit. The purchase of accessories is subject to an additional offer. The purchase price will therefore be charged to the customer separately. In case of doubt, the prices according to the current price list valid at the time of delivery shall apply.

### 4. Cooperation of the customer

- 4.1. **Software:** The customer must use suitable end devices:
  - a. Android or iOS smartphone/tablet model that is not older than three years and has access to the Google Play Store or App Store and a standard market data plan for downloads and the installation of the mobile app.
  - b. Internet connection: The use of the web application requires a functioning and secure Internet connection. The customer can only use the web application if an Internet connection is available. If the mobile app is used without an Internet connection, essential functions are impaired (e.g. the customer has no access to their planning data).
- 4.2. **System limitations:** It is the sole responsibility of the customer to acquire the necessary operating systems, licenses and software that enables the customer the lawful use of the planning software.

### 5. Utilisation of the services

- 5.1. The customer must make it clear that the results and documents generated with the planning software do not originate from Doka. The customer is not authorised to use Doka's letterhead in connection with such results and documents or in any other way without Doka's written consent. However, the customer must ensure that any labelling automatically generated by the planning software (e.g. "created by XY with the help of Doka EFP" etc.) is not removed from digital or physical copies.
- 5.2. The customer can use the application as a user interface for data input and output. All data in the application is entered exclusively by the customer. Doka shall only enter data for the customer in the application on the basis of an express order for this in an offer as a professional service against payment on site. It is not intended that Doka enters data or perform measurements remotely.
- 5.3. The customer is solely responsible for the determination of the target values, the correct data entry and the correct utilisation of the services and bears the burden of proof with regard to these circumstances.
- 5.4. If the customer wishes to save planning software results permanently, he must ensure at his own responsibility and expense that the data is exported in the manner offered in the planning software and backed up separately. The customer alone bears the risk of data loss; this also applies if data loss leads to delays in the project.
- 5.5. If Doka offers a connection between the application and the online shop of Doka (or an affiliated company), the customer can only use this online shop if he also accepts the terms and conditions of the online shop and registers. The customer must grant his employees who fulfil orders via the online shop the necessary rights to do so. The customer must also ensure that he checks the correct acceptance and accuracy of the material list created with the application before placing a chargeable order in the online shop. Alternatively, the customer can also send a material list generated by the planning software to the Doka sales team as part of an order enquiry.



- 5.6. The customer may only use the planning software offered by Doka for use with third-party software if he has acquired the necessary licences for the third-party software and this third-party software is compatible with the planning software offered by Doka. In the absence of a written assurance in the contract, Doka does not guarantee compatibility with a specific third-party software or a specific version thereof. Any liability of Doka for circumstances which fall within the sphere of the third-party software or its use by the customer is excluded.
- 5.7. In the planning software, Authorised Users of the customer can share usage data marked in the planning software (e.g. plans, material lists) with other Authorised Users of the customer or with other customers. The provisions of this Agreement shall apply mutatis mutandis to all data transmitted or received (including the Customer's own control and quality assurance obligations and its responsibility for the legality of the data transmission).

## 6. Scope of license

- 6.1. **Licence period:** The customer has the right to use the planning software in accordance with the contract for the duration of the subscription in accordance with the offer document, as long as the fee for the subscription is paid; this applies to both web-based and on-premise use.
- 6.2. **Licence metrics:** Unless otherwise agreed in the offer, the customer owes the monthly fees according to the number of Authorised Users in accordance with the current Doka price list. The licence fee is payable monthly in advance.
- 6.3. **Software copies of the on-premise version:** Unless otherwise agreed, the customer may use one copy of the planning software for one device as intended, while all other rights are reserved. When operating the planning software on a network server (or on another data processing device that can be used by several persons or machines), the customer must therefore acquire and assign a licence for each individual device that can access the planning software in this way. The only exception to this is the production of copies for backup purposes (backup copies), insofar as this is necessary for the use of the computer programme.
- 6.4. **Licence management for on-premise version:** The customer must introduce routine procedures and control functions to ensure that the number of devices permitted to access the planning software does not exceed the number of licences granted to the customer in the offer. On request, the customer shall enable Doka to check compliance with the scope of the licence and shall grant Doka insight into these procedures and functions for this purpose.

## 7. Special provisions for the free version ("Free Version")

- 7.1. **Free Version – General:** The free version of our planning software is offered for public access and/or download, whereby the free version is made available exclusively to entrepreneurs and educational institutions ("**Customers**"). Use by other persons (in particular consumers) is prohibited. Use by educational institutions is also restricted to educational purposes. Any natural person who registers for the Free Version must therefore have sufficient authorisation to complete the registration, use the application on behalf of the Customer and make declarations on the Customer's behalf. Doka reserves the right - but is not obliged - to make the conclusion of the contract dependent on the provision of appropriate proof of authorisation.
- 7.2. **Free Version – Trial periods.** With the exception of point 7.5 ("Amendments to the contract"), the special provisions of this section also apply mutatis mutandis during free trial periods within the framework of licences subject to a charge.
- 7.3. **Free Version – Contracting parties:** Even in the Free Version, the contract is concluded exclusively with the customer, i.e. with the (customer-) company or the authorised educational institution, and not with the individual end users. In each case, this is a mutually business-related transaction (B2B) to which the GTC-DS apply with the following stipulations:
  - these special provisions for the Free Version take precedence in the event of contradictions;
  - the provisions of the GTC-DS for Authorised Users shall apply mutatis mutandis to End Users;



- Point 4.8 of the GTC-DS ("Brands and Marketing") does not apply to the Free Version.
- 7.4. **Free Version – Restrictions on use:** Our software (e.g. the Easy Formwork Planner - EFP, as well as other planning software) and our products require specialised knowledge, professional handling and suitable tools. Employees and students must always be supervised by suitably qualified (teaching) staff when using the software. Use within educational institutions is also restricted to educational purposes; beyond these purposes, use of the planning software and the results generated with it within educational institutions is not permitted. In particular, the software and its results may not be used for personal use or for actual construction site use (e.g. execution/realisation of plans by students or teaching staff).
- 7.5. **Free Version – Changes of the contract:** Use of the Free Version is granted on revocation at any time, and Doka also reserves the right to amend these special provisions for the Free Version at any time, provided that this does not introduce any obligation on the part of the customer to pay a fee or provide comparable services. The customer will be informed of these changes two weeks before they come into effect by means of a notification in the planning software or by separate e-mail. By continuing to use the software after two weeks from the date of notification, the customer agrees to the changes. As part of the notification of the change to the special provisions for the Free Version, the customer shall be expressly informed of the legal consequences of his behaviour.
- 7.6. **Free Version – Exceptions to the licence:** Doka reserves the right to exclude certain modules of the software or applications relating to certain products from the authorisation of use at its sole discretion.
- 7.7. **Free Version – Exclusion of warranty and liability:** In the Free Version any warranty claims by the customer are excluded. Point 11.2 of the GTC-DS shall apply to any liability for damages, with the proviso that any liability on the part of Doka shall be limited to the amount of EUR 500.
- 7.8. **Free Version – Exclusion of services:** The application is made available for access/download free of charge. Unless otherwise agreed in writing, Doka does not owe the customer any installation services, technical support, maintenance measures or other additional services.
- 7.9. **Free Version – Cessation of services:** In the Free Version, Doka may terminate the provision of services at any time without giving reasons or observing deadlines. It also ends automatically if the customer uninstalls the planning software. Doka will, however, inform the Customers of the planned complete or partial termination within a reasonable period of time. Immediate cessation of services or blocking of the customer's access without prior notice shall be deemed effective termination of the contract. The customer is therefore responsible for ensuring that all data stored in the planning software is backed up elsewhere. Any claims by the customer in connection with the termination of services by Doka are excluded.
- 7.10. **Free Version – Voluntary support services:** Doka reserves the right to provide voluntary assistance and support resources, for example for the purpose of installing and using the planning software, or to discontinue these again. The customer is not entitled to these voluntary support services or to any additional support or training.

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### III. DATA PROCESSING AGREEMENT

#### 1. GENERAL

- 1.1. This Data Processing Agreement ("DPA") governs the rights and obligations of Doka as processor and the customer as controller in the context of processing personal data on behalf of Doka.
- 1.2. This DPA applies to all activities in which the processor or authorised subcontractors (sub-processors) process the customer's personal data.
- 1.3. Terms used in this DPA are to be understood in accordance with their definition in the EU General Data Protection Regulation (GDPR).

#### 2. OBJECT AND CONTENT OF THE PROCESSING

- 2.1. The processing is based on the contract concluded between the parties (Offer and Doka Terms Digital Solutions) according to which the Processor provides the Customer with certain services by means of a software application and/or a web portal and the related support services (e.g. "Professional Services such as support and maintenance, other services) (the Contract). In this context, the Processor will process personal data of Authorised Users/Users/Users (usually employees of the Customer), as well as of any other persons involved in construction projects (employees of builders, subcontractors, architects, suppliers) and other groups of persons whom the Customer names to the Processor or whose data the Processor uploads as controller, for the purpose of providing and rendering the Service.
- 2.2. The following data categories are processed on behalf of the controller: Name, contact data (such as e-mail address, telephone numbers, etc), contract data, login data (username and password), log data (date and time), selected operating device, company, affiliation and function in the company, location, role in the service, preferred language, vehicle registration number, logs (images), data when requesting support services (e.g. "tickets").
- 2.3. Data entered in the service for material management, the customer's construction projects and construction sites, measurement data, inventory data, material movement data, article master data, financial data, order data, are not covered by this GCU.
- 2.4. The purpose of the processing of personal data is the fulfilment of the activities that are specified as a service in the main contract or for which the customer has subsequently issued instructions to the processor.
- 2.5. The duration of processing is governed by the provisions of the main 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 Main Agreement, this DPA and the documented instructions of the Customer - including in relation to the transfer of Personal Data to a third country or an international organisation - unless the Processor is required to do so by Union or Member State law to which the Processor is subject, in which case the Processor shall notify the Customer of such legal requirements prior to processing, unless the law in question prohibits such notification on grounds of important public interest.
- 3.2. The processor guarantees that the persons authorised to process the personal data have committed themselves to confidentiality or are subject to an appropriate statutory duty of confidentiality.
- 3.3. The Processor shall take all measures within its sphere of influence in accordance with Article 32 GDPR (see the Annex to this DPA). These measures are subject to technical progress and the state of the art. Minor developments shall be made without agreement with the customer.
- 3.4. The Customer authorises the Processor to use sub-processors (in particular IT service providers). It must be ensured that the sub-processor enters into the same obligations that are incumbent on the





processor on the basis of this agreement. If the sub-processor fails to fulfil its data protection obligations, the Processor shall be liable to the Customer for compliance with the obligations of the sub-processor.

- 3.5. The sub-processors posted on <https://www.doka.com/sub-processors> in particular are covered by the general authorisation in accordance with point 3.4.
- 3.6. The processor undertakes to only transfer personal data outside the European Economic Area if appropriate safeguards are in place to ensure compliance with applicable data protection laws (e.g. conclusion of standard contractual clauses).
- 3.7. The Processor shall notify the Customer at least seven (7) days prior to the engagement of a new or replacement of an existing sub-processor, whereby – at Processor’s sole discretion – (i) an email to the Customer; or (ii) publication on the customer portal or the customer platform; or (iii) publication on <https://www.doka.com/sub-processors> shall be sufficient, and hereby grants the Customer the right to object to the engagement of a new or replacement of an existing sub-processor, provided that such sub-processor demonstrably fails to ensure the same or a reasonably comparable level of protection for the processing of personal data. The customer's objection shall constitute good cause for the processor to terminate the contract within the meaning of the contractual terms. An objection by the Customer that does not fulfil the aforementioned requirements shall be irrelevant.
- 3.8. Given the nature of the processing, the Processor shall, where possible, support the Customer with appropriate technical and organisational measures to comply with its obligation to respond to requests to exercise the rights of the data subject referred to in Chapter III GDPR. If the data subject contacts the Processor directly, the Processor will refer them to the Customer. This is provided that the Processor is able to correlate the data subject with the Customer on the basis of the information provided by the data subject. The Processor shall not be liable in cases where the Customer does not respond fully, correctly or in a timely manner to the Data Subject's request.
- 3.9. The processor shall completely anonymise or delete all personal data within a period of one hundred and eighty (180) days after completion of the provision of the processing services, unless there is an obligation to store the personal data under Union law or the law of the Member States or the data is required for the assertion, exercise or defence of legal claims.
- 3.10. Prior to anonymisation or erasure, the customer may receive the personal data in a commonly used electronic format selected by the processor against reimbursement of reasonable costs.
- 3.11. The Processor shall, taking into account the nature of the processing and the information available to the Processor, assist the Customer in complying with the obligations set out in Articles 32 to 36 GDPR.
- 3.12. The Processor shall provide the Customer with all information necessary to demonstrate compliance with the obligations set out in this DPA and shall carry out checks in accordance with point 4.5 of this DPA and contribute to them. However, the Customer agrees that inspections pursuant to Section 4.5 may, at the discretion of the Processor, be replaced by the provision of detailed documentation on the data protection and security measures implemented, relevant certifications or reports from external auditors.
- 3.13. The processor must inform the customer immediately if it believes that a specific instruction from the customer violates applicable data protection regulations.

#### **4. RIGHTS AND OBLIGATIONS OF THE CUSTOMER**

- 4.1. The Customer shall be solely responsible for assessing the permissibility of the commissioned processing and for safeguarding the rights of data subjects and for the necessary notifications to the Processor. The Customer shall inform the Processor of the contact point for all questions arising from or in connection with this DPA.
- 4.2. The customer shall issue all orders, partial orders or instructions that deviate from or supplement the main contract in writing. In urgent cases, instructions may be issued verbally. The customer shall confirm such instructions in writing without delay.



- 4.3. The Customer shall inform the Processor immediately if it discovers errors or irregularities in the examination of the order results.
- 4.4. The customer shall not process any special categories of personal data without the written consent of the processor. The customer shall not process any data of persons under the age of 14.
- 4.5. Subject to Section 3.12 of this DPA, the Customer shall be entitled to inspect compliance with the obligations set out in this DPA itself or through third parties contractually or legally bound to confidentiality, provided that they are not competitors of the Processor and its affiliated companies, on site. The Customer or a third party authorised by the Customer shall comply with the Processor's internal security requirements (in particular in accordance with the applicable security and IT guidelines) as part of such checks. Due to confidentiality or security requirements, on-site controls of certain environments and information (e.g. due to jeopardising the rights of third parties or to protect business secrets) may be restricted to the extent necessary. Environments that are irrelevant to the obligations set out in this DPA are expressly excluded from the customer's right of inspection.
- 4.6. The customer shall bear the costs of this audit. Inspections must be carried out without disrupting business operations and during general business hours. Unless otherwise indicated for urgent reasons to be documented by the customer, inspections shall take place after reasonable advance notice (of at least 30 working days), if possible over a maximum of one day according to a mutually agreed schedule that minimises the impact of the audit on the processor's operations, and no more frequently than every 12 months.

## 5. FINAL PROVISIONS

- 5.1. Amendments and supplements to this GCU must be made in writing and must be expressly labelled as such.
- 5.2. Should individual provisions of this DPA be invalid or unenforceable or subsequently become invalid or unenforceable, this shall not affect the validity of the remainder of the Data Protection Agreement. The parties undertake to replace such a provision with a valid one. The same applies in the event of a contractual loophole.
- 5.3. Austrian substantive law shall apply to the exclusion of its conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.

## Technical and Organisational Measures according to Art. 32 GDPR

### Confidentiality (Art. 32 para. 1 lit. b GDPR)

#### a) Entry Control

The following implemented measures prevent unauthorized persons from gaining access to data processing facilities:

	implemented
Entry control system, card reader (magnetic/chip card)	✓
Door security (electric door opener, number lock, etc.)	✓
Security doors / windows	✓
Fence systems	✓
Key management, documentation of key allocation	✓
plant security, porter, security service	✓
Alarm system	✓
Special protection measures for the storage of backups and/or other data carriers	✓
Non-reversible destruction of data media	✓
Employee and authorization badges	✓
Lockable sections	✓
Visitor regulations (e.g., pick-up at reception, documentation of visiting hours, visitor badge, escort after visit to exit)	✓



### b) Access Control

The following implemented measures prevent unauthorized persons from accessing data processing systems:

	implemented
Personal and individual user log-in when logging on to the system or company network	✓
Authorization process for access permissions	✓
Limitation of authorized users	✓
Single sign-on	✓
Password policy (specification of password parameters in terms of complexity and update interval, password history)	✓
Electronic documentation of passwords and protection of this documentation against unauthorized access	✓
Logging of access to the system	✓
Additional system log-in for certain applications	✓
Automatic locking of clients after a certain period of time without user activity (also password-protected screen saver or automatic pause)	✓
Up-to-date firewall	✓
Up-to-date antivirus software	✓

### c) Access Control

The following implemented measures ensure that unauthorized persons do not have access to personal data:

	implemented
Central administration and documentation of authorizations	✓
Conclusion of contracts for commissioned data processing for the external maintenance of data processing systems, provided that remote maintenance involves the processing of PII, i.e., the handling of personal data, as part of the service	✓
Authorization process for permissions	✓
Authorization routines	✓
Profiles/roles	
Encryption of hard disks and/or laptops	✓
Segregation of Duties process	✓
Non-reversible deletion of data media	✓
Privacy screens for mobile data processing systems	✓
Patch management	✓

### d) Separation Control

The following measures ensure that personal data collected for different purposes are processed separately.

	implemented
Storage of data records in separate databases	✓
Processing on separate systems	✓
Access authorizations according to functional responsibility	✓
Multi-client capability of IT systems	✓
Use of test data	✓
Separation of development and production environment	✓
Authorization concept	✓
Network segmentation	✓

## Integrity (Art. 32 para. 1 lit. b GDPR)

### a) Disclosure Control

It is ensured that personal data cannot be read, copied, modified or removed without authorization during transmission or storage on data carriers and that it is possible to verify which persons or bodies have received personal data. The following measures are implemented to ensure this:

	implemented
Encryption of the storage medium of laptops	✓
Secured file transfer (Collaboration, Sharepoint)	✓
Secured data transport (e.g., TLS)	✓
Electronic signature	✓



Secured WLAN	✓
Regulation for handling mobile storage media (e.g., laptops, USB stick, cell phone)	✓
Tunneled remote data connections (VPN = Virtual Private Network)	✓
Data classification	✓

### b) Input Control

The following measures ensure that it is possible to check who has processed personal data in data processing systems and at what time:

	implemented
Access rights	✓
Document Management System (DMS) with change history	✓
Functional responsibilities, organizationally defined responsibilities	✓

### Availability and resilience (Art. 32 para. 1 lit. b GDPR)

#### Availability control and resilience control

The following measures ensure that personal data is protected against accidental destruction or loss and is always available to the client:

	implemented
Established backup procedure	✓
Storage process for backups (e.g., fire-protected safe, separate fire compartment).	✓
Ensuring data storage in the secured network	✓
Installing security updates as needed	✓
Mirroring of hard disks	✓
Installation of an uninterruptible power supply (UPS)	✓
Suitable archiving space for paper documents	✓
Fire and/or extinguishing water protection of the server room	✓
Fire and/or extinguishing water protection of the archiving rooms	✓
Air-conditioned server room	✓
Virus protection	✓
Firewall	✓
Redundant, locally separated data storage (offsite storage)	✓
Monitoring of all relevant servers	✓
Backup data center	✓
Critical components are redundant	✓

### Procedures for periodic review, assessment, and evaluation (Art. 32 para. 1 lit. d GDPR; Art. 25 para. 1 GDPR)

#### a) Data protection management

The following measures are intended to ensure that an organization that meets the basic requirements of data protection law is in place:

	implemented
Data protection policy (protection of PII)	✓
Establishment of a data protection committee	✓
Obligation of employees to maintain data secrecy	✓
Keeping an overview of processing activities (Art. 30 GDPR)	✓
Software solution for data protection management in use	✓
Certification according to ISO 9001	✓
Standardized process for handling information requests and other data subject rights	✓
Central documentation of all procedures and regulations for data protection with access for employees according to authorization	✓

#### b) Incident Response Management

The following measures are intended to ensure that notification processes are triggered in the event of data protection breaches:

	implemented
Notification process for data protection violations according to para. 4 No. 12 GDPR regarding the supervisory authorities (Art. 33 GDPR)	✓



Notification process for data protection violations according to para. 4 No. 12 GDPR regarding the data subjects (Art. 34 GDPR)	✓
Documented procedure for handling security incidents	✓

### c) Privacy-friendly default settings (Art. 25 para. 2 GDPR)

The default settings must be considered both in the standardized default settings of systems and apps and in the setup of data processing procedures. In this phase, functions and rights are configured in concrete terms, the permissibility or impermissibility of certain inputs or input options (e.g., free texts) is defined with regard to data minimization, and decisions are made about the availability of usage functions (e.g., with regard to the scope of processing). Likewise, the type and scope of the personal reference or the anonymization (e.g., in the case of selection, export and evaluation functions, which can be specified and made available by default or freely configurable) or the availability of certain processing functions, logging, etc. are also specified.

	implemented
Marking input fields in online forms as mandatory fields only if absolutely necessary for the further process.	✓
Simple exercise of the right of withdrawal through technical measures (e-mail footer).	✓

### d) Order control

The following measures ensure that personal data can only be processed in accordance with instructions.

	implemented
Agreement on commissioned processing with regulations on the rights and obligations of the contractor and client	✓
Designation of contact persons and/or responsible employees	✓
Written data protection briefing for all employees with access rights	✓
Obligation of all employees authorized to access data to maintain data secrecy.	✓



## IV. GENERAL TERMS AND CONDITIONS DIGITAL SOLUTIONS

### 1. General

- 1.1. Scope of application.** The Terms and Conditions Doka Digital Solutions ("**T&C-DS**") apply to all transactions between Doka and the Customer concerning the provision of Digital Solutions. They replace all previous versions and apply between the parties even without explicit reference to all future transactions concerning the Digital Solutions in the respective applicable version. Any contractual terms and conditions of the Customer (e.g., his own general terms and conditions or purchase terms) are excluded, even without separate objection by Doka.
- 1.2. B2B agreement.** The Customer confirms to be an entrepreneur within the meaning of consumer protection law and that the present agreement does not constitute a founding transaction within the meaning of consumer protection law. In the Customer's sphere, the Services may not be used by consumers or by minors without the supervision of adults
- 1.3. Deviations.** Ancillary agreements, additions or deviations from these T&C-DS (including deviations from their formality requirements) require the explicit written consent of Doka.
- 1.4. Amendments to the T&C.** Doka is authorised to amend the T&C-DS unilaterally with effect for the future. For this purpose, Doka shall send the amended T&C-DS to the Customer in advance for its information. If the Customer does not object to them in writing to the Doka contact person named in the Offer within four (4) weeks of receipt of the amendment notification, or if the Customer continues to use the contractual Services or makes payments after expiry of the objection period, the amendments will take effect on expiry of the objection period. Mere non-use does not constitute an objection to the amendment notification. In the event of an objection, Doka is entitled to terminate the contractual relationship with the Customer. Termination by Doka shall take effect two (2) weeks after the notification of termination by Doka following an objection by the Customer. Alternatively, Doka has the option of continuing to provide the Services to the Customer on the basis of the previous T&C.  
The described objection procedure does not apply to the mere correction of spelling, typing or calculation errors or in the case of changes to the T&C due to mandatory legal requirements; in these cases, the changes will take effect within two (2) weeks of the amendment notification.
- 1.5. Updated T&C:** If the Customer accepts further offers for Digital Solutions, these updated T&C-DS shall apply to all Digital Solutions subscribed to at that time.
- 1.6. Definition of terms.** The terms used in these T&C-DS – if not otherwise defined in the Offer or in these T&C-DS (see in particular Section 17) – shall be interpreted in accordance with the substantive laws applicable in the Republic of Austria.

### 2. Conclusion of contract

- 2.1. Offers.** Offers from Doka are non-binding. Offers and project documents may not be reproduced or made accessible to third parties. They may be reclaimed at any time and must be returned to Doka immediately if no contract is concluded.
- 2.2. Cost estimates.** In case of doubt, cost estimates and quotations are subject to a fee and are non-binding and without guarantee. In particular, no liability is accepted for their accuracy and completeness.
- 2.3. Conclusion of contract I: Signed offer.** The contract shall be deemed to have been concluded when, following receipt of an Offer prepared by Doka for the Customer and signed by the Customer, (a) Doka accepts it in writing or (b) Doka makes a delivery or (c) Doka otherwise begins to provide the Services (e.g., provision of access authorisation etc.). Doka may refuse to accept the Offer without giving reasons.
- 2.4. Conclusion of contract II: Online registration.** Alternatively, Doka may specify certain Digital Solutions for which the contract can also be concluded by means of online registration. For this purpose, the Customer registers online in the manner specified by Doka in the individual case and orders the desired Services via mouse click (in the sense of signing an Offer, so that the provisions applicable to Offers apply *mutatis mutandis* to the information contained in the registration process). The contract is only concluded when Doka actually grants the Customer access to the Digital Solution (or Doka otherwise begins to provide the Service) after the registration and ordering process has been completed.
- 2.5. Application hierarchy.** These T&C-DS, the Offer including attachments and (if applicable) other explicitly included conditions together form the "Contract". In the event of contradictions, the following hierarchy of application shall apply:
- (i) Offer (including attachments);
  - (ii) Product-Specific Terms Digital Solutions for the relevant Digital Solution, if available;
  - (iii) Data Processing Agreement in accordance with Art 28 GDPR;
  - (iv) these T&C-DS;
  - (v) any other applicable terms and conditions of Doka (e.g., the T&C-Sale or -Rental).





- 2.6. Costs.** The Parties shall each bear their own costs associated with the establishment, execution and termination of the Contract.
- 2.7. Power of representation.** Doka is not obliged to check the powers of representation of the persons acting on behalf of the Customer and legitimately relies on the sufficient authorisation of these persons. In this respect, however, Doka reserves the right to carry out appropriate checks and to make the conclusion of the contract dependent on the provision of further evidence by the Customer.
- 2.8. Legal remedies.** The assertion of misconception (Irrtum) or laesio enormis by the Customer is excluded. No liability is accepted for typing, calculation or other errors in Doka's Offers or cost estimates..
- 3. Scope of services and obligations**
- 3.1. Scope of Services.** The nature and scope of the Services owed by Doka are set out in the Offer, including the Service descriptions and annexes attached thereto. Other services are not owed and are to be agreed separately between the Parties. If Doka occasionally provides services or support activities that go beyond the Offer, Doka may discontinue these at any time without prior notice.
- 3.2. Performance elements.** The Services are standardised products offered by Doka to a large number of Customers; no warranty or liability is therefore accepted with regard to the suitability of the Services for specific requirements or purposes of the Customer. No warranty claims can be derived or liability established from information in catalogues, brochures, websites, advertising material and written or verbal statements that have not been included in the Contract.
- 3.3. Changes in performance.** Doka is entitled at its own discretion (a) to change or replace the employees, equipment and (third-party) components used to provide the Services, provided that this does not result in any material impairment of quality or functionality; and (b) to make unilateral adjustments to the Services, provided that these are customary in the trade, required by law or reasonable taking into account the interests of the Customer.
- 3.4. Responsibility of the Customer.** The Customer is solely responsible for all use of the Services in their sphere (including by their employees, contractors or Authorised Users, as well as by Third Parties who gain unauthorised access due to a breach of the Customer's obligations) and shall indemnify and hold Doka harmless in this respect. In particular, the Customer is responsible for and shall ensure that, when using the Services, (a) the law, the Contract and any operating instructions, training courses and other instructions provided by Doka (e.g., in the relevant Digital Solution) are complied with; (b) no unauthorised access or use takes place and the confidentiality and security of access data (e.g., user ID(s) and passwords) are maintained and any security standards of Doka (e.g., password rules) are complied with; (c) the collection and processing of personal data is carried out in accordance with the applicable personality rights and data protection laws (incl. GDPR); (d) no protected Third-Party content (e.g., trade secrets or intellectual property rights) is collected or processed without authorisation; (e) only lawful and correct data of appropriate quality is collected and processed; and (f) the Services are only used together with compatible and permitted Third-Party components. If the Customer becomes aware of a breach of any of the above conditions, they must notify Doka immediately and provide all necessary assistance to clarify and remedy the situation.
- 3.5. Cooperation of the Customer.** The Customer is further obliged to take all necessary and reasonable measures and to provide respective contributions (e.g., provision of materials, material samples, etc.) and information so that Doka can perform the Services in accordance with the law and the Contract and to prevent avoidable damage or other disadvantages for Doka and other Customers of Digital Solutions. This also includes the obligation to check the functioning of the Hardware and Software before use, to report any errors that occur without delay and to support Doka in investigating and rectifying errors (if necessary, including the enablement of remote access). Should the Customer fail to cooperate in whole or in part, the Customer shall be liable for all resulting damages; Doka shall also be entitled to make appropriate replacements at the Customer's expense. The Customer is responsible for providing the technical equipment required (laptop, PC, Bluetooth and Internet-enabled mobile devices etc.) as well as a functioning and secure Internet connection for using the Digital Solutions (incl. web portal / app).
- 3.6. Customer decisions.** The Services are intended merely as guidance for the realisation of construction projects, and Doka accepts no responsibility for the accuracy and suitability of the information provided for the Customer's purposes. The Services do not replace any independent calculation and decision-making process of the Customer, and the Customer warrants that project decisions are not made solely on the basis of the Services and are subject to human review. The Customer utilises all information supplied (including information on formwork load, concrete pressure, concrete strength etc.) at their own risk.
- 3.7. Instructions.** The Customer may only use the Services in accordance with the technical or other instructions provided by Doka (e.g., operating instructions, user manuals, drawings, training courses, instructions etc.), otherwise any warranty claims or claims for damages by the Customer are excluded. Any technical or other advice given by Doka employees shall be limited to the explanation of Doka's written instructions. No liability is accepted for information provided by employees that goes beyond the written instructions or deviates from them.



- 3.8. Suspension of the Services.** Any use of the Services in breach of law or Contract which, in Doka's judgement, jeopardises the security, integrity or availability of the Services shall entitle Doka to suspend the Services without prior notice. Doka will, however, use reasonable endeavours under the circumstances to notify the Customer in advance and give the opportunity to rectify the situation in question.
- 3.9. Audits.** Doka reserves the right to verify that the Services are being used in accordance with the law and the Contract by the Customer, or to have this verified by qualified Third Parties ("**Audit**"). Audits shall be announced in writing fourteen (14) days in advance – except in cases of imminent danger – and shall generally take place during the Customer's regular business hours. The Customer is obliged to provide all necessary support and to grant sufficient access to its relevant documents, business premises and IT systems. Doka shall bear the costs of the Audit; if the Audit reveals material breaches of Contract by the Customer, the Customer shall reimburse the costs in full.
- 3.10. Third-Party services:** Doka is authorised to use Third Parties as service providers for parts of the Service, e.g., for transport services etc. If the Offer specifies Third-Party services which Doka does not provide itself, these shall be provided in accordance with the terms and conditions of the service provider selected by Doka. The Customer accepts that Doka provides no further guarantees and that any limitations and exclusions of liability on the part of the service provider may also apply to the Customer.

#### 4. Ownership of rights

- 4.1. Authorisation of use.** Subject to the Customer's fulfilment of its contractual obligations, Doka grants the Customer (revocable) the limited, non-exclusive, non-transferable and non-sublicensable authorisation to use the contractual Services as intended exclusively for the Customer's internal use (referred to in the offer as "Subscription"). This authorisation is limited to the duration of the contractual relationship and to the Customer's country of domicile. If the Services are ordered for a specific construction project in accordance with the Offer (or other individual contractual agreement), this authorisation is also limited to the specified construction project. If Hardware is supplied, the use of the Services is limited to this Hardware (or any replacement equipment supplied by Doka). In addition, further restrictions apply in accordance with the Offer (e.g., limited number of Authorised Users).
- 4.2. Rights reserved.** All other rights remain with Doka. The Customer therefore acquires no rights (in particular no intellectual property rights) in the Services beyond the intended use in accordance with section 4.1.
- 4.3. Prohibited use.** Notwithstanding mandatory statutory provisions, the Customer may therefore in particular not carry out the following actions itself or authorise Third Parties to do so: (a) transfer, assign or sublicense rights under the Contract to Third Parties (including affiliated companies); (b) reproduce, edit or create derivative works from the Services; (c) reverse engineer, decompile, decode, decrypt, disassemble or otherwise attempt to derive the basis of the Services (including source codes); (d) transfer, licence, lend, pledge, sell or otherwise make the Services available to Third Parties; (e) use Services that, according to the Offer, are intended for a specific device (or a replacement device pursuant to section 4.1 of these T&C-DS), regardless of whether physically or virtually, on another device; or (f) remove, modify or suppress product labelling, references to intellectual property rights or other affixed labels.
- 4.4. Third-Party rights.** In the event of a Third Party asserting an infringement of intellectual property rights, Doka is entitled at its own discretion (a) to modify the affected parts of the Services or replace them with functionally equivalent components; (b) to acquire the necessary rights from the Third Party; or (c) to terminate the contract and refund any prepaid fees. In this case, Doka is also entitled to suspend the Services immediately until a decision has been made on the course of action.
- 4.5. Indemnification.** The Customer shall indemnify and hold Doka harmless in respect of claims by Third Parties for alleged infringements of intellectual property rights, insofar as these are based on the actions or omissions of the Customer, in particular the following: (a) specifications of the Services requested by the Customer (e.g., the Customer's design specifications, drawings, models etc.); (b) use of the Services contrary to instructions or their intended use; or (c) failure to maintain or update the Services.
- 4.6. Customer feedback.** Insofar as the Customer communicates comments, ideas, suggestions for changes or other feedback regarding the Services ("**Customer Feedback**"), the Customer grants Doka the right to use and freely exploit them commercially, without restriction as to time, place or subject matter. This non-exclusive right of use includes the right to modification, transfer and sublicense and is fully compensated for with the initial provision of the Services.
- 4.7. Authorised use of Usage Data.** Doka shall be entitled to use the Usage Data for the purpose of further developing existing products and services as well as developing new products and services without restriction in terms of subject matter, time or place (including by means of automated data analysis and statistical compilation). This non-exclusive right of use includes the right to modification as well as the right to transfer and sublicense to Affiliated Companies of Doka; Usage Data will not be disclosed to other Third Parties. The right shall be fully compensated with the initial provision of the Services. The Customer warrants that the Usage data is free of Third-Party rights conflicting with this section 4.7 and shall indemnify and hold Doka harmless in this respect.



**4.8. Trademarks and Marketing.** Trademarks, trade names, corporate designations, company names and logos of Doka or the Customer, whether registered or not ("**Trademarks**"), are the sole and exclusive property of the respective Party, which holds all rights, titles and interests therein. Doka may use Trademarks and statements about the Digital Solutions of the Customer free of charge for the provision of the Services (e.g., customised design of the user interface) as well as for its own marketing purposes (e.g., in product descriptions, Customer lists, websites, press releases, social networks and other channels). Doka will comply with the guidelines for the appropriate use of the Customer's Trademarks, provided that these have been communicated to Doka in writing.

## **5. Delivery**

**5.1. Delivery date.** Doka shall endeavour to meet the agreed deadlines as precisely as possible. If the delivery date is delayed by more than three (3) weeks, the Customer may withdraw from the Contract by setting a grace period of at least fourteen (14) days, unless the delay is due to circumstances within the Customer's sphere of responsibility or Force Majeure. A partial delay on the part of Doka does not entitle the Customer to a partial cancellation of the contract. Any further claims of the Customer in connection with its cancellation under this section 5.1 are excluded.

**5.2. Force Majeure.** In the event of Force Majeure events in the sphere of Doka or its suppliers which prevent timely delivery, Doka shall be entitled to a reasonable extension of the delivery period or postponement of the delivery date. In this case, the Customer shall have no claims for performance, damages and/or cancellation.

**5.3. Customer information and support.** The Customer shall bear the sole risk for any delay in delivery or any increase in cost caused by (a) any incorrect, incomplete or otherwise inadequate information provided by the Customer; (b) the Customer's refusal or inability to provide reasonable assistance and cooperation; or (c) any other breach of the Customer's obligations under the Contract.

**5.4. Partial delivery.** The Customer is obliged to accept and pay for partial deliveries from Doka. If delivery on call has been agreed, the call option shall be deemed to have been used no later than one (1) month after provision of the Services.

**5.5. Approvals and Preliminary Services.** Necessary authorisations, approvals or certifications by Third Parties ("**Approvals**") must be obtained by the Customer. The Customer shall also be responsible for any necessary technical preparations, provision of materials and cooperation ("**Preliminary Services**"), as well as for checking these Preliminary Services. If such approvals, Preliminary Services or similar actions are not provided in due time, the delivery period shall be extended accordingly.

## **6. Fees and terms of payment**

**6.1. Fees.** The scope of Services, fee and payment method are specified in the Offer. In case of doubt, all charges shown are net prices (i.e., excluding taxes, fees and other charges) and deliveries "ex works" (EXW according to INCOTERMS® 2020) of the Doka branch notified to the Customer (i.e., excluding shipping, import licences, customs duties, insurance etc.). All associated costs and expenses (including interest, currency conversion losses and collection and discount charges) shall be borne by the Customer.

**6.2. Prices.** Prices quoted in the Offer apply only to the products, services and quantities contained in the Offer. In the course of detailed project planning, there may be changes in the quantities and thus in the final price. Invoicing shall be based on the quantities actually delivered, the actual rental period or the Doka Solutions Services actually rendered.

**6.3. Invoices.** Unless otherwise agreed in individual contracts, charges are due for payment in Euros (€) without any deductions within fourteen (14) days of the invoice date. Doka may send invoices electronically, including by e-mail or by uploading them to the subject software service.

**6.4. Payments.** A payment shall be deemed to have been made on the day on which Doka can dispose of it. In the case of bank transfers, the Customer shall bear the risk of loss or delay, irrespective of fault. Payments shall only discharge the debt if they are made to the Doka payment recipient specified in the invoice.

**6.5. Default of payment.** In the event of late payment, the Customer shall pay interest on arrears at a rate of 8 percentage points p.a. above the 3-month EURIBOR (but at least 12% p.a.), irrespective of fault. The Customer shall also reimburse Doka for all collection expenses (e.g., costs of investigation, reminders, debt collection and judicial enforcement) including any legal fees. If special conditions (e.g., discounts for cash, or rebates) have been granted, these shall lapse in the event of default. The possibility of asserting further claims for damages remains unaffected. If the delay in payment lasts for more than seven (7) days, Doka shall also be entitled to suspend further provision of the Services until all amounts due have been paid in full; the Customer's contractual obligations (including their payment obligation) shall remain unaffected by such a suspension.

**6.6. Retention, set-off and assignment.** Payments to Doka may not be withheld or offset because of (alleged) late, incomplete or otherwise defective performance or other counterclaims, unless the Customer has a legally enforceable title. Claims of the Customer against Doka may only be assigned to Third Parties with the prior written consent of Doka.



- 6.7. Value protection.** The Parties agree to make adjustments to the fees plus ancillary claims in the event of an increase in the consumer price index 2020 (base year 2020) published monthly by Statistics Austria or an index replacing it. The index figure of the month preceding the conclusion of the Contract shall serve as the reference value. All rates of change are to be calculated to one decimal place. The index figure that led to the upward overshoot forms the new starting basis for the calculation of any further increases.
- 7. Special provisions: Software (incl. firmware)**
- 7.1. Authorised Users.** The Software components of the Digital Solutions can only be used by users registered by name (so-called Authorised Users or Administrators). Before using the Digital Solutions (and before any change in personnel), the Customer must inform Doka of the chosen persons and their contact details in the manner specified by Doka as standard in the respective Digital Solution or in individual cases. Authorised Users (or Administrators) can be sufficiently reliable and qualified employees or representatives of the Customer or Third Parties on condition that they use the Digital Solution exclusively (i) on behalf of the Customer; (ii) for the Customer's or a respective consortium's internal operations; and (iii) in accordance with the Contract. The Customer shall be liable for all acts or omissions of Authorised Users as for its own acts or omissions and shall indemnify and hold Doka harmless in this respect.
- 7.2. Designation of Authorised Users.** The permitted number and the conditions for the designation of Authorised Users are set out in the Offer. If Authorised Users are designated as Administrators in the Offer, these Administrators are entitled to create further Authorised User accounts under these T&C-DS on behalf of the Customer. Third Parties may not be named as Administrators without the written consent of Doka. If the number of permitted additional Authorised Users is not explicitly specified in the Offer, this is limited to fair and reasonable use. The creation of a disproportionate number of profiles for Authorised Users may result in additional charges.
- 7.3. Software warranty.** The Software is provided "as is" in the scope of the current version. Unless otherwise agreed in the Offer, any warranty or liability regarding the freedom from defects, marketability or suitability of the Software for a specific purpose is therefore excluded. In addition, any statutory obligations to update the Software are explicitly excluded.
- 7.4. Updates.** Doka reserves the right to update, modify or reconfigure the Software at any time and to provide the Customer with updates, upgrades, modifications, reconfigurations, patches, bug fixes, etc. ("**Updates**"). If Updates require installation by the Customer, the Customer is obliged to install such Updates immediately after provision. Doka shall not be liable for any limitations of functionality or availability, costs or damages that arise or are increased due to delayed Updates by the Customer.
- 7.5. Availability.** The Services do not include the backup of Customer Data; this data can be deleted or lost in the Services at any time. The Customer is therefore responsible for ensuring that all Customer Data entered or recorded in the Services is backed up separately and can be restored in the event of data loss (e.g., back-ups). Doka accepts no liability for any loss or restoration of data.
- 7.6. Data loss.** The Services do not include the backup of Customer Data; this data can be deleted or lost in the Services at any time. The Customer is therefore responsible for ensuring that all Customer Data entered or recorded in the Services is backed up separately and can be restored in the event of data loss (e.g., back-ups). Doka accepts no liability for any loss or restoration of data.
- 7.7. Viruses.** Doka accepts no liability for ensuring that the Services are free from viruses or other harmful code. The Customer is responsible for implementing adequate protective measures.
- 7.8. Prohibited Content.** Doka will not check or monitor the data entered by the Customer in the Software, neither manually nor automatically. However, Doka reserves the right to block or delete Prohibited Content at any time and to cooperate with authorities and courts if it becomes aware of such content. In the event of repeated or particularly serious infringements, Doka also reserves the right to suspend the Services for the Customer (or for individual Authorised Users) temporarily or permanently.
- 8. Special provisions: Hardware**
- 8.1. Supplementary provisions.** In the case of the sale of Hardware, the Doka T&C-Sale shall apply mutatis mutandis. In the case of the rental of Hardware, the Doka T&C-Rental shall apply mutatis mutandis. In the event of contradictions, the provisions of these T&C-DS shall take precedence over the T&C-Sale or T&C-Rental.
- 8.2. Transfer of risk.** The risk of loss or damage to the Hardware shall pass to the Customer as soon as the Hardware is actually made available for dispatch by Doka. Unless dispatch by Doka has been explicitly agreed, the Customer shall be responsible for collecting the Hardware without delay. The dispatch or transport of the Hardware shall in all cases be at the risk and expense of the Customer, even if the transport is carried out or organised by Doka or if carriage paid delivery or open mode of dispatch has been agreed. The Customer is obliged to notify the carrier of any damage during transport. Transport insurance will only be taken out if Doka explicitly warrants this and the Customer bears the costs.





### 8.3. Special provisions for Hardware rental.

- 8.3.1. Used material.** Rental material is predominantly used material (e.g., sensors). There is no entitlement to the rental of unused new items.
- 8.3.2. Rental period.** The minimum rental period is 30 days. The Hardware rental begins with the provision of the Hardware in accordance with the Offer. In the event of earlier delivery or collection of the rental items by the Customer, this earlier date shall be deemed to be the start of the rental period. If the rental items are returned late to the return location designated by Doka, this later date shall be deemed to be the end of the rental period. In addition, the actual rental period shall always be invoiced by calendar days at the end of a month. Invoicing shall be based on the quantities actually delivered.
- 8.3.3. Return delivery.** At the end of the Contract, the Customer must return the cleaned and fully functional Hardware to the delivering Doka branch office without delay and at their own expense, and the Customer must coordinate the return delivery with the branch office in due time. The risk of loss or damage shall not pass to Doka until Doka has regained unrestricted possession of the rented Hardware and this has been confirmed in writing on a return delivery note issued by Doka. A return delivery note documents the time of return, but not the proper condition of the Hardware. As soon as Doka has regained unrestricted possession of the rented Hardware, Doka shall check and document its condition, in particular its functionality, in accordance with Doka's quality criteria applicable at the time of delivery. Doka shall make the quality criteria available to the Customer free of charge on request. Doka shall be entitled to demand repair costs or compensation for depreciation for damaged or unreasonably worn Hardware, as well as compensation for cleaning costs for heavily soiled hardware in accordance with the current hourly rates according to the Doka price list.
- 8.3.4. Rental invoices.** At Doka's discretion, rental invoices can be created monthly, quarterly or semi-annually.

**8.4. Inspection.** During the entire term of the Contract, Doka shall be entitled to inspect rented Hardware or – insofar as licensed Digital Solutions are used with it – sold Hardware at any time during the Customer's regular business hours, or to commission Third Parties to do so, insofar as this is expedient to ensure that the Services are used in accordance with the Contract and their intended purpose. The Customer must obtain all necessary authorisations for this.

**8.5. Disposal of waste electrical and electronic equipment.** The Customer must ensure that Doka is provided with all the information and support necessary to fulfil Doka's obligations as a manufacturer/importer in accordance with applicable regulations concerning the disposal of waste electrical and electronic equipment and other aspects of sustainability.

**8.6. Retention of title.** Doka retains title to all Hardware sold until the invoice amounts plus interest and costs have been paid in full. The Customer hereby assigns to Doka, as security for its claim to the purchase price, its claims arising from the resale of goods subject to retention of title, even if these goods have been processed, modified or mixed.

**8.7. Installation of Hardware.** Unless explicitly agreed otherwise in the Offer, services that are necessary or useful for the installation and/or launch of the Hardware are not included in the scope of Services (e.g., assembly, setup, calibration, etc., hereinafter referred to as "**Installation Services**"). At the Customer's request, Doka will provide Installation Services as Professional Services for an additional fee.

### 9. Special provisions: Professional Services

**9.1. Scope of Services.** Doka may also provide Professional Services (e.g., support or training) in accordance with the specifications of the Offer. The specific scope of Services is set out in the Offer; in case of doubt, any additional services will be charged at an appropriate hourly/daily rate in accordance with the hourly/daily rates applicable at the time the Service is provided.

**9.2. Remote service.** In case of doubt, Professional Services shall be provided remotely, for which purpose the Customer must provide adequate remote access to its systems if required. The associated costs shall be borne by the Customer. If the Parties agree to the provision of services on site, the Customer shall bear the associated access and transport costs..

**9.3. Duty of effort.** Agreements on Professional Services do not constitute a works agreement (Werkvertrag), even if they are offered as a package. Doka does not owe any success, but only diligent effort to the extent agreed. There is therefore no liability or warranty for the production of a certain condition or the suitability of the Services for certain purposes of the Customer.

**9.4. Reimbursement of expenses:** Unless otherwise agreed, Doka shall invoice the costs of travelling, accommodation and meals as well as other expenses and ancillary costs on the basis of the actual costs incurred, provided these do not significantly exceed the usual local level.



## 10. Warranty

- 10.1. Scope of warranty.** Unless otherwise agreed in individual contracts or these T&C-DS (see in particular Sections 7 (Software), 8 (Hardware) and 9 (Professional Services)), the following warranty limitations shall apply
- 10.2. Notice of defects.** The Customer is obliged to inspect the Services for proper condition immediately after they are first made available and to notify Doka in writing of any defects without delay, but at the latest within eight (8) days of acceptance/performance and before they are processed or consumed, giving a precise description of the defects. This also applies to incorrect or deviating deliveries. Defects that become recognisable later must also be notified within eight (8) days. If the Customer fails to make this notice, the Services shall be deemed to have been approved. Insofar as this does not conflict with mandatory statutory provisions, the Customer shall also exclude this right of recourse vis-à-vis their customers.

The notification of defects does not release the Customer from their obligation to pay the fees. A requirement for Doka's warranty obligation is that the Customer has fulfilled all their obligations, in particular that they have met their payment obligations and has submitted the notice of defects in a timely and specified manner.

By negotiating about complaints, Doka does not waive the defence that the notice of defect was made late or was not sufficiently specified.

- 10.3. Warranty period.** The warranty period is six (6) months. Doka shall have the right to remedy defects and/or damage at its discretion by replacement delivery or improvement (including updates) within a reasonable period of time. As long as Doka makes use of this right, the Customer has no claim to cancellation of the Contract, price reduction or monetary compensation. The warranty remedies may lead to a temporary suspension of the Services for a period of time that is reasonable under the circumstances, without the Customer being entitled to any claims against Doka. A suspension of one (1) week shall in any case be deemed reasonable.
- 10.4. Exclusion in the event of changes.** Any further processing, modification or use of the Services by the Customer or Third Parties to whom the Customer has entrusted the Services contrary to the intended purpose or instructions shall result in the exclusion of any warranty.
- 10.5. Storage.** If the Customer refuses to accept the Services (lawfully or in breach of duty), they must ensure that the Services are properly unloaded, stored, saved and kept at Doka's disposal.
- 10.6. Third-Party products.** Doka accepts no liability for the completeness and/or accuracy of the information on Third-Party products. It is the Customer's responsibility to obtain the relevant information from the respective manufacturer.
- 10.7. Transfer of the warranty restrictions.** The Customer is obliged to transfer the warranty limitations of these T&C-DS in full – with the obligation to transfer them further – to any customers. Doka shall therefore also be liable in respect of any Third-Party claims only in accordance with these T&C-DS.

## 11. Liability

- 11.1. Scope of liability.** Unless otherwise agreed in individual contracts or these T&C-DS (see in particular Sections 7 (Software), 8 (Hardware) and 9 (Professional Services)), the following limitations of liability shall apply:
- 11.2. Limitations of liability.** Doka shall only be liable for damage caused to the Customer if the Customer can prove gross negligence or wilful intent on the part of Doka. Compensation for consequential damage, mere financial loss and damage resulting from Third-Party claims against the Customer are fully excluded. Any claims for damages must be asserted by the Customer within six (6) months of becoming aware of the damage and the party causing the damage, but at the latest within two (2) years of the damage occurring. Doka's liability (except in cases of intent) shall be limited to the amount Doka has received from the Customer for the Digital Solutions Services rendered in the twelve (12) months prior to the occurrence of the damage; any services outside the Digital Solutions (e.g., formwork or scaffolding material) shall not be taken into account when calculating the upper limit of liability.

The above limitations shall not apply to compensation for personal injury and mandatory liability under the Product Liability Act; in this respect, liability shall be in accordance with the statutory provisions.

- 11.3. Vicarious agents.** Doka shall only be liable for the fault of its vicarious agents if they are integrated into Doka's operational organisation. Doka shall therefore not be liable in particular for any fault on the part of its suppliers or transporters.
- 11.4. Claims by persons attributable to the customer.** Only the Customer becomes a contractual partner of Doka, but not Authorised Users, Administrators, employees of the Customer or other persons who use the Services in the customer's sphere. The Customer shall therefore indemnify and hold Doka harmless in respect of any claims which these persons make directly against Doka in connection with the use of the Services.





**11.5. Transfer of the limitations of liability.** The Customer is obliged to impose the limitations of liability of these T&C-DS in full – with the obligation to further impose them – on any customers. Doka shall therefore also be liable in respect of any third-party claims only in accordance with these T&C-DS.

## **12. Cybersecurity**

**12.1. Appropriate IT security measures.** In connection with the use of the Services, the Customer is solely responsible for implementing and maintaining a state-of-the-art IT security concept in its sphere. The Customer therefore undertakes in particular to protect its relevant information technology (IT) (including hardware, software, IT systems, networks, Internet-enabled applications, cloud applications, interfaces etc.) against IT security incidents by taking appropriate technical and organisational measures. This includes (but is not limited to) the immediate installation of available Updates, the use of the latest product versions, compliance with security instructions, the installation of patches, the training of employees and the implementation of other related measures.

**12.2. IT security incidents.** If the Customer becomes aware of a possible IT security incident and it cannot be ruled out with certainty that the security of Doka's IT infrastructure or data is or could be impaired as a result, the Customer shall notify Doka of the IT security incident without delay. The notification shall comprehensively describe the possible cause and type of the IT security incident and contain appropriate information on the expected effects on Doka's IT infrastructure and data. Subsequently, the Customer shall provide Doka with all necessary support to clarify and remedy the incident (including regular updates on the status of the remedial efforts). The Customer is in any case obliged to take all reasonable measures to avert or minimise the effects of the security incident on Doka's IT infrastructure and data.

## **13. Confidentiality and data protection**

**13.1. Confidentiality.** Notwithstanding agreed data utilisation rights, the Parties undertake to keep strictly confidential all Confidential Information disclosed to them in connection with the existing contractual and service relationship and not to make it accessible to Third Parties. The obligation to maintain confidentiality shall continue to apply indefinitely even after termination of the Contract (or as long as no exceptional circumstances pursuant to point 13.2 occur). The Customer shall also impose this obligation on their employees and Authorised Users in writing and shall provide Doka with evidence thereof upon request.

**13.2. Exceptions.** No confidentiality obligation exists if (a) the other Party agrees to the disclosure in writing; (b) the disclosure is necessary due to a legally binding court or official order; (c) the information is trivial or generally known; or (d) was already known to the respective Party prior to the conclusion of the Contract without an obligation to maintain confidentiality. The burden of proof for the existence of one of the aforementioned exceptions lies with the disclosing Party.

**13.3. Data protection.** The Parties are obliged to comply with all applicable data protection laws (including the GDPR) in their sphere of responsibility in the course of Contract fulfilment. Relevant processing of personal data by Doka as data controller (Art 4 no 7 GDPR) is described in Doka's privacy policy, the current version of which can be viewed on Doka's website (e.g., <https://www.doka.com>) or in another suitable position (e.g. attachment to the Offer, in the user application, etc.); the Customer shall bring this privacy policy to the attention of all natural persons employed by it in the course of the contractual relationship. Should further agreements be required in compliance with applicable data protection law (e.g., order processing contracts in accordance with Art 28 GDPR), the Parties shall conclude these separately in due time (i.e., before relevant data is exchanged).

## **14. Compliance with export regulations**

**14.1. Compliance.** When passing on the goods delivered (e.g., Hardware) or the other services rendered (e.g., Software), including associated documentation and technical support of any kind (e.g., Professional Services), the Customer must comply with applicable national and international export control law and, if necessary, support Doka in complying and documenting. In any case, the Customer shall comply with the export control regulations of the country from which it exports the goods or services, the EU, the USA and/or the United Nations. In particular, the Customer shall not sell, export or re-export, directly or indirectly to Russia or Belarus, or for use in Russia or Belarus anything supplied under or in connection with this Contract, including but not limited to Hardware, Software, Professional Services results, material, drawings, licenses, and other intellectual property rights, etc. The Customer shall use its best efforts to ensure compliance with the mentioned obligation.

**14.2. Provision of information.** If necessary in order to comply with export regulations, the Customer shall provide Doka immediately upon request with all information about the final recipient, the intended use of the goods delivered or the services rendered and any export control restrictions applicable in this respect. Moreover, the Customer shall immediately inform Doka about any activities that could frustrate the purpose of paragraph 14.1.



**14.3. Indemnification.** The Customer shall fully indemnify and hold Doka harmless against all claims asserted by authorities or other Third Parties against Doka due to non-compliance with the above obligations by the Customer or its business partners as a result of activities in breach of sanctions/embargoes.

## **15. Contract term and termination**

**15.1. Contract term.** The duration of the Contract is specified in the Offer. Unless otherwise agreed, the Contract for Services provided for a specific period shall be extended after expiry of the agreed duration by a period corresponding to the original contract duration, but by a maximum of one further year, unless one of the parties notifies the other Party in writing at least fourteen (14) days before expiry that it does not wish to continue the Contract. In the case of project-related Services, the Contract shall end upon completion of the project; in the case of Hardware rental, upon the proper return of the Hardware in accordance with Section 8.3.

**15.2. Ordinary termination.** Unless otherwise agreed, Doka may terminate a (fixed-term or open-ended) Contract on the last day of any month by giving fourteen (14) days' notice and without having to give reasons. The Customer shall only have such a right of ordinary termination if the Contract has been concluded for an indefinite period. Doka may terminate free-of-charge Services (including free trial periods) at any time with immediate effect and without giving reasons (including by discontinuing the provision of Services).

**15.3. Termination for good cause.** Either Party may terminate the Contract for good cause with immediate effect. Instead of immediate termination, Doka is also entitled in such cases to temporarily suspend the provision of Services without prior notice and to set a reasonable deadline for remedying the defect. Good cause for Doka exists, for example, if

- (a) the Customer breaches material contractual obligations (including its obligation to pay fees) and fails to rectify this situation – despite the setting a reasonable grace period of at least seven (7) days;
- (b) insolvency proceedings or similar bankruptcy, clearing or receivership proceedings have been opened against the Customer's assets or the opening of such proceedings has been rejected for lack of sufficient assets;
- (c) objective circumstances exist which make the proper fulfilment of the Contract obviously impossible (e.g., destruction or termination of essential suppliers of Doka);
- (d) the Customer has acted with intent to harm or defraud Doka (e.g. by fraudulently obtaining free-of-charge Services);
- (e) the Customer itself or a person engaged by it to fulfil the Order has breached the confidentiality obligations incumbent upon them;
- (f) Doka discontinues the relevant Digital Solution;
- (g) a competitor of Doka (whether directly or indirectly) acquires a de facto or legally dominant influence over the Customer;
- (h) the Customer violates applicable law or sanction restrictions in connection with the use of Digital Solutions;
- (i) Doka subsequently discovers in the course of an online registration in accordance with point 2.4 that the Customer has provided incorrect information (e.g. with regard to his entrepreneurial status), the Customer has insufficient creditworthiness or other important reasons arise in the course of the Customer check.

**15.4. Remuneration in the event of termination.** Only in the event of (i) ordinary termination by Doka, (ii) extraordinary termination by Doka for good cause stemming from Doka's sphere or (iii) justified (and judicially established) extraordinary termination by the Customer shall any prepaid Subscription fees be refunded to the Customer on a pro rata basis. In all other cases of termination, the Customer shall pay any unpaid fees for the remainder of the agreed contract term (in the case of an indefinite term for at least six (6) further months).

**15.5. Return of materials.** The Customer's rights to use the Services expire upon termination of the Contract. Doka has the right to discontinue or restrict the Services for the Customer on the termination date. The Customer shall immediately cease using the Services and return all related materials and Confidential Information to Doka or, at Doka's explicit request, destroy all copies thereof and confirm this to Doka in writing. After termination, any use of the Services by the Customer shall constitute an infringement of Doka's intellectual or proprietary property rights.

## **16. Final provisions**

**16.1. Contractual declarations.** Contractual declarations must be made in writing and in German or English. They may be validly submitted (a) by e-mail to an e-mail address explicitly designated for this purpose by the other Party (in particular in the Offer) or (b) by registered letter to the last known business address of the other Party. Both handwritten and electronic signatures are deemed to be signatures within the meaning of the T&C-DS (a simple electronic signature is sufficient, i.e. neither a qualified nor an advanced signature is required). As an exception to the signature requirement, Doka may also effect contractual declarations



by notification in the contractual software application. The other Party must be informed immediately of any changes of address.

- 16.2. Assertion of claims.** All claims of the Customer must be asserted in court within six (6) months of the performance of the relevant Services, otherwise the claim shall be forfeited.
- 16.3. Assignment.** Doka may assign its rights and/or obligations in whole or in part to an affiliated company or transfer them to such a company. As long as Doka does not notify the Customer of such an assignment or transfer, the Customer may make payment to Doka in discharge of debt.
- 16.4. Severability clause.** Should a provision or part of the Contract become invalid, the remaining provisions of the contract shall remain unaffected. This shall also apply if a provision is unenforceable. The Parties undertake to replace the invalid or unenforceable provisions with valid provisions that come closest to the intention of the Parties with regard to the provision to be replaced. The same shall apply in the event of a gap in the Contract.
- 16.5. Place of fulfilment and jurisdiction.** The exclusive place of fulfilment for all obligations arising from or in connection with the Contract is Amstetten, Austria. For all disputes between the Parties, including the question of the valid conclusion of the Contract as well as its pre- and post-contractual effects, the competent court for Amstetten, Austria, shall have exclusive jurisdiction. Doka shall also be entitled (but not obliged) to bring the matter before another court having jurisdiction in accordance with the statutory provisions.
- 16.6. Applicable law.** The entire contractual relationship between Doka and the Customer, including these T&C-DS, shall be governed by the substantive law of the Republic of Austria, excluding its conflict of law rules. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.
- 17. Definitions**
- 17.1. T&C-DS.** These Terms and Conditions Digital Solutions.
- 17.2. T&C-Sale.** The Terms and Conditions of Sale and Delivery of Doka in the version of the respective national company (as per the Offer) valid at the time of conclusion of the contract.
- 17.3. T&C-Rental.** The Terms and Conditions of Rentals of Doka in the version of the respective national company (as per the Offer) valid at the time of conclusion of the contract.
- 17.4. Authorised User.** Natural persons authorised by the Customer in accordance with the terms of the Offer, who are entitled to use the restricted Software components of the Digital Solutions on behalf of the Customer.
- 17.5. Digital Solutions or Services.** The products offered by Doka, which
- (a) are listed at [www.doka.com/digital](http://www.doka.com/digital), or
  - (b) are referred to in the Offer as "Digital Solutions", or
  - (c) are otherwise offered based on these T&C-DS,
- including all associated Software products (incl. SaaS), Hardware deliveries and Professional Services. Goods and services that are not supported as standard by software products designated as "Digital Solutions" and can also be used without software (e.g. classic shuttering and scaffolding products, etc.) are not services within the meaning of these T&C-DS.
- 17.6. Doka.** Doka GmbH, Josef Umdasch Platz 1, 3300 Amstetten, or another affiliated company of Doka or the Umdasch Group AG identified in the Offer as licensor/supplier.
- 17.7. Third Party.** All natural or legal persons other than the Parties.
- 17.8. Hardware.** The physical components (e.g., measuring devices) that are listed in the Offer or are otherwise offered as part of Doka's Digital Solutions.
- 17.9. Force majeure.** Events that are beyond the control of the Parties and are unforeseeable or unavoidable and hinder, impair or delay the fulfilment of part or all of the contractual obligations of one of the Parties. These include failure or delay of the Internet service provider, hacker attacks, viruses or malware, Denial-of-Service attacks, ransomware or similar intrusions into critical IT systems and networks, interruptions to services affecting important hardware, software or IT systems that are beyond the control of the obligated party, power, internet or telecommunications outages that were not caused by the obligated party, power failures, government measures, natural disasters, war, fire, strikes, labour disputes, sanctions, embargoes, pandemics, epidemics, transport and customs delays, delivery stops and supply shortage, transport damage, failure of an essential supplier that is difficult to replace and other problems in the supply chain.
- 17.10. Customer.** The contractual partner of Doka as listed in the Offer.
- 17.11. Usage Data.** All (a) content that the Customer enters, records or creates in the context of its use of the Services (e.g., plans, drawings, models, measurements and material data) and (b) automatically recorded information about the use of the Services by the Customer (e.g., log files). "**Personal Customer Data**" (e.g., name, e-mail, telephone number of authorised users), on the other hand, does not qualify as Usage Data.
- 17.12. Parties.** Doka and the Customer.
- 17.13. Software.** The computer programmes (whether on-premise or cloud-based) that are listed in the Offer or otherwise offered as part of Doka's Digital Solutions.



- 17.14. Prohibited Content.** All (a) information which, as such or by its reference to an activity, violates applicable law (e.g., misleading, fraudulent, defamatory, damaging to credit, threatening, inciting violence, terrorist or otherwise unlawful content); (b) content that violates intellectual property rights (e.g., content that violates personal rights, data protection, copyright or trade secrets); or (c) content that is otherwise inappropriate under the circumstances, even though it may not constitute a violation of the law (e.g., derogatory, discriminatory, offensive, sexualised, harassing, private and out-of-context commercial content, including spam).
- 17.15. Affiliated Company.** Legal entities that have direct or indirect control over a Party ("Parent Companies"), or that are directly or indirectly controlled by a Party or its Parent Company. For the purposes of this definition, "control" means the direct or indirect ownership of more than 50% of the shares or voting rights.
- 17.16. Confidential Information.** Information of any kind (e.g., technical or business data, know-how and trade secrets) which the Parties disclose or learn in connection with the fulfilment of the Contract, regardless of whether it is marked as "confidential". Confidential Information also includes all copies made thereof, self-created materials and data as well as all excerpts and summaries thereof.

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## V. DOKA T&C OF RENTAL / DOKA T&C OF SALE

See: <https://www.doka.com/en/home/termsandconditions/AGB?changeCountry=EN>