

# Special Terms of Use DKV Cockpit Products

## DKV EURO SERVICE GmbH + Co KG

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### 1. AREA OF APPLICATION

1.1 DKV EURO SERVICE GmbH + Co KG (“**DKV**”) provides its customers with a web portal with a customer account (“**DKV Cockpit**”) and a mobile application (“**DKV App**”) as part of their existing business relationship, through which customers can use certain digital services of DKV. In addition, DKV offers its customers the use of certain digital solutions, which customers can use in the DKV Cockpit and/or via the DKV App against payment of an additional fee and which can be viewed [here](#) (“**DKV Cockpit Product(s)**”). The following Special Terms of Use (“**STU**”) are part of the agreement concluded between DKV and the customer for the provision and use of DKV Cockpit Products. These STU are supplemented by Terms of Product for the individual DKV Cockpit Products (“**STP**”).

1.2 In the event of the conclusion of an agreement for a DKV Cockpit Product, these STU and the relevant STP apply in the version valid at the time of the conclusion of the agreement. These STU and STP supplement the contractual conditions already agreed upon between DKV and the customer for their contractual relationship. In the event of conflicts between the contractual conditions, the following order of precedence shall apply:

- Special Terms of Product of the Respective DKV Cockpit Product
- These Special Terms of Use DKV Cockpit Products
- General Terms of Use DKV eServices
- General Terms and Conditions of DKV (“**DKV GTC**”)

(together the “**DKV Contractual Conditions**”)

Individual agreements between DKV and the customer (hereinafter each also referred to as a “**Party**” and together as the “**Parties**”) take precedence over the DKV Contractual Conditions.

1.3 Deviating, supplementary or conflicting terms and conditions of the customer shall only become part of

the agreement if DKV has expressly agreed to their validity in writing. This also applies if DKV provides a service to the customer without making any reservation in the knowledge of the customer's terms and conditions.

### 2. CONCLUSION OF AGREEMENT

2.1 An agreement for the use of DKV Cockpit Products is concluded as follows:

(a) The customer submits an offer for the DKV Cockpit Product selected by him in the DKV web shop by clicking on the order button (access to the web shop is also possible via DKV Cockpit) and DKV accepts this offer by declaring it to the customer by e-mail or

(b) DKV sends the customer an offer in text or written form for the DKV Cockpit Product selected by them and the customer accepts this offer within the period specified in the offer by making a declaration to DKV in text or written form.

The customer is free to subscribe to one, several or all available DKV Cockpit Products.

2.2 The agreement concluded accordingly between DKV and the customer, including the DKV contractual conditions and any individual agreements contained in the offer which deviate from the DKV contractual conditions, fully reflects all agreements between the Parties on the subject matter of the agreement. There are no further verbal, written or other agreements, arrangements or promises with regard to the subject matter of the agreement. With the exception of managing directors and registered authorized representatives (*Prokuristen*) of DKV and other persons who have been appointed by DKV as authorized representatives of DKV with regard to the respective business relationship with the customer, employees of DKV are not entitled to make verbal agreements with the customer or to make verbal promises to the customer which deviate from the agreements and promises made between the Parties in writing or in text form, including the DKV contractual conditions.

### 3. SUBJECT MATTER OF THE AGREEMENT

- 3.1 The subject matter of the agreement is the paid provision of the DKV Cockpit Product subscribed to by the customer via the DKV Cockpit as a Multi-User Customer Platform (as defined in [Section 16.4](#) ) and/or the DKV App in the current version for access and use by the customer via the Internet for the term of the agreement. The DKV Cockpit Product is hosted and operated on the IT infrastructure of DKV and its subcontractors, which is accessible via the Internet. As part of the use of the DKV Cockpit Product, DKV provides the customer with storage space for storing the Customer Data to be processed (as defined in [Section 16.3](#)). The current scope of functions and services, including the available functionalities in DKV Cockpit and in the DKV App as well as any existing limitations on the storage capacity provided, can be found in the current service description of the DKV Cockpit Product. None of the service descriptions is a feature or guarantee warranted by DKV, unless expressly agreed otherwise between the Parties.
- 3.2 DKV will provide the DKV Cockpit Product with the availability agreed upon in the SLA. The availability is measured by DKV as described in the SLA.
- 3.3 DKV will maintain the DKV Cockpit Product in a condition suitable for contractual use for the duration of the agreement. The obligation to maintain or repair does not include the adaptation of the DKV Cockpit Products to changed conditions of use, adaptation to the scope of functions of comparable third-party products, establishing compatibility with new data formats or further developments of the DKV Cockpit Products.
- 3.4 For the purpose of and in connection with maintenance or repair, DKV will provide Updates (as defined in [Section 16.5](#)) of the DKV Cockpit Products from time to time during the term of the agreement. These Updates will replace the previous version of the DKV Cockpit Product. DKV will inform the customer at least one week in advance of planned maintenance work, as far as restrictions on the use of the DKV Cockpit Product are expected.

DKV is entitled to make changes to the DKV Cockpit Product during the term of the agreement without the customer's consent (a) insofar as the DKV Cockpit Product is improved or extended for the benefit of the customer and (b) otherwise at the reasonable

discretion of DKV in accordance with Section 315 German Civil Code (“BGB”), in particular to adapt the DKV Cockpit Product to the state of the art, new IT security standards, changes in applicable law or new market standards. DKV will inform the customer at least four (4) weeks in advance of any changes that have a significant impact on the use of the DKV Cockpit Product. If the customer does not agree to such a change, they may terminate the agreement with regard to the DKV Cockpit Product concerned for cause with effect from the date on which the change comes into force. For the avoidance of doubt, the Parties state that DKV is always entitled to make changes to the IT infrastructure on which the DKV Cockpit Product is based (software, hardware, data centers, communication lines, interfaces to third-party services, etc.) without the customer's consent, provided that this does not significantly impair the agreed use of the DKV Cockpit Product.

- 3.5 DKV offers Upgrades of the DKV Cockpit Product (as defined in [Section 16.6](#)) to the customer separately and against payment of an additional fee. The customer is not obliged to accept the offer of such chargeable Upgrades.

### 4. CONDITIONS AND RESTRICTIONS OF USE

- 4.1 In order to subscribe to DKV Cockpit Products, the customer must have a DKV Cockpit customer account. The use of certain DKV Cockpit Products also requires that the customer obtains certain other services from DKV, as described in the respective STP. For certain DKV Cockpit Products, it may also be necessary for the customer to have their registered office in one of the countries listed in the respective service description.
- 4.2 The customer may access and use the DKV Cockpit Product during the term of the agreement and exclusively for the purpose of their own internal use by Authorized Users (as defined in [Section 16.1](#)) in accordance with the agreed contractual provisions. Access and use may take place from any location worldwide; however, countries for which one or both Parties are subject to government sanctions with regard to the DKV Cockpit Product are excluded. If the customer has purchased the use of the DKV Cockpit Product only for a certain limited number of Authorized Users, the customer shall ensure that the total number of Authorized Users to whom the customer grants access and use of the DKV Cockpit Product

does not exceed the subscribed number of Authorized Users.

4.3 The use of the DKV Cockpit Product by the customer requires a functioning Internet connection with sufficient bandwidth for each end device used for this purpose, for the provision and costs of which the customer alone is responsible. Access to and use of the DKV Cockpit Product via the DKV Cockpit web portal is browser-based; no software is installed on the customer's systems for this purpose. DKV supports at least all browsers mentioned [here](#). To use the DKV Cockpit Product via the DKV App, the customer requires a mobile smartphone or tablet with access to the app stores mentioned [here](#), in which the DKV App is available for download, and must download the DKV App to their mobile device.

4.4 DKV provides the customer with the login data (i.e. user names and passwords) required for access to the DKV Cockpit Product or enables him to set these up himself when accessing the DKV Cockpit Product for the first time and to change them independently at a later date. The customer can use the administration access granted to him to create additional authorized users in DKV Cockpit, each with their own user name and password, and assign them different authorizations to use the DKV Cockpit Product. The login data is only intended for the Authorized Users designated by the customer and may not be shared by several persons. The customer shall keep the login data secret and secure against access by unauthorized third parties.

4.5 The customer is prohibited from doing the following with regard to DKV Cockpit Products:

- (a) to use or permit access to DKV Cockpit Products in a manner or for a purpose that goes beyond what is expressly permitted in this agreement or that circumvents the contractual restrictions on use;
- (b) to license, sublicense, sell, rent, lease, lend, publish, make publicly available, transfer, distribute or allow third parties access to DKV Cockpit Products in whole or in part unless expressly provided otherwise in this agreement;
- (c) to use robots, spiders, scrapers or other automated means to access the DKV Cockpit Products (unless DKV expressly permits this for individual functionalities);

(d) to access or use the DKV Cockpit Products to (i) develop or operate products or services to be offered to third parties in competition with DKV Cockpit Products or (ii) allow a direct competitor of DKV to access the DKV Cockpit Products;

(e) to reverse engineer, decompile, disassemble, copy or otherwise attempt to obtain the source code or other trade secrets of or about the DKV Cockpit Products, unless this is permitted by law (DKV will provide any necessary information for interoperability purposes with the customer's systems at the customer's request);

(f) to use DKV Cockpit Products in a way that infringes the rights of third parties, including intellectual property rights, trade secrets or rights to personal data; or

(g) to use DKV Cockpit Products for the storage, making available or other use of illegal content.

4.6 DKV may suspend the customer's access to and use of DKV Cockpit Products without notice with immediate effect or with a short period of notice determined at DKV's reasonable discretion or block Customer Data if there is a good reason that makes the further use of DKV Cockpit Products by the customer unreasonable for DKV, taking into account the interests of both Parties. Such good reason exists in particular,

(a) if there is a factual suspicion that (i) the stored Customer Data is unlawful and/or violates the rights of third parties or (ii) the customer's use of DKV Cockpit Products is unlawful (e.g. violates state sanctions);

(b) if there is a risk that the customer's use interrupts or impairs the operation or availability of DKV Cockpit Products or poses a security risk to DKV's IT infrastructure and/or the data of DKV's other customers, the elimination or mitigation of which requires such a block;

(c) in the cases specified in [Section 12.1\(b\)](#) of the DKV GTC, which apply accordingly to DKV Cockpit Products.

A reasonable suspicion of illegality and/or a violation of the law exists in particular if courts, authorities and/or other third parties inform DKV of this and these indications are not obviously false. DKV will inform the customer immediately of the block and the

reason for this in a suitable form and request them to remedy the respective breach of duty immediately or to explain and, if necessary, prove the legality of their behavior. DKV will lift the block as soon as the customer has refuted the suspicion or eliminated the reasons for the block.

## 5. THIRD-PARTY APPLICATIONS, DEVICE DATA AND ROUTE DATA

5.1 **Third-Party Applications.** DKV provides interfaces to third-party online applications for individual DKV Cockpit Products, via which the customer can retrieve data, information and other content (e.g. vehicle data, exchange rates, etc.) provided by these third parties and use it for their internal purposes within the framework of the DKV Cockpit Product (“**Third-Party Content**”). DKV only provides the interface for the purpose of enabling access to the Third-Party Content. The provision of the third-party application and the Third-Party Content is not part of DKV's contractual services but is the sole responsibility of the third-party provider. DKV does not check this Third-Party Content. It is therefore the responsibility of the customer to check the retrieved Third-Party Content for suitability for their purposes, correctness, topicality and completeness. The use of some of these third-party applications may require the customer to agree to the end user conditions of these third-party providers before using them for the first time. Insofar as no such additional end user conditions exist, the provisions of Sections 4.2 to 4.6 shall apply accordingly to the use of the third-party applications and Third-Party Content

5.2 **Device Data.** Insofar as DKV enables the readout and processing of data within the scope of the use of a DKV Cockpit Product, which is recorded or generated by means of devices or applications used in the customer's business operations (e.g. tachograph data or vehicle or freight data collected via sensors), as described in the respective service description, DKV's obligation to perform consists only in the provision of the necessary data interface, as well as the transmission, storage and provision of this data in the DKV Cockpit Product. Subject to the following sentence, DKV is neither responsible for the functionality of such devices and applications nor for the accuracy, completeness or timeliness of the data collected or generated with them. As far as the data read out originates from devices that DKV provides to the

customer for use under other agreements, the provisions of these other agreements apply.

5.3 **Route Data.** Insofar as DKV displays information for the use of individual DKV Cockpit products regarding route planning, departure, waiting and arrival times, route costs (such as toll costs), road conditions, locations, opening and closing times and similar, these are only non-binding forecasts, estimates and indications that depend on external circumstances and influences, such as traffic volume, accidents and construction sites, over which DKV has no influence and which are not under its control, or which come from data sources provided by third parties. It is therefore the customer's sole responsibility to check the extent to which this information is suitable for their plans and whether it is correct, up to date and complete.

## 6. SUPPORT

If the customer has any questions regarding the use of DKV Cockpit Products, DKV offers support via the service hotline provided by DKV during the service hours of the DKV customer service. Information on this can be found [here](#) and in the respective service description

## 7. REMUNERATION, TAXES

7.1 The prices of the price list applicable to the respective DKV Cockpit Product at the time of conclusion of the agreement shall apply, unless otherwise agreed in individual cases.

7.2 All prices and amounts of remuneration owed by the customer in connection with this agreement are exclusive of VAT and exclusive of all other sales, use, excise, withholding and other taxes, as well as applicable export and import fees, customs duties and similar charges (collectively, the “**Taxes**”). The customer is responsible for paying the Taxes associated with their subscription, access to or use of the DKV Cockpit Products and related services. If DKV is legally obliged to do so, DKV will invoice the customer for any Taxes (in addition to the remuneration owed). If the customer is legally obliged to withhold tax amounts on remuneration payments to DKV, the customer shall increase the amount to be paid to DKV so that DKV receives the full agreed remuneration amount

## 8. PAYMENT AND PRICE ADJUSTMENT

- 8.1 The customer is obliged to pay the agreed remuneration due on time. Unless otherwise stipulated in the STP, invoicing shall be monthly. In all other respects, the billing and payment conditions and default provisions agreed upon in the DKV GTC apply.
- 8.2 DKV may adjust the remuneration to be paid for the DKV Cockpit Product at its reasonable discretion in accordance with Section 315 BGB. A price adjustment may be considered in particular if the costs of service provision at DKV increase, e.g. if the purchase prices of the necessary advance services for the DKV Cockpit Product concerned increase, e.g. if the costs for the procurement of energy, technical resources or infrastructure (e.g. storage space) change or if other changes, in particular in the energy industry or legal framework conditions, lead to a changed cost situation. The price adjustments shall take effect on the date specified in the notification letter, but no earlier than four (4) weeks after notification to the customer. If the price change is more than 10 % compared to the previous price, the customer may terminate the agreement for cause with regard to the DKV Cockpit Product concerned until the price comes into force; the termination shall take effect on the date on which the price adjustment comes into force.

## 9. WARRANTIES, DEFAULT IN PERFORMANCE

- 9.1 DKV warrants that the DKV Cockpit product is of the contractually agreed quality during the term of the agreement. The rights of the customer due to defects in material and workmanship as well as defects in title of the DKV Cockpit Product (the “**Defects**”) are based on the provisions of Sections 536 et seq. in conjunction with Section 548a BGB accordingly unless otherwise agreed upon in these STU or the STP.
- 9.2 DKV will remedy any Defects in material and workmanship within a reasonable period of time, taking into account the severity of the impairment of the agreed use of the DKV Cockpit Product by the Defect, by measures of its own choice, e.g. by installing Updates. The provision of workarounds, which enable the agreed use of the DKV Cockpit Product, is considered to be a rectification of Defects.
- 9.3 The customer is obliged to report any Defects to DKV immediately in a comprehensible and detailed form, providing all the information necessary for identifying and analyzing the Defect. In particular,

the time of occurrence of the Defect, the work steps that led to the occurrence of the Defect, the form in which the Defect manifests itself and its effects, as well as the correct expected result or the expected final state, must be stated. The notification of Defects shall be made by e-mail to the e-mail address provided by DKV for this purpose or by telephone via the service hotline. If necessary or useful for the rectification of the Defect, the customer shall immediately grant DKV access to the documents or data from which the further circumstances of the occurrence of the Defect can be derived.

- 9.4 If a Defect in the DKV Cockpit Product results from the fact that third-party rights prevent the agreed use of the DKV Cockpit Product by the customer or if the agreed use of the DKV Cockpit Product by the customer infringes third-party rights, DKV shall, at its own discretion and at its own expense, within a reasonable period of time
- (a) provide the customer with the right to use the DKV Cockpit Product in accordance with the agreement or
  - (b) adapt the DKV Cockpit Product in such a way that it is free of infringement of third-party rights while maintaining the agreed quality.

Alternatively, DKV is entitled to terminate the agreement regarding the DKV Cockpit Product without notice for cause if DKV cannot achieve any other remedy with reasonable effort. Other existing claims for Defects of the customer remain unaffected by such a termination.

- 9.5 If a third party asserts a claim against the customer that a DKV Cockpit Product infringes their rights, the customer shall inform DKV of this immediately in writing. DKV and, if applicable, its suppliers are entitled, but not obliged, to the extent permissible, to take over the conduct of the legal dispute with the third party (including any settlement negotiations) and to defend against the asserted claims of the third party – also in the name and on behalf of the customer – at its own expense or to settle them by means of a settlement with the third party at its own expense. The customer shall grant DKV the necessary powers of attorney for this purpose. The customer is not entitled to accept or settle claims of third parties before they have given DKV a reasonable opportunity to defend against the claims of third parties in another way or

to settle them, or before DKV has agreed to this in writing. The Parties shall mutually support each other in the event of such third-party claims; in particular, the customer shall always provide DKV with all information available to them regarding these third-party claims without delay.

9.6 If DKV does not remedy a Defect as agreed in this Section 9, the customer may set DKV a reasonable deadline for remedial action and, if this deadline expires without success, terminate the agreement for the DKV Cockpit Product for cause. Such a deadline is not required if it obviously promises no success or if the immediate termination is justified for special reasons, taking into account the mutual interests of the Parties.

9.7 In the event of a Defect in the DKV Cockpit Product, the customer is not entitled to claim a reduction of the remuneration by deducting the reduction amount from the remuneration (with the exception of legally established reduction amounts that are undisputed or expressly recognized by DKV). The customer's right under the law of unjust enrichment to reclaim the part of the remuneration paid in excess due to a justified reduction remains unaffected by this.

9.8 The right to self-repair (*Ersatzvornahme*) pursuant to Section 536a (2) BGB is excluded if DKV provides the DKV Cockpit Products via the DKV Cockpit as a Multi-User Customer Platform, which customers can only access via the Internet, so that a Defect rectification by the customer is not reasonably feasible for DKV, taking into account the legitimate interests of DKV and its other customers.

9.9 DKV's legal liability for damage caused to the customer by a Defect is governed by Section 10 and the liability provisions agreed upon in the DKV GTC.

9.10 There is no Defect in the case of

- (a) only an insignificant impairment of the agreed use of DKV Cockpit Products;
- (b) impairment of use due to improper use or use contrary to the terms of the agreement of the DKV Cockpit Products by the customer;
- (c) failure of components, systems and communication lines that are outside of the IT infrastructure used by DKV for the provision of services, in particular the customer's IT systems;

(d) impairment of use due to the fact that the DKV Cockpit Products are used in a hardware and software environment that does not meet the system requirements specified in the service description of the DKV Cockpit Product;

(e) impairment of use due to changes and modifications that the customer has made to the DKV Cockpit Products without being entitled to do so by law, this agreement or with prior written consent of DKV.

The above also applies if the infringement of third-party rights by the DKV Cockpit Product is based on one of the circumstances mentioned in Section 9.10(b)(d) or(e).

9.11 The statutory period of limitations for claims for Defects (insofar as these are time-barred) and other claims of the customer due to poor performance or non-performance by DKV is one year from the start of the statutory period of limitations (with the exception of claims for damages by the customer, for which DKV is liable without limitation in accordance with the statutory provisions). The processing of a notice of Defect by the customer by DKV only leads to a suspension of the limitation period as far as the legal requirements, in particular in accordance with Section 203 BGB, are met. This does not result in a recommencement of the limitation period.

9.12 None of the provisions in this Section 9 limit the liability of DKV due to a fraudulently concealed Defect.

## 10. LIABILITY

The liability provisions of the DKV GTC are supplemented as follows:

10.1 DKV shall only be liable for damages resulting from Defects in DKV Cockpit Products existing at the time of conclusion of the agreement as far as DKV is culpably responsible for these Defects; Section 536a (1), 1<sup>st</sup> Alt. BGB is excluded in this respect.

10.2 In the event of a breach of material contractual obligations due to mere simple negligence, DKV's liability for all damages incurred by the customer as a result of this breach of duty is also limited to the sum of the remuneration (excluding Taxes) that the customer has paid DKV under the agreement within the last twelve (12) months prior to the occurrence of the damaging event. If the harmful event occurs within the first year of the agreement, the amount that the

customer would have to pay as remuneration for the first full year of the agreement under their agreement will be used.

## 11. FORCE MAJEURE

If a DKV Cockpit Product or other related service is not available for reasons for which DKV is not responsible (“**Non-Availability**”), DKV will inform the customer immediately. DKV will also inform the customer – to the extent possible - of the expected duration of the Non-Availability. Both Parties are released from their performance obligations for the duration of the Non-Availability with regard to the service concerned. A case of Non-Availability of a service in the above sense shall also include in particular (a) the prevention of the timely provision of services due to Force Majeure and (b) the untimely or incomplete delivery of products and services by a supplier if DKV had a supply agreement with the supplier which would have enabled DKV to provide the service to the customer on time.

## 12. DATA AND INTELLECTUAL PROPERTY

12.1 **Customer Data.** The customer is solely legally responsible for their Customer Data; DKV is not obliged to check Customer Data for legality, accuracy, timeliness or completeness. The customer hereby grants DKV and its subcontractors, which DKV uses in the provision of its contractual services, the non-exclusive, geographically unrestricted, irrevocable and royalty-free right to process, reproduce, distribute, store, disclose to third parties and transmit to them or otherwise use and display the Customer Data for the purposes of the execution of this agreement. In addition, the customer grants DKV and its affiliated companies within the meaning Section 15 et seq. Stock Corporation Act (*AktG*) the non-exclusive, irrevocable and royalty-free right, unlimited in territory and time, to comprehensively use and exploit the Customer Data for all their business purposes in compliance with any applicable data protection requirements.

For individual DKV Cockpit Products, DKV also provides the customer with data for use and processing, which DKV collects in connection with the execution of other agreements with the customer (e.g. transaction data from the use of the DKV Card by the customer). The customer is also entitled to process, use and evaluate this data within the framework of the

agreement for the DKV Cockpit Product in question; the provisions of these STU for Customer Data apply accordingly to this data. For the avoidance of doubt, the Parties state that these STU and the respective STP for DKV Cockpit Products do not apply to the collection, processing and use of this data by DKV in connection with other agreements with the customer, the provisions of which remain unaffected in this respect.

The customer can download their Customer Data stored at DKV or request an export of their Customer Data from DKV.

12.2 **Indemnification.** The customer hereby declares that they have all rights to the Customer Data necessary for the above granting of rights. The customer shall indemnify DKV on first written request against all third-party claims, costs (including the reasonable costs of legal defense against third-party claims) and fines resulting from an infringement of third-party rights (including intellectual property rights and rights to personal data) by the Customer Data for which the customer is responsible or from an unlawfulness of the Customer Data. DKV will inform the customer immediately of the assertion of such claims.

12.3 **DKV-IP.** In the relationship between the customer and DKV, DKV is the owner of all property rights, rights of use and other rights, all copyrights, trademark rights, patent rights, database rights and all other intellectual property rights, as well as all other rights to the DKV Cockpit Products, the DKV Cockpit and the DKV App (“**DKV IP**”). Except to the extent expressly provided for in this agreement, the customer is not granted any rights to the DKV IP.

12.4 **Feedback and Suggestions.** If the customer submits suggestions, recommendations or ideas (“**Suggestions**”) to DKV on how the DKV Cockpit Products could be improved, the customer hereby grants DKV the exclusive, irrevocable, sublicensable, transferable and royalty-free right, unlimited in territory and time, to use and evaluate these Suggestions for all current and future business purposes of DKV.

## 13. DATA PROTECTION AND DATA SECURITY

13.1 As far as the Customer Data contains personal data, the customer is responsible for compliance with all provisions of the applicable data protection regulations, including compliance with obligations to provide information to their employees, suppliers, end



customers and other persons concerned, as well as compliance with relevant deletion deadlines. The customer assures that they are authorized to process the personal data within the scope of their use of the DKV Cockpit Products. If necessary for the agreed use of the DKV Cockpit Products, the customer will obtain all necessary rights (including any necessary consents) for the corresponding processing of the personal data of the persons concerned.

13.2 The Parties agree that the processing of Customer Data (including personal data) required for the provision of DKV Cockpit Products is carried out within the framework of a so-called controller-to-controller relationship, unless otherwise provided for in the STP of the respective DKV Cockpit Product. Controller-to-controller relationship means that each Party acts as an independent controller within the meaning of the GDPR (Art. 4 No. 7 GDPR) in their area of responsibility for the processing of (personal) data.

13.3 The Parties mutually undertake to comply with all European legal standards, in particular the GDPR together with national implementation laws as well as all national laws, regulations or other legal standards relating to data protection, insofar as applicable; in particular, the Party responsible for processing shall be responsible for the lawfulness of data processing and compliance with the provisions of Art. 5 and 6 GDPR and the provisions of Sections 1 to 4 of Chapter IV of the GDPR; in particular, the Parties shall take all technical and organizational measures in their respective areas of responsibility that are necessary to ensure data protection in accordance with the applicable legal standards.

13.4 With regard to the controller-to-controller relationship, the Parties assume that the conclusion of an order processing agreement pursuant to Art. 28 GDPR and/or a joint controllership within the meaning of Art. 26 GDPR - subject to deviating service- or product-specific regulations in the STP of the respective DKV Cockpit Product - is not necessary. Nevertheless, the Parties undertake to conclude an agreement for commissioned data processing in accordance with Art. 28 et seq. GDPR and/or a joint controllership pursuant to Art. 26 GDPR, insofar as this should become necessary due to a deviating legal assessment, an official/judicial order, a change in data flows or a partial service that constitutes commissioned processing.

13.5 If DKV becomes aware that the processing of personal data by the customer and/or the provision of personal data by the customer in the context of the use of the DKV Cockpit Products is not permitted under data protection law and/or there are reasonable doubts about the permissibility under data protection law, DKV is entitled to suspend the provision of services until further notice (Section 273 BGB); Section 4.6 applies accordingly.

13.6 The customer is aware that electronic and unencrypted communication (e.g. by e-mail without encryption) is subject to security risks. When using this type of communication, the customer therefore hereby waives the assertion of claims against DKV that are based on the lack of encryption, unless the Parties have previously agreed on encryption of the chosen form of communication.

## **14. TERM AND TERMINATION OF CONTRACT**

### **14.1 Term**

The agreement shall run for an indefinite period unless a different term is specified in the STP or by individual agreement.

### **14.2 Termination**

The agreement may be terminated by either Party with a notice period of four (4) weeks to the end of each calendar month, unless a different notice period is agreed in the STP or by individual agreement

The right of each Party to terminate the agreement for cause in accordance with the DKV GTC remains unaffected. The reasons for blocking access specified in Section 4.6 shall also be deemed cause for termination if the customer has not remedied the reason for blocking access within a reasonable period set by DKV (insofar as such a period for remedial action is not dispensable under Section 314 (2) BGB).

### **14.3 Consequences of Termination**

(a) If this agreement terminates, regardless of the reason for termination, (i) the customer shall pay DKV all amounts accrued prior to the date of termination of the agreement and not yet paid at that time, (ii) all liabilities of one Party to the other Party that arose prior to the date of termination of the agreement shall remain in force and (iii) the authorizations granted to the customer to access and use the DKV Cockpit Product shall expire.



(b) At the customer's request, DKV will provide the customer with appropriate support in exporting their Customer Data from their Cockpit customer account in a marketable data format or data interface selected by DKV at its reasonable discretion. The remuneration due for this data migration is based on DKV's price list valid at the end of the agreement, which DKV will send to the customer on request.

## 15. MISCELLANEOUS

15.1 **Export Control.** The Parties are aware that DKV Cockpit Products may be subject to export and import restrictions. In particular, there may be licensing requirements or the use of DKV Cockpit Products abroad may be subject to restrictions. The customer shall comply with applicable sanctions, export, import and other trade control regulations in connection with their activities under this agreement, including those of the European Union or any of its member states, the United Kingdom, the United States of America or any other governmental authority with jurisdiction over one or both Parties. The fulfillment of the agreement by DKV is subject to the proviso that there are no obstacles to fulfillment due to national and international regulations of export and import law.

15.2 **Declarations and Notifications.** Text form (e.g. e-mail) is sufficient for all declarations and notifications of one Party to the other Party within the framework of the agreement, including notices of termination, unless the written form (Section 126 BGB) has been agreed upon in individual cases. If DKV provides the customer with a digital mailbox in their Cockpit customer account, DKV can also send notifications and declarations to the customer to this mailbox instead. These declarations and notifications are thus deemed to have been effectively made by DKV and received by the customer.

15.3 **Binding German Language Version.** These Special Terms of Use DKV Cockpit Products, written in the German language, also apply to agreements with customers whose place of business is outside of the Federal Republic of Germany. The translation made available to the customer in English or the respective national language of the customer serves only to improve understanding. In the event of a dispute of interpretation, only the German-language shall apply.

15.4 **Miscellaneous.** The provisions of the DKV General Terms and Conditions on agreement transfer, choice of law and place of jurisdiction also apply to this agreement and to any disputes arising from it.

## 16. DEFINITIONS

16.1 **"Authorized Users"** are the customer's employees, subcontractors, cooperation partners and consultants whom the customer authorizes to access the DKV Cockpit Product in the customer's name and on the customer's behalf and to use it within the scope of the customer's contractual authorizations.

16.2 **"Force Majeure"** means all events and circumstances which are beyond the reasonable control of DKV and which could not have been foreseen and averted or prevented by DKV even with the care reasonably to be expected, e.g. war, national emergencies, acts of terrorism, civil unrest, other disturbances of public order, pandemics, epidemics, (including quarantine), fires, floods, earthquakes, other forces of nature, act of sabotage by third parties (e.g. cyber-attacks), strikes in areas for whose functioning DKV is not responsible, failure of communication lines and systems of third parties who are not vicarious agents of DKV, measures by military authorities or embargoes, as well as orders or actions of foreign, national or local governments which DKV has not caused by unlawful conduct on its part. This also applies if such a case of force majeure occurs at a subcontractor or supplier of DKV involved in the provision of the service. If the unavailability of the service lasts longer than two (2) months, either Party may terminate the agreement with regard to the affected DKV Cockpit Product without notice for cause. Any amounts already paid for the period of unavailability and other future service periods will be refunded to the customer by DKV.

16.3 **"Customer Data"** means data that the customer imports into the DKV Cockpit Product for processing, otherwise provides to DKV for the purpose of providing its contractual services, or that DKV collects for the customer for their use of the DKV Cockpit Products (including data that DKV collects or receives from devices or applications that the customer uses in their business operations), including personal data, as well as the reports and analyses created or derived from them.

16.4 A “**Multi-User Customer Platform**” is an online platform that uses the same technical infrastructure for all customers and users. Customer and user-specific access to functionalities and data is ensured by means of appropriate authorization control.

16.5 “**Updates**” are (a) modifications and other technical measures to eliminate Defects and other faults in the DKV Cockpit Products (e.g. patches with corrections to existing functionalities) and (b) improvements to existing functionalities of the DKV Cockpit Products that do not significantly extend or change the functionalities, usability and benefits of the DKV Cockpit Products (e.g. security patches, minor performance improvements to improve the response time or efficiency of the DKV Cockpit Products or adjustments that ensure the compatibility of the various components of the DKV Cockpit Products with their latest versions), e.g. security patches, minor performance improvements to improve the response time or efficiency of the DKV Cockpit Products, adjustments to ensure the compatibility of the various components of the DKV Cockpit Products with their latest versions or similar improvements). Updates are not associated with additional costs for the customer.

16.6 “**Upgrades**” are significant functional or significant technical enhancements or changes or completely new functionalities of a DKV Cockpit Product, including supplementary new modules, which DKV offers to all customers of DKV Cockpit Products for use against payment of an additional fee.