

# Special Terms and Conditions "DKV LIVE"

## DKV EURO SERVICE GmbH + Co KG

(January 2024, Version 1.23)



### 1. SCOPE OF THE SPECIAL TERMS AND CONDITIONS "DKV LIVE"

- 1.1. The following Special Terms and Conditions (hereinafter also referred to as "DKV LIVE Special Terms and Conditions" or "Special Terms and Conditions") govern the rights and obligations in connection with the use of the "DKV LIVE" service offered by DKV EURO SERVICE GmbH + Co KG, Balcke-Dürr-Allee 3, 40882 Ratingen, Germany ("DKV") by customers ("Customer"); they are supplemented by the currently valid service description and the currently valid online price list for DKV LIVE.
- 1.2. The Special Terms and Conditions apply if the DKV LIVE service has been agreed to in the relevant valid version and supplement the DKV General Terms and Conditions and any other relevant Special Terms and Conditions and/or DKV guidelines in force at that time.
- 1.3. In the event of contradictions between contractual documents, the following order of precedence shall apply:
  - Order form
  - Special Terms and Conditions incl. its annexes and the service description
  - General Terms and Conditions of DKVIndividual agreements take precedence over more general regulations, and newer documents take precedence over older documents. Conflicting or deviating terms and conditions of the customer are not binding, even if DKV performs services without expressly objecting to such terms and conditions of the customer.

### 2. AMENDMENTS TO THE SPECIAL TERMS AND CONDITIONS

- 2.1. DKV is entitled to amend the contract for DKV LIVE at any time with effect for the future by incorporating amended Special Terms and Conditions, including an amended service description and/or online price list.
- 2.2. DKV shall notify the Customer in writing of any major changes and/or extensions without having to send or otherwise notify the Customer of the amended provisions in detail or the new version of these provisions. It is sufficient to notify the Customer that an amendment has been made, also in electronic form. The current Special Terms and Conditions, including the service description, are freely accessible on the DKV website (currently at <https://www.dkv-mobility.com/de/richtlinien/>); the currently valid online price list is available on the DKV website under the product DKV LIVE. If retrieval is not possible, DKV will send the Customer the relevant provisions free of charge electronically (e.g. by email) or in paper form (e.g. by post) on request.
- 2.3. The Customer may object to amendments to the disadvantage of the Customer within four (4) weeks after receipt of the amendment notification. Should the Customer not make use of their right to object, this shall be deemed to be consent to the notified amendment. DKV will make separate reference to the right to object and the consequences of a failure to object together with the amendment notification. If the Customer makes use of the right to object within the four (4) week deadline, the amendments shall not become effective, but DKV shall then be entitled to partially terminate the agreement regarding DKV LIVE, subject to a notice period of two (2) weeks; the general customer contract between DKV and the Customer shall remain unaffected by the partial termination of the DKV LIVE service. The right to object does not apply to minor amendments and/or extensions or amendments/extensions in favour of the Customer.
- 2.4. Significant amendments to the disadvantage of the Customer shall become effective at the end of the four (4) weeks specified in Section 2.3, unless a later amendment date has been expressly notified. Minor amendments and/or extensions as well as amendments/extensions in favour of the Customer may be implemented immediately; no notification will be issued (see Section 2.2.above).

### 3. OVERVIEW OF "DKV-LIVE" SERVICES / CONDITIONS OF USE

- 3.1. DKV LIVE is a Software-as-a-Service solution for the intelligent management and coordination of vehicle and logistics fleets, which consists of various service packages. The object of DKV LIVE's service is in particular the provision of hardware (DKV LIVE Box) and the provision of DKV LIVE services for use by the Customer against payment.

The service packages that can be booked individually are described in detail in the DKV LIVE service description (see <https://www.dkv-mobility.com/de/richtlinien/>).



- 3.2. The DKV LIVE service can currently only be ordered by customers with registered office in the countries listed in Section 3 of the service description; the same applies to the availability of the respective services.
- 3.3. Insofar as DKV also handles, stores and verifies compliance with driving and rest times in accordance with the Tachograph Regulation for the Customer, it is a prerequisite for the performance of this service that the Customer provides DKV with the respective company card for the electronic tachograph. Without the company card, it is not possible to read the (driver) data from the tachograph, which means that DKV cannot provide the corresponding service without the card. The company cards are held in safekeeping at DKV and are used only for the purpose of contractual performance of services.
- 3.4. Insofar as DKV involves cooperation partners for the provision of DKV LIVE services, to whom DKV transfers information for the purpose of providing the service, DKV will expressly inform the customer of this in the service description, if legally required.
- 3.5. DKV is only liable for information and services provided by cooperation partners if the customer does not maintain a separate, relevant, independent contractual relationship with the cooperation partner and DKV has not explicitly excluded liability within the legal framework.

#### **4. CONCLUSION OF CONTRACT, DURATION OF CONTRACT**

- 4.1. The contract for DKV LIVE basic services comes into effect upon receipt of the first DKV LIVE Box by the Customer, at the latest upon use of DKV LIVE services by the Customer.
- 4.2. The contract for the basic service runs for an indefinite period of time. The minimum contract term per DKV LIVE Box is agreed in the order form and is at least twelve (12) months. It begins at the end of the calendar month in which the hardware ordered by the customer has been dispatched to him. The contract can be cancelled by either party at the end of any calendar month after the minimum contract period has expired, without observing a period of notice.
- 4.3. Unless otherwise specified in the respective service description or the order form, the contract for the service option(s) runs for an indefinite period of time; it has a minimum contract term of one (1) month. The contract can be cancelled by either party - for the first time at the end of the minimum contract term - subject to a notice period of five (5) working days to the end of each calendar month.
- 4.4. The right of the parties to terminate the contractual relationship for good cause without notice in accordance with the provisions of the DKV General Terms and Conditions (Sections 314, 626 German Civil Code (BGB)) shall remain unaffected by the above provisions.
- 4.5. Terminations must be issued in text form (Section 126b BGB). The timeliness of the termination shall be determined by the date of receipt by the respective other party to the contract.

#### **5. REGULATION OF THE PROVISION OF HARDWARE / DKV LIVE BOXES**

DKV shall provide the Customer with the number of DKV LIVE boxes the Customer orders by way of a lease (Sections 535 ff. BGB). The following terms and conditions shall apply in addition:

- 5.1. For the minimum contract period per DKV LIVE Box, a one-off usage fee is charged in accordance with the applicable online price list. After expiry of the minimum period of use of the respective DKV LIVE Box for which a charge is made, further use of the box is possible free of charge; this does not affect the monthly service charges to be paid. During the term of the contract for DKV LIVE Services, the customer is entitled to order further DKV LIVE Boxes at any time and/or to take out of service or return DKV LIVE Boxes that are not required, taking into account the obligation to pay the fee for the aforementioned minimum period of use; any fees incurred for the return of hardware are based on the applicable online price list. When DKV LIVE boxes are shipped, the risk shall pass to the Customer as soon as DKV has handed the delivery over to the respective forwarder. Upon receipt, the Customer is obliged to inspect the external condition of the delivery (box) and the DKV LIVE Box immediately, to notify any transport damage to the forwarder, to secure any evidence and to inform DKV and the sender immediately by telephone and in writing about any damage.
- 5.2. When shipping DKV LIVE Boxes, the risk is transferred to the customer as soon as DKV has handed over the delivery to the respective carrier. The customer is obliged to inspect the external condition of the delivery (carton) and the DKV LIVE Box immediately upon receipt, to complain about any transport damage to the carrier, to secure any evidence and to inform DKV and the sender immediately by telephone and in text form (§ 126b BGB) of any damage.
- 5.3. The Customer is responsible for the installation of the DKV LIVE Box in the vehicle at their own expense; the installation must be carried out professionally. Details can be found in the respective installation and/or operating instructions for the DKV LIVE Box.
- 5.4. The Customer must treat the leased DKV LIVE Box with care and protect it from damage. The Customer is obliged to follow the maintenance, care and use instructions of the hardware provider, in particular the instructions contained in the operating manual and documentation, within the scope of what is reasonable. Markings on the leased object, especially labels, numbers or inscriptions, may not be removed, changed or made unrecognisable.



- 5.5. DKV is obliged to maintain the DKV LIVE Box in a condition suitable for contractual use for the duration of the lease (lease period) and to carry out the necessary maintenance and repair work. For this purpose, the leased DKV LIVE Box is able to be accessed remotely for remote maintenance and automatic configuration, including the implementation of firmware updates, via which DKV and/or authorised partners can carry out certain maintenance and/or repair work. The respective measures are carried out at regular maintenance intervals and when defects, malfunctions or damage occur.
- 5.6. The Customer shall inform DKV immediately of any defects, malfunctions or damage that occur.
- 5.7. The rectification of defects which impair the contractual use of the leased DKV LIVE Box to a significant extent shall be carried out by means of free rectification, repair or replacement of the DKV LIVE Box, provided the Customer has fulfilled their obligation to report defects. DKV shall be granted a reasonable period of time to rectify the defects. With the Customer's consent, DKV may replace the DKV LIVE Box or individual components of the DKV LIVE Box for the purpose of rectifying defects. The Customer will not unreasonably refuse their consent to this.
- 5.8. The Customer's rights due to defects are excluded if they make changes or have changes made to the leased DKV LIVE Box without DKV's consent, unless the Customer proves that the changes do not have an unreasonable effect on DKV's ability to analyse and rectify the defect. An exception is the Customer's right of self-remedy under Section 536a (2) BGB, provided that the defect was professionally removed and documented.
- 5.9. If the rectification of defects or a replacement delivery fails, the Customer may only terminate the contract on the grounds of failure to achieve the contractual use if DKV has been given sufficient opportunity to rectify the defect and this has finally failed. Final failure can only be assumed if it is impossible, if it is refused or unreasonably delayed by DKV, if there is reasonable doubt as to the prospects of success, or if it is unreasonable for the Customer for other reasons. The liability provisions in DKV's General Terms and Conditions shall apply to any claims for damages. The strict liability of DKV for damages for defects existing at the time the contract is concluded (Section 536a BGB) is excluded.
- 5.10. The Customer is not permitted to transfer or sublet the leased DKV LIVE Box to third parties for permanent use without the prior consent of DKV.
- 5.11. Theft, or other loss of the DKV LIVE Box must be notified to DKV immediately by email to [info@dkv-euroservice.com](mailto:info@dkv-euroservice.com) ("Loss Notification"); the notification must contain in particular the hardware number given to the Customer and/or another, unique identification feature of the DKV LIVE Box. After receipt of the Loss Notification, DKV will block the DKV LIVE Box accordingly; this will be done on the same day if the notification is received during normal business hours (Mon. to Fri., 9 a.m. to 3 p.m.), and on the following day during normal business hours if the notification is received outside normal business hours, provided that this is a working day. In the event of theft, loss, destruction, damage or any other reason for loss, the Customer shall owe DKV a device fee for each DKV LIVE Box. The device fee can be found in the currently valid online price list for DKV LIVE.
- 5.12. DKV LIVE boxes, including any software provided on original data carriers, manuals and documentation, may be returned to the DKV subsidiary, DKV Mobility LIVE GmbH, Endach 33, A-6330 Kufstein; any copies must be completely and permanently deleted. Unless otherwise agreed, the Customer shall bear the costs for the removal, packaging and return transport of the leased DKV LIVE boxes.

## 6. REGULATIONS FOR THE USE OF SOFTWARE / GRANTING OF RIGHTS OF USE

- 6.1. DKV grants the Customer a non-exclusive right to use the software, including all necessary copies, provided within the framework of DKV LIVE services (firmware for the DKV LIVE Box; Application Service Software; APP), which is limited spatially to the respective DKV LIVE Box, the Customer's respective computer workstation or smart device in the case of the APP, as well as to the duration of this contract. If DKV provides new versions, updates, upgrades or other new deliveries during the term of the contract, the above rights shall apply accordingly.
- 6.2. The use of the software for the DKV LIVE web portal is browser-supported or uses client software (user interface), which DKV can provide to the Customer on request. The Customer is responsible for installing the client software on their computer.
- 6.3. If the software is not DKV's own, DKV must ensure in its relationship with the Customer, that the rights of use required under Section 6.1 exist in each case. Any restriction of the rights of use must be disclosed to the Customer.



## **7. CARE / MAINTENANCE OF SOFTWARE, DATA BACKUP**

DKV undertakes, in accordance with the following provisions, to provide regular care and maintenance for its (application) software as required and to make regular data backups.

- 7.1.** DKV LIVE services and the software on which they are based are state-of-the-art. DKV is entitled to replace previous versions of DKV LIVE software with newly developed versions at any time, in particular if this is necessary to adapt to changed legal regulations or standards and/or to adapt to technical or scientific findings; Section 6.1 applies accordingly. If the software is a third-party software, DKV will take immediate action accordingly, where the developer of the software has provided DKV with a new development or adaptation.
- 7.2.** DKV is obliged to monitor and maintain the provided DKV LIVE services and the functionality of the storage space. DKV is obliged to rectify all errors immediately or to have them rectified by possible contracting parties, insofar as the technical equipment used belongs to DKV. An error shall be deemed to have occurred in particular if the promised functions are not available in part or in whole, or if access to DKV LIVE services is not available at the transfer point or breaks down uncontrollably. The Customer will be informed of any errors or malfunctions. The transfer point for access to DKV LIVE services is the router exit of the firewall of the respective data centre where the infrastructure is located where DKV LIVE services are hosted. DKV shall be entitled to redefine the transfer point at any time if this is necessary to enable the Customer to use the services in accordance with the contract. In this case the Customer shall establish a connection to the newly defined transfer point.
- 7.3.** DKV shall ensure adequate data protection against the loss of data in case of computer crashes or unauthorised access by third parties, in particular by back-ups, virus scanning and the installation of firewalls. The technical-organisational measures provided by DKV are described in detail in the **APPENDIX ORDER PROCESSING**, document TOM's.
- 7.4.** The Customer may download some or all of the data that DKV has stored on behalf of the Customer at any time or, upon request, receive a copy of their data from DKV. In agreement with the Customer, the data may be transmitted by handing over a data carrier or by remote data transmission.

## **8. WARRANTY**

- 8.1.** The warranty for leased storage space including the software and services provided there (Software-as-a Service or Application Service Providing) is based on the statutory regulations for material and legal defects (Sections 536 ff. BGB). DKV guarantees the availability times listed in the service description; times during which DKV carries out regular or scheduled maintenance work or repairs (maintenance windows) shall not be taken into account in the calculation of availabilities; maintenance windows are daily between 8 p.m. and 11 p.m. Strict liability is excluded for defects in the leased storage space and the services/software provided there, which were already present at the time the contract was concluded.
- 8.2.** The warranty for the DKV LIVE Box provided by DKV for a limited period of time is governed by Section 5; this Section 8 applies in addition. DKV is not responsible for the correct installation of the DKV LIVE Box by the Customer and/or a third party (e.g. specialist workshop) and does not provide any warranty; this does not include any warranty for the installation instructions provided by DKV.
- 8.3.** Stated delivery periods are subject to the correct and punctual supply of products and preliminary work, provided that DKV has concluded a congruent cover transaction with the necessary care and the incorrect or unpunctual delivery is not due to a fault on the part of DKV.
- 8.4.** With regard to the availability of mobile phone connections for data transmission, it is pointed out that the availability depends on the technical and operational possibilities of the respective mobile network operator. The service may be affected by, among other things, geographical, atmospheric or other conditions and/or circumstances over which DKV has no control. The respective mobile network operator is responsible for the respective availability.
- 8.5.** DKV shall not be responsible for the quality of the hardware and software used on the Customer's side, nor for the telecommunications, data or internet connection between the Customer's IT system and the transfer point (see Section 7.2), nor shall it assume any warranty.
- 8.6.** Within the framework of the DKV LIVE services, data, information and/or details from vehicle electronics, measuring sensors and/or the tachograph can be read out and displayed to the Customer. DKV has no control over the correctness of the data provided by the vehicle electronics, the measuring sensors and/or the tachograph and does not assume any warranty for this. Other information provided by DKV - in particular information within the context of route and arrival time planning, alarm manager for service intervals, information on necessary maintenance work, etc. - are non-binding indications, forecasts or estimated values that depend on external circumstances and/or influences (e.g. traffic volume, congestion, delays, etc.); DKV has no control over these. All details and/or information provided within the framework of DKV LIVE services are therefore non-binding; DKV does not assume any warranty for this; the same applies to details, information, designs and/or sample invoices contained in product documents.
- 8.7.** If other services to be provided by DKV are defective, the Customer shall be entitled to warranty rights in accordance with



the statutory provisions.

- 8.8.** If DKV renders services without being obliged to do so under the warranty, DKV may demand payment for these services at its usual rates. This shall apply in particular if a defect cannot be proven or if DKV is not responsible for it, e.g. in the event of a malfunction resulting from the use of unsuitable operating material (hardware, operating system, etc.), incorrect use, faulty operation or if the Customer has made changes to and/or interfered with the software or the setting parameters.

## **9. IMPORTANT NOTES / DATA PROTECTION / ORDER PROCESSING**

- 9.1.** Please note that for the purpose of providing individual DKV LIVE services, it is necessary to read out certain data and information from (electronic) tachographs. For electronic tachographs, the European Tachograph Regulation (REGULATION (EU) No. 165/2014) applies, where applicable. This stipulates that certain data - in particular geolocation data and data with a personal reference to the driver - may only be read by external devices (e.g. DKV LIVE Box) with the consent of the respective driver; the necessary consent is requested via the tachograph. If the driver does not grant their consent to access to tachograph data by external devices (e.g. DKV LIVE Box), tachograph data requiring consent cannot be accessed by the DKV LIVE Box in individual cases. In this case, individual DKV LIVE services may not be available.
- 9.2.** Please also note that - in addition to the question of the readability of driver data from the tachograph - the subsequent processing of the personal data of drivers, including the provision of such data to customers (forwarders, employers and/or other third parties) is only permitted under data protection law with the consent of the respective driver and/or other data protection law grounds, insofar as a personal reference in the sense of GDPR may result for the respective driver; this applies in particular to geolocation data.
- The respective customer, who is usually in a position to assign information from DKV LIVE to the drivers, is responsible for the permissibility of using DKV LIVE services in terms of data protection law. By commissioning DKV LIVE, the Customer assures that the processing of data required for the provision of DKV LIVE services by DKV is permitted under data protection law.**
- 9.3.** Insofar as DKV collects vehicle and/or driver data from the Customer, its affiliated sales partners or its customers via the DKV LIVE Box as part of DKV LIVE services and processes this data as part of DKV LIVE services, the parties agree that this will be done by way of order processing in the sense of Art. 28 GDPR. In this respect, DKV is obliged only to collect, process and use customer or personal data only within the scope of the services covered by the contract and in accordance with the Customer's instructions within the framework of DKV LIVE services.
- In order to specify the obligations under data protection law and the order processing associated with DKV LIVE services, the parties agree to the Order Processing Contract enclosed in the APPENDIX ORDER PROCESSING, which is an essential component of the contract.**
- 9.4.** Should DKV become aware that the processing of the Customer's data is not permitted under data protection law and/or if there are justified doubts as to the permissibility of the processing under data protection law, DKV shall be entitled to suspend the provision of services until further notice (Section 273 BGB); Section 12.2 applies accordingly.
- 9.5.** DKV also points out that the information and evaluations provided via DKV LIVE can be used to assess or monitor drivers' behaviour and driving patterns in a labour law sense. This may be classified as behaviour or performance monitoring under works constitution law. If there is a works council or comparable employee representation in the Customer's company/business, co-determination rights may therefore exist when DKV LIVE services are introduced in accordance with the applicable national law (in Germany e.g. Section 87 Paragraph 1 No. 6 of the Works Council Constitution Act (BetrVG)).



## **10. FEES, TERMS OF PAYMENT**

- 10.1.** Unless otherwise agreed, the prices for the provision of DKV LIVE services, including the DKV LIVE Box and/or software, are based on the online price list valid at the time the contract is concluded.
- 10.2.** All prices quoted are net prices excluding the applicable statutory value added tax.
- 10.3.** For deliveries outside Germany, any taxes and other charges, in particular import sales tax, withholding tax and customs duties, shall be borne by the customer. The same applies to the return of goods for which the customer is responsible, e.g. due to incorrectly ordered goods or premature termination of the contractual relationship. Unless otherwise agreed in individual cases, the termination of a free trial period shall be deemed to be a premature termination.
- 10.4.** The Customer is obliged to pay the agreed prices and fees in a timely manner. The further terms of payment are specified in the DKV GTC.

## **11. OBLIGATIONS OF THE CUSTOMER**

- 11.1.** In order to ensure the functionality and security of DKV LIVE services, the Customer may be obliged to install updates provided by DKV or the respective provider of a DKV LIVE Box immediately and to keep them up to date, unless this can be done via remote access to the DKV LIVE Box (see Section 5.5) ; the Customer must ensure that their drivers also install any necessary updates as required.
- 11.2.** The Customer is responsible,
- for ensuring that all their facilities, including the facilities of the users or drivers of the service, are suitable for this service and are sufficiently protected against threats and against data access by third parties, such as viruses, worms and Trojan horses, using virus scanners, firewalls, etc. ("malware protection" according to the accepted state-of-the-art);
  - for ensuring that the data they transmit is encrypted, e.g. using SSL or TLS encryption (including https), VPN etc.;
  - for using equipment and terminal devices in accordance with the operating instructions of the respective manufacturer;
  - for secure passwords (password length; use of special characters);
- 11.3.** If the Customer is assigned access codes (passwords, login data, etc.) in the course of providing and/or registering for a service, these must be treated as strictly confidential by the Customer; preset passwords must be replaced immediately by the Customer's own secure passwords. DKV must be notified immediately of the loss or disclosure of an access code to third parties. DKV will then block the use of the access code. Until the access code is blocked, the Customer shall be liable for payment for all services obtained or performed using their access code, as well as for all consequential damage incurred by DKV, its contractual partners or other users, insofar as the Customer is responsible for the loss/disclosure to a third party or unauthorised use. The Customer shall oblige his employees or other users accordingly.
- 11.4.** The Customer grants DKV the right to duplicate the data to be stored for the Customer, insofar as this is necessary for the provision of the services owed under this contract. This right includes, for example, the storage of data in an emergency data centre. In order to eliminate faults, DKV shall also be entitled to make changes to the structure of the data or the data format.

## **12. RIGHT TO REFUSE PERFORMANCE / SUSPENSION**

- 12.1.** DKV reserves the right to suspend and/or restrict its services without notice and/or compliance with a waiting period if
- the Customer has given cause for termination for good cause, or
  - the Customer violates the duties and obligations specified in Section 11 and, if a warning is necessary in individual cases, the Customer does not immediately cease or reverse the conduct in violation of the contract despite a warning, or
  - the Customer misuses the services to interfere with safety equipment of DKV or third parties, or
  - a data protection consent required for driver assessment and/or forwarding of the assessment is invalid and/or has been revoked by the driver.
- 12.2.** Suspension is to be limited, if technically possible and reasonable. The Customer or user is to be informed immediately of the suspension, stating the reasons, and requested to remedy the respective breach of duty immediately or to explain and, if necessary, prove the legality of their conduct. If there is sufficient evidence that no breach of duty has occurred or that the breach of duty has been remedied, the suspension will be lifted immediately.
- 12.3.** The suspension is carried out using the Customer's registration or LOGIN data in pursuit of justified interests in accordance with Art. 6(1) letter f GDPR.



### **13. FINAL PROVISIONS**

- 13.1.** Agreements between the parties on the choice of law and place of jurisdiction remain unaffected.
- 13.2.** These DKV LIVE Special Terms and Conditions, in German, shall also apply to business relations with foreign customers. Any translation of these special Terms and Conditions into the Customer's language or English, which is made available to foreign customers, is intended to help them understand the terms and conditions. In the event of a dispute over interpretation, the German text always takes precedence.

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## DKV LIVE

### APPENDIX ORDER PROCESSING (ART. 28 GDPR)

In order to clarify the obligations under data protection law and the order processing associated with DKV LIVE services, the parties agree, in accordance with Section 9.3 of the DKV LIVE Special Terms and Conditions, the following order processing contract pursuant to Article 28 GDPR

#### 1. OBJECT AND DURATION OF THE AGREEMENT

##### 1.1. Object of the agreement

This agreement clarifies the obligations of the parties to the contract with regard to data protection in relation to the provision of DKV LIVE services by DKV (hereinafter "Contractor") to customers (hereinafter "Client").

In connection with the provision of DKV LIVE services, the Contractor processes personal data on behalf of the Client (commissioned data processing within the meaning of Art. 28 GDPR).

##### 1.2. Duration of the agreement

The duration of the order processing depends on the duration of the contract for the provision of DKV LIVE services.

#### 2. SCOPE, PURPOSE AND DATA

##### 2.1. Scope, nature and purpose of data collection, processing or use:

Provision of DKV LIVE services.

In this context, it cannot be excluded that the Contractor may have access to personal data processed by the Client.

##### Nature of the data:

- Data according to the European Tachograph Regulation including driver data
- Geodata / Geolocation
- Vehicle data (telemetry data, measuring sensors etc.)
- Planning and control data

##### Group of data subjects:

- Client, employees of the Client
- Customers of the Client and employees of customers of the Client

The Contractor may not process or use the data provided for processing for other purposes.

##### 2.2. The Client alone is responsible for assessing the permissibility of data processing / collection / use and for safeguarding the rights of the data subjects.

#### 3. TECHNICAL AND ORGANISATIONAL MEASURES

##### 3.1. The Contractor shall observe the principles of proper data processing. They guarantee the contractually agreed and legally required data security measures.

##### 3.2. The technical and organisational measures described in Annex 2 (Art. 32 GDPR) are defined as binding. The technical and organisational measures can be adapted to technical and organisational developments in the course of the contractual relationship. Significant changes must be agreed in writing. Decisions concerning the organisation of data processing and the procedures applied, which are important for security, must be agreed with the Client.

#### 4. RIGHTS OF DATA SUBJECTS

##### 4.1. The Contractor shall rectify, erase and restrict personal data and shall support the Client in their duties of information, disclosure, data transferability and objection if the Client so requests in an instruction. Corresponding inquiries from data subjects or third parties must be forwarded to the Client. For the sake of clarity, this does not apply in cases of legal defence and towards public authorities, insofar as the Contractor is obliged to provide information.





## **5. OBLIGATIONS OF THE CONTRACTOR**

- 5.1.** The Contractor processes personal data exclusively within the framework of the concluded agreements and according to the instructions of the Client.
- 5.2.** The Contractor's data protection officer is named on the DKV website.
- 5.3.** The Contractor undertakes to maintain data secrecy when processing the Client's data. The Contractor undertakes to oblige the staff employed in the performance of the work to maintain data secrecy in accordance with Art. 29 GDPR. The Contractor confirms that they are aware of the relevant data protection regulations and monitors compliance with them.
- 5.4.** The Contractor regularly checks the obligation to maintain data secrecy and compliance with the technical and organisational measures.
- 5.5.** If the Contractor is of the opinion that an instruction of the Client violates a regulation, they must inform the Client of this immediately.
- 5.6.** They shall support the Client in the fulfilment of their obligations under Art. 35 and 36 GDPR.

## **6. SUBCONTRACTORS**

The commissioning of subcontractors to carry out the contractually agreed services is only permitted if the following conditions are met:

- 6.1.** The Contractor must contractually ensure that the provisions of this agreement also apply accordingly in relation to subcontractors.
- 6.2.** The Contractor currently uses the subcontractors listed in Annex 2. The Contractor shall inform the Client of any changes regarding the involvement or replacement of subcontractors in text form (Section 126b German Civil Code (BGB)), which gives the Client the opportunity to object to such changes. An objection can only be made for good cause; in particular, due to violation of contractual or legal obligations and regulations by the respective subcontractor.
- 6.3.** The forwarding of data to a subcontractor is only permitted once the obligations under Art. 28 GDPR have been fulfilled.
- 6.4.** Subcontracting relationships within the meaning of this provision do not include services which the Contractor obtains from third parties as an ancillary service to support the execution of the order. These include, for example, telecommunications services, cleaning staff, auditors or the disposal of data carriers.

## **7. RIGHT OF CONTROL**

The Client is entitled to inspect the technical and organisational measures taken by the Contractor (see Appendix 2) prior to the start of data processing and thereafter regularly.

- 7.1.** The Contractor shall provide the necessary information.
- 7.2.** The Client may, after giving three (3) working days' notice, carry out inspections and checks during normal business hours. They may also have this check carried out by a third party. The Contractor undertakes to cooperate in these checks to the necessary extent.
- 7.3.** Within the scope of this check, the Client may inspect business documents as well as their stored data and the data processing programs.



## **8. REPORTING TO THE CLIENT**

**8.1.** The Contractor shall inform the Client without delay, about:

- suspicions of breaches of data confidentiality,
- violations of data protection regulations by the Contractor or the persons they employ,
- specifications made in the order, or
- the unrecoverable loss or corruption of data.

**8.2.** The Contractor shall take the measures necessary to secure the data and to mitigate any adverse consequences for data subjects. The Contractor will support the Client with the fulfilment of their information obligations under Art. 33 and Art. 34 GDPR.

## **9. POWERS OF INSTRUCTION**

**9.1.** The Client has the right to issue instructions concerning data processing, especially those mentioned under 4 as well as the return of data. If instructions change, cancel or supplement the provisions of this contract, they are only permissible if a corresponding new provision is made.

**9.2.** Oral instructions must be confirmed in writing without delay. The instruction to delete data permanently (including all backups) remains reserved to the Client until the end of the contract. The Contractor may not store the data for longer than the Client has specified in writing (exclusion of storage obligations, e.g. according to the German Commercial Code).

**9.3.** In the event of a change or a long-term absence of the contact person, the contract partner must be informed immediately in writing of the representative or successor.

## **10. ERASURE AT THE END OF THE CONTRACT**

**10.1.** After completion of the contractual work, the Contractor shall hand over to the Client all documents that have come into their possession and all processing or usage results (data and data carriers) that are connected with the contractual relationship or erase/destroy them in accordance with Section 10.2.

**10.2.** All data and additionally acquired personal data/documents of the Client in systems of the Contractor that are no longer required shall be erased or destroyed.

## **11. MISCELLANEOUS**

**11.1.** The Client may terminate the agreement at any time without notice if there is a serious breach of the provisions of this agreement by the Contractor, if the Contractor is unable or unwilling to carry out an instruction given by the Client in accordance with the law, or if the Contractor refuses access to the Client in breach of the agreement. In this case the Client is also entitled to terminate the main contract without notice.

**11.2.** Ancillary agreements must be made in writing.

**11.3.** Should individual parts of this agreement be invalid, this shall not affect the validity of the remaining parts of the agreement.

**11.4.** The Client and the Contractor are obliged to treat all knowledge of business secrets and data security measures of the other party obtained within the scope of the contractual relationship as confidential.

**11.5.** The Contractor shall be liable to the Client for any damage culpably caused by the Contractor, its employees or those commissioned by the Contractor with the execution of the contract during the performance of the contractual service. The Client shall be liable to the data subject for compensation for any damage suffered by a data subject due to unlawful or incorrect data processing within the framework of the contractual relationship in accordance with the GDPR or other data protection regulations; the Client reserves the right to recourse to the Contractor.

**11.6.** The processing and use of the data shall take place exclusively within the territory of the Federal Republic of Germany, in a member state of the European Union or in another state that is a party to the Agreement on the European Economic Area.

**11.7.** The processing of data in private homes by employees working from home is only permitted if an appropriate protection concept in accordance with Art. 32 GDPR is in place. This includes in particular using software and hardware provided by the Contractor and a protected connection to the company network via VPN or another suitable technology, as well as ensuring that personal data is protected from access by third parties. The confidentiality of the processing must also be ensured by appropriate premises.

**11.8.** If the property of the Client at the Contractor's premises is endangered by measures of third parties (such as seizure or attachment), by insolvency or settlement proceedings or by other events, the Contractor shall notify the Client immediately.

**11.9.** The objection of the right of retention within the meaning of Section 273 BGB is excluded with regard to the processed data and the associated data carriers.



The following annexes are part of the agreement:

Annex 1            Technical/organisational measures within the DKV Mobility Group

Annex 2            Subcontractors



**ANNEX 1 TO THE APPENDIX CONTRACT PROCESSING**  
**- Technical/organisational measures**  
**within the DKV Mobility Service Group -**

The currently valid version can be viewed under the following link:

<https://www.dkv-mobility.com/en/guidelines/>



## **ANNEX 2 TO THE APPENDIX CONTRACT PROCESSING**

### **- SUBCONTRACTORS -**

The subcontractors listed herein are in use by the Contractor. These subcontractors are deemed to be approved for the purposes of this Agreement.

- DKV Mobility LIVE GmbH, Endach 33, A-6330 Kufstein, Österreich (Telematics and IT-services)
- Eberl Int. Spedition GmbH & Co. KG, Gewerbestraße 1, 833654 Aiging/Nussdorf (Hardwarelogistics)