

Data processing agreement

between

the **client**

and

Schein Orthopädie Service KG, Hildegardstrasse 5, 42897
Remscheid, Germany as the processor (hereinafter referred to as
the '**contractor**')

Preamble

The client wishes to commission the contractor to provide the services specified in Section 3 below. Execution of this contract involves the processing of personal data. In particular, article 28 of the GDPR sets out certain requirements for processing on behalf of the controller. In order to comply with these requirements, the contractual parties hereby conclude the following agreement, the fulfilment of which shall not be separately remunerated unless expressly agreed otherwise.

Section 1 – Definition of terms

(1) As per article 4(7) of the GDPR, the 'controller' is the body which, alone or jointly with other controllers, determines the purposes and means of the processing of personal data.

(2) As per article 4(8) of the GDPR, the 'processor' is a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

(3) As per article 4(1) of the GDPR, 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

(4) Especially sensitive personal data includes any information under article 9 of the GDPR that reveals the racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership of the data subject as well as any information under article 10 of the GDPR concerning criminal convictions and offences or related security measures, genetic information under article 4(13) of the GDPR, biometric information under article 4(14) of the GDPR, health information under article 4(15) of the GDPR and any information concerning a natural person's sex life or sexual orientation.

(5) As per article 4(2) of the GDPR, 'processing' means any operation or set of operations which is performed on personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

(6) As per article 4(21) of the GDPR, a 'supervisory authority' is an independent public authority established by an EU member state pursuant to article 51 of the GDPR.

Section 2 – Details of the responsible data protection supervision authority

(1) The responsible supervisory authority for the contractor is the State Data Protection Commissioner for North Rhine-Westphalia, Kavalleriestrasse 2–4, 40213 Düsseldorf, Germany.

(2) The client and the contractor and any representatives shall collaborate with the supervisory authority on request so that it is able to perform its duties.

Section 3 – Subject of contract

(1) The contractor shall provide services to the client in the areas of orthopaedic insole blanks orthopaedic accessories, special shoes, comfort shoes, therapeutic shoes, raw materials, general supplies, standard and customised orthopaedic uppers and measuring systems as well as tools, equipment and machinery for orthopaedic workshops in an ongoing business relationship. In this context, the contractor receives access to personal data and processes this exclusively on behalf and under the instruction of the client. The scope and purpose of data processing by the contractor are based on the description of services for each specific assignment. The client is responsible for assessing the legitimacy of data processing.

(2) The parties have concluded the present agreement in order to clarify their respective rights and obligations under data protection law.

(3) The terms of this agreement shall apply to all activities related to the business relationship where the contractor and its employees or authorised agents come into contact with personal data originating from the client or collected on behalf of the client.

(4) The duration of this agreement is based on the duration of the business relationship, provided that the following terms do not result in additional obligations or rights of termination.

Section 4 – Authority to issue instructions

(1) The contractor may only collect, process or use data within the context of processing each specific order and in accordance with the client's instructions; this applies in particular with respect to the transmission of personal data to a third country or international organisation. If the contractor is required to carry out additional data processing by the law of the European Union or the EU member state to which it is subject, it must inform the client of these legal requirements prior to processing.

(2) The instructions of the client are initially determined by this agreement and may then be changed, supplemented or replaced by individual instructions from the client in writing or in text form (individual instruction). The client is entitled to issue appropriate instructions at any time. This includes instructions concerning the rectification, deletion and blocking of data.

(3) All instructions that are issued must be documented by both the client and the contractor. Instructions that go beyond the agreed scope of service shall be treated as a service change request.

(4) If the contractor is of the opinion that an instruction of the client violates data protection regulations, the contractor must inform the client promptly. The contractor is entitled to suspend execution of the relevant instruction until it has been confirmed or modified by the client.

The contractor may refuse to carry out any instructions that are obviously unlawful.

Section 5 – Type of processed data and data subject groups

(1) While carrying out a specific order, the contractor receives access to personal master data, communication data, contract master data, customer histories and information about contract billing and payments.

(2) The data subjects with respect to such data processing are customers, employees, suppliers and contact persons.

Section 6 – Safeguarding measures by the contractor

(1) The contractor is required to observe the statutory provisions on data protection and may not share information obtained from the client with third parties or prevent the client from accessing this information. Documents and data must be protected against access by unauthorised persons, taking into account the state of the art.

(2) Within the area of the contractor's responsibility, in-house organisation must be designed in a way that meets the particular requirements of data protection. The contractor shall take all the necessary technical and organisational measures to ensure adequate protection of the client's data in accordance with article 32 of the GDPR. The contractor has the right to adapt the security measures taken where care is taken to ensure that the contractually agreed level of protection is not compromised.

(3) The operational data protection officer employed by the contractor is: Julia Tabel, IT-2work GmbH, Marktplatz 18, 40764 Langenfeld, Germany, email: kontakt@it-2work.de, Phone: +49 (0)2173 8556 730. The contractor shall publish the contact details of the data protection officer on its website and inform the supervisory authority. On request, the contractor shall provide evidence of publication and notification to the client in a suitable manner.

(4) Individuals employed by the contractor to process data are prohibited from collecting, processing or using any personal data without authorisation. The contractor shall require all individuals entrusted with the management and fulfilment of this agreement (hereinafter 'employees') to commit themselves to confidentiality (obligation to maintain confidentiality: article 28(3) of the GDPR) and to demonstrate due diligence in ensuring compliance with this obligation. These requirements must be worded in such a way that are applicable even after the termination of this agreement or the employment relationship between the employee and the contractor. On request, proof of these obligations must be provided to the client in a suitable manner.

Section 7 – Information obligations of the contractor

(1) In the event of faults, suspected data protection breaches or violations of contractual obligations by the contractor, suspected security-related incidents or other irregularities in the processing of personal data by the contractor, individuals employed by the contractor in the context of the relevant order or by third parties, the contractor shall the client promptly in writing or in text form. The same shall apply to inspections of the contractor carried out by the data protection supervisory authority.

(2) The contractor shall immediately take the necessary action to secure data and to mitigate any possible adverse consequences for data subjects, informing the client accordingly and seeking further instructions.

(3) Furthermore, the contractor is required to provide the client with information at all times if data of the client is affected by an infringement according to Section 7.1 above.

(4) If data of the client is put at risk due to seizure or detention of goods, insolvency proceedings, settlement proceedings or any other events or action by third parties, the contractor must inform the client in a timely manner unless prohibited from doing so by a judicial or regulatory order. In this context, the contractor shall promptly inform all the responsible bodies that ultimate decision-making authority concerning the data is exclusively reserved for the client as the controller, as defined by the GDPR.

(5) The contractor must inform the client of any significant changes to the security measures in accordance with Section 6.2 above.

(6) The client must be informed if a new person takes on the role of operational data protection officer or data protection contact person.

(7) The contractor and any agents must maintain a record of all categories of processing activities carried out on behalf of the client, including all of the details set out in article 30(2) of the GDPR. This directory must be made available to the client upon request.

(8) The contractor must contribute to a reasonable extent if the client puts together a record of processes. The contractor must provide the required information to the client in a suitable manner.

Section 8 – Monitoring rights of the client

(1) The client shall be fully satisfied by the technical and organisational measures put in place by the contractor both before data processing commences and then at regular intervals. To this end, the client may, for example, obtain information from the contractor, ask to inspect existing reports by experts as well as certification or internal audits, or personally check the technical and organisational measures put in place by the contractor after timely notice and during normal business hours, or to have these checked by an expert third party on the provision that any such party is not in competition with the contractor. The client will carry out checks only to the extent necessary and will not disproportionately disturb the contractor's business operations.

(2) Upon verbal or written request by the client, the contractor undertakes to provide within a reasonable period of time all the information and evidence necessary to carry out a check of the technical and organisational measures put in place by the contractor.

(3) The client shall document the results of the inspection and share these with the contractor. In the event of errors or irregularities identified by the client, in particular when examining data processing results, the contractor shall be informed without delay. If circumstances are identified during the inspection that call for changes to the arranged procedure in order to prevent future occurrence, the client shall immediately notify the contractor of the necessary procedural changes.

(4) Upon request, the contractor shall provide the client with a comprehensive and up-to-date data protection and security concept for data processing on behalf of the client and for authorised persons.

(5) Upon request, the contractor shall also prove to the client the obligations of employees in accordance with Section 6.4 above.

Section 9 – Use of subcontractors

(1) Within the framework of its contractual obligations, the contractor is authorised to establish additional subcontracting relationships with subcontractors ('subcontractor relationships'). The contractor shall inform the client immediately in such cases. The contractor is required to select subcontractors with care in terms of their suitability and reliability. The contractor is required to impose obligations on subcontractors in accordance with the terms of this agreement and to ensure that the client is also able to exercise its rights under the present agreement (in particular inspection and monitoring rights) in a direct relationship with subcontractors. If the intention is to engage subcontractors in a third country, the contractor must ensure that the respective subcontractor is able to guarantee an adequate level of data protection (e.g. by drawing up an agreement based on standard data protection clauses in the EU). The contractor shall prove to the client on request that agreements of the kind described above have been made with its subcontractors.

(2) A subcontractor relationship within the meaning of these terms does not exist if the contractor entrusts third parties with services that are to be regarded as purely ancillary services. These include post, transport and shipping services, cleaning services, telecommunications services that have no specific connection to services provided by the contractor on behalf of the client and security services. Maintenance and testing services represent subcontractor relationships that are subject to approval insofar as these are provided for IT systems that are also used in connection with the performance of services on behalf of the client.

Section 10 – Enquires by and rights of the data subject

(1) The contractor shall support the client where possible in the fulfilment of obligations under articles 12–22, 32 and 36 of the GDPR with suitable technical and organisational measures.

(2) If a data subject asserts rights directly to the contractor, for instance seeking information, rectification or deletion of personal data, the contractor shall not respond independently but refer the data subject to the client without delay and await further instruction from the client.

Section 11 – Liability

(1) In the relationship between the contractual parties and within the scope of data processing on behalf of the client, the client alone is responsible to the data subject for compensation for damages suffered by the data subject as a result of data processing or use that is unlawful or incorrect according to data protection laws.

(2) In each case, a party shall be exempt from liability if it proves that it is in no way responsible for the circumstances that caused the data subject to suffer damages.

Section 12 – Right to extraordinary termination

(1) The client may terminate the cooperation in whole or in part without notice if the contractor fails to fulfil its obligations under this contract, if it violates provisions of the GDPR through intent or gross negligence, or if it cannot or does not intend to carry out an instruction issued by the client. For simple infringements – those that are neither intentional nor grossly negligent –

the client shall set a reasonable deadline for the contractor to stop the infringement.

Section 13 – Ending the collaboration

(1) Following termination of the cooperation, or at any time at the request of the client, the contractor shall return all documents, data and data carriers entrusted by the client, or delete any such data at the request of the client, unless there is a requirement to store personal data under EU or German law. This also applies to any data backups held by the contractor. The contractor must retain documentary evidence that any data still present has been correctly deleted.

(2) The client has the right to check that the contractor has returned or deleted data in full and as required by contract in a suitable manner.

(3) The contractor is required to treat as confidential any information that became known as a result of the business relationship, even after the collaboration has come to an end. The present agreement shall remain valid after the end of the collaboration as long as the contractor is in possession of personal data provided by the client or collected by the contractor on behalf of the client.

Section 14 – Final provisions

(1) Changes or additions to this agreement must be made in writing. This also applies to a waiver of the requirement for written form. The precedence of individual contractual agreements shall remain unaffected.

(2) If individual terms of this agreement be or become legally ineffective or unenforceable either in full or in part, this shall not affect the validity of the remaining terms.

(3) This agreement is subject to the law of the Federal Republic of Germany. The sole place of jurisdiction is Remscheid.