

# ALLPLAN Terms of Use and End User License Agreement

Updated in October 2024

The contract concluded under these ALLPLAN Terms of Use (“Terms of Use”) is a legally valid contract between you as the user (“User”) and ALLPLAN GmbH or, if specified in the order, a company affiliated with ALLPLAN GmbH (“Licensor”).

The contract between User and Licensor is concluded by accepting these Terms of Use during the registration process and/or by downloading, installing, reproducing or otherwise using the software provided by Licensor.

It governs the use of the software, the associated media and the internet-based services by the User. Licensor under these Terms of Use is ALLPLAN GmbH if a product is licensed under the brand Allplan, FRILO or DC-Software. Licensor under these Terms of Use is Design Data Corp. if a product is licensed under the brand SDS2, SCIA NV if a product is licensed under the brand SCIA.

The use of the software without the conclusion of a contract under these Terms of Use constitutes a copyright infringement.

## 1 General

**1.1** ALLPLAN GmbH or, if specified in the order, a company affiliated with ALLPLAN GmbH (“ALLPLAN” or “Licensor”) provides the agreed software and the associated digital user manual (together “Software”) to the customer subject to the following Terms of Use. The term customer also includes the User within the meaning of the preliminary remarks to these Terms of Use (User and customer together “Customer”).

**1.2** Licensor 's offer and these Terms of Use are not addressed to consumers, but exclusively to companies.

**1.3** These Terms of Use apply from the release of the following Software onwards: Allplan Version 2025, FRILO and DC-Software 2025 and SCIA Version 25 (release in November 2024 at the latest).

**1.4** Deviating, conflicting or supplementary general terms and conditions of the Customer shall only become part of the contract if and insofar as Licensor has expressly agreed to their validity in writing. This requirement of consent also applies if Licensor provides the services without reservation in the knowledge of the Customer's general terms and conditions.

**1.5** If a User accesses the Software on behalf of a company, other natural person or legal entity, the User agrees to these Terms of Use on behalf of that company, legal entity or other natural person, and the User warrants that it is authorized to act on behalf of that company, legal entity or other natural person and to bind that company, legal entity or other natural person to this license agreement.

**1.6** In order to use Software and Services, it is necessary to create a user account.

## 2 Amendments to these Terms of Use

Licensor reserves the right to amend these Terms of Use with effect for the future, if there is an urgent reason to do so and only insofar as this is reasonable in the individual case, taking into account the interests of the Customer. An urgent reason exists in particular, if the Services have to be adapted for technical reasons. Licensor will inform the Customer of any amendments and make the amended terms and conditions available to the Customer within a reasonable period of time before the amendments take effect. The Customer is entitled to terminate the contract under these Terms of Use before the amendments take effect. By using or continuing to use the Software after an amendment, the Customer declares its consent to the amendments and acceptance of the amended terms of use.

### **3 Delivery**

- 3.1** Unless otherwise agreed, the Software will be made available to the Customer as a download via the internet. The Licensor will not release any source codes to the Customer.
- 3.2** The Licensor is entitled to make partial deliveries if this is reasonable for the Customer.
- 3.3** The risk of accidental destruction, loss or alteration of the Software is transferred to the Customer during the download, when the Software is transferred from The Licensor's network to the public communications network.
- 3.4** Unless otherwise agreed, The Licensor's contractual obligations are limited to the provision of the Software. In particular, Licensor is not obliged to provide set-up, installation, individual adaptation and/or parameterization, consulting, training or other services.

### **4 License Terms**

#### **4.1 General License Terms**

##### **(a) Licensing and Use of the Software**

- (i) The Licensor licenses the Software under various license models. The applicable license model, the term of the license and the amount of the fee are determined at the purchase of the Software. These Terms of Use govern the rights and obligations of the Customer in relation to the respective license model.
- (ii) The Software provided is a trade secret of the Licensor. Furthermore, the Software is protected by the relevant copyright laws. Modification of the Software is only permitted insofar as this is necessary for the rectification of defects. However, this is subject to the condition that Licensor (a) is in default with the rectification of the defect, (b) refuses to rectify the defect or (c) is unable to rectify the defect. The right to decompile in accordance with Section 69e of German Copyright Act (UrhG) remains unaffected.
- (iii) After expiry of the license term, except for a Perpetual License, the Customer is obliged to cease using the Software and to delete it completely. Backup copies must also be deleted. At Licensor's request, the Customer must provide written confirmation.
- (iv) For products under the brand Allplan, license management is carried out via the ALL-PLAN Connect Portal, where Customers can see for each license whether it is a Named User License or a Floating License.

##### **(b) Restrictions of Use**

- (i) The number of licenses used by the Customer may not exceed the number of licenses purchased by the Customer, regardless of the licensing infrastructure used by the Licensor.
- (ii) Licenses must be assigned 100% to an employee of the Customer who is employed in the country in which the licenses were purchased.
- (iii) Each license is intended for use on one shift. In case of multi-shift operation, a separate license is required for each shift.

- (iv) Projects created with a free or unlawfully used license may not be used commercially. This also applies to Student Licenses and Licenses for Public Education Institutions.

(c) **Updates and Materials**

- (i) Licensor reserves the right, at its own discretion, to provide updates for the purpose of rectifying defects, insofar as these are necessary for the proper use of the Software, and upgrades, e.g. changes, extensions and improvements to the Software. The Customer shall only be entitled to receive updates and upgrades if these Terms of Use or the applicable license model expressly provide for this.
- (ii) If Licensor provides the Customer with an update to ensure the agreed use of the Software or to rectify a defect, the Customer must install the update in order to continue using the Software in accordance with these Terms of Use. Licensor is not responsible for defects and damage caused by the Customer's failure to install the update.
- (iii) Licensor may, at its own discretion, provide the Customer with the materials, for example user manual, documentation and other accompanying materials such as videos and training materials, for the Software in electronic form, whereby Licensor retains all intellectual property rights to the materials.

(d) **Reproduction and Transfer of the Software**

- (i) The Customer may only reproduce the Software within the scope of the contractually intended use. This includes installing the Software and loading it into the random-access memory (RAM). Apart from this, the Customer is not authorized to make reproductions. This also applies to the reproduction of parts of the Software and to the - complete or partial - reproduction of the user manual. The Customer has the right to make a backup copy of the Software.
- (ii) It is not permitted to remove or change copyright notices, serial numbers or other identification features of the Software.
- (iii) The Software, including user manuals, may not be rented, leased or otherwise made available to third parties for a limited period of time. In particular, it is prohibited to sublet or transfer the Software to third parties by way of Application Service Providing (ASP) or in the context of cloud computing applications.

(e) **Lifecycle Policy**

- (i) The lifecycle policy of the Licensor applies to the Software. It can be accessed at <https://www.allplan.com/product-lifecycle/>.
- (ii) According to this lifecycle policy, Licensor is entitled to stop issuing further updates or upgrades for certain Software versions or to no longer provide support services for them. Licensor will inform the Customer accordingly on the website at [Product Lifecycle \(allplan.com\)](https://www.allplan.com/product-lifecycle/), in general 365 days before this change takes effect.
- (iii) In case of a Perpetual License, the Licensor is entitled, after giving at least 365 days' notice, to cease issuing replacement licenses for certain Software.

## 4.2 Perpetual License

- (a) A Perpetual License is available as a Named User License (Section 4.5) or Floating License (Section 4.6).
- (b) The Perpetual License grants the Customer a permanent, fee-based, non-exclusive, non-sublicensable right to use the Software. However, the right of use is granted exclusively within the limits of the lifecycle policy pursuant to Section 4.1 (e).
- (c) Licensor reserves the right to charge a reasonable fee when issuing a new license.
- (d) As part of the Perpetual License, Licensor may, at its discretion, provide the Customer with generally available updates. Unless the Customer has concluded a Serviceplus Contract, the Perpetual License does not include upgrades, maintenance or support.

## 4.3 Subscription License

- (a) A Subscription License is available as a Named User License (Section 4.5) or Floating License (Section 4.6).
- (b) With a Subscription License, the Customer is granted the time-limited (rental), fee-based, non-exclusive, non-transferable and non-sublicensable right to use the Software. The Customer may only reproduce the Software to the extent that such reproduction is necessary for the contractual use of the Software.
- (c) If the Customer no longer uses a computer not only temporarily, the Customer shall delete the Software completely from the mass storage of this computer.
- (d) As part of and during the term of the Subscription License, Licensor provides the Customer with generally available updates and upgrades of the Software. Licensor continuously develops the Software and provides the Customer with the latest version of the Software. This can be done by providing a new main version (content enhancements) or by updating the current version. The intervals at which new versions or updates of the Software are provided and which functionalities and modules of the Software are retained, changed, modified, reduced or extended are at the discretion of Licensor. The rights under Section 10 (Claims for Defects) remain unaffected.
- (e) The limited term of the Subscription License is determined at the time the Software is transferred. The Subscription License shall automatically renew by the same term, unless Licensor or Customer terminates the Subscription License before the end of the then current term. During the term, ordinary termination of the Subscription License by either party is excluded.
- (f) The amount of the license fee depends on the term of the right of use. The license fee is due upon the first transfer of the Software and upon each extension of the term. The granting of the right of use is subject to the condition that the Customer pays the due license fee.
- (g) The Customer may use any available version of the Software, but not simultaneously. Licensor may, at its own discretion, limit the right of use to versions of the Software that are not older than three (3) years.

#### 4.4 Cloud License

The following applies to ALLPLAN Cloud Services (“Services”):

- (a) The Services are available exclusively as a Named User License.
- (b) The Licensor grants the Customer the non-exclusive, non-sublicensable and non-transferable, limited in time to the term of the respective contract, right to use the contractually agreed Services by means of access via a browser or via an application connected via API for the contractually agreed number of Users. No further rights are granted.
- (c) The Customer may only reproduce the Services or parts thereof insofar as this is necessary for their intended use (e.g. use of random-access memory). In particular, this does not include temporary installation, storage on data carriers of the hardware used by the Customer or printing of the program code.
- (d) Insofar as Licensor provides third party software applications for use, i.e. software applications created by third parties, the rights of use granted to the Customer are limited in scope to the rights of use granted to Licensor by the third party. Licensor is obliged to disclose to the Customer the scope of the rights of use granted to it by the third party.
- (e) The group of users for the Services is not subject to any restrictions. The Customer may use the respective Services for professional and private purposes, provided that he complies with the statutory and contractual provisions applicable to the type of use and does not abuse the Services for illegal purposes. Authorized Users pursuant to Section 4.4(j) of these Terms of Use may only use the applications within the scope of their business activities; private use is prohibited.
- (f) Unless expressly authorized to do so in writing by Licensor, the Customer is not entitled to use the Services or have them used by third parties or make them available to third parties beyond the use permitted under the respective contract and these Terms of Use. In particular, the Customer is not allowed to reproduce or sell the Services or parts thereof or to make them available to third parties for a limited or unlimited period of time, especially not to rent or lend them either commercially or free of charge. The provision of Section 4.4(j) of these Terms of Use remains unaffected.
- (g) In the event of an unauthorized transfer of use, the Customer must, upon request, immediately provide Licensor with all information required to assert claims against the third-party user, in particular the name and address of the third-party user. Infringements by the Customer will regularly result in the withdrawal of the permission of use. Licensor reserves the right to take further action under civil and criminal law. In addition, the Customer is obliged to compensate Licensor for all damages resulting from a culpable breach of the aforementioned obligations or the culpable violation of its own rights or the rights of third parties; this also includes indirect damages and financial losses. The Customer shall indemnify Licensor against all third-party claims resulting from such a breach.
- (h) The Customer must ensure that its use of the respective Service does not directly or indirectly infringe the rights of third parties.
- (i) The Customer is not entitled to grant third parties access to the Services assigned to him. The Customer is expressly prohibited from subletting. Customer is obliged to set up any contractual relationships with third parties in such a way that free use of the Services is excluded.

- (j) However, the Customer is allowed to issue invitations to third parties (such as parties involved in construction projects or contractors) via the system to use the Services themselves. These third parties shall then receive access data from the system by e-mail and may - after registering and accepting these Terms of Use - use the Services to the same extent as the Customer (“Authorized Users”).
- (k) By uploading data, Customer confirms to have the necessary rights to do so. Licensor is entitled to use the data without personal reference for the purpose of operating and improving the Services and, in particular, to process and reproduce them. This also applies to data that is stored on Licensor servers at the time these Terms of Use come into effect.

#### **4.5 Named User License**

- (a) If a license is provided without a license server or any other clear identification, it is a Named User License, unless expressly agreed otherwise.
- (b) With a Named User License, the Customer is granted the personalized right (“Named User”) to assign the Software to a specific user. The Software may only be used by this Named User and not simultaneously on different devices.
- (c) The Named User Licenses are available both as Subscription Licenses and as Perpetual Licenses under the applicable conditions.
- (d) The assignment of a license in accordance with Section 4.5(b) above may only be changed three times within 12 months. It is not allowed to assign a Named User License to a group account or a shared account.

#### **4.6 Floating License**

- (a) If a license is provided with a license server, it is a Floating License. Licenses for Software of the brands FRILO, SCIA or DC-Software are always Floating Licenses.
- (b) With a Floating License (license server), the Customer is granted the right to use the Software on any number of computers and to assign it to one or more users, provided that the number of simultaneous users never exceeds the total number of valid Floating Licenses purchased by the Customer (first-come-first-served principle).
- (c) The Customer's users may be employees or similar staff of the same legal entity, partnership or enterprise, but not of its affiliated companies within the meaning of §§ 15 et seq. of the German Stock Corporation Act (*AktG*); use by such an affiliated company requires a separate license.

#### **4.7 Student License (License for Educational Purposes)**

- (a) A License for Educational Purposes for Students or Lecturers grants the Customer a time-limited, cost-free, non-exclusive, non-transferable, non-sublicensable and personalized right (Named User) to install the Software on any number of devices and to use it. The License for Educational Purposes is only available as a Subscription License.
- (b) This right of use is restricted to a specific person: The Customer of a License for Educational Purposes for Students or Lecturers must be a person who is actively matriculated, employed or appointed as a lecturer for a certain period of time at an accredited public or private university, college or a vocational school where degrees can be obtained. The right of use is granted only to Customers whose learning or lecturing activity relates to a field for which the licensed

Software is of relevance. The License for Educational Purposes for Students or Lecturers is subject to the condition that the Customer provides proof of belonging to the group of entitled persons defined above.

- (c) The right of use is restricted in terms of content: The Customer may use the Software under the License for Educational Purposes for Students or Lecturers solely for personal learning purposes and not directly or indirectly for research, commercial, professional or other profit-generating purposes. The Customer may only use the latest version of the Software. If upgrades or updates to the Software are available, Customer must install such upgrades or updates to continue to use the Software under the License for Educational Purposes for Students or Lecturers. The License for Educational Purposes for Students or Lecturers does not include maintenance or support.
- (d) The right of use is limited in time: The License for Educational Purposes for Students or Lecturers has a limited term of twelve (12) months. If proof is provided that the Customer continues to belong to the group of entitled persons defined above, the term is extended by successive periods of twelve (12) months each, unless Licensor or the Customer terminates the License for Educational Purposes for Students or Teachers with fourteen (14) days' notice to the end of the then current term.
- (e) In deviation from Sections 10 and 11, the following applies exclusively to claims for defects and the liability of Licensor in respect of a License for Educational Purposes: The Customer acknowledges that Licensor provides the Software as a gesture of goodwill, free of charge and "as is". The Software may contain defects that may lead to program malfunctions, system failures, data loss or violations of third-party rights. The Software does not meet a certain level of user-friendliness, marketability and suitability for a specific purpose. Licensor is not obliged to provide technical maintenance and support, to rectify defects and to restore failed systems and lost data. Licensor is liable without limitation in the event of intent and gross negligence, in the event of damage to life, limb or health, in accordance with the provisions of the Product Liability Act and under a guarantee given by Licensor. In all other cases, Licensor's liability is excluded.
- (f) If Licensor suspects that the License for Educational Purposes is being used in an abusive manner or that the use of the Software violates these Terms of Use, in particular regarding personal, content, quantity and time restrictions, Licensor may deactivate the Software under the License for Educational Purposes at any time, without this precluding further action against the misuse.

#### **4.8 Licenses for Educational Purposes for Public Educational Institutions**

- (a) A License for Educational Purposes for Public Educational Institutions such as vocational schools, colleges or universities grants the Customer a time-limited, fee-based, non-exclusive, non-transferable and non-sublicensable right to install the Software on any number of devices and to use the Software. A License for Educational Purposes for Public Educational Institutions is only available as a Subscription License for teaching purposes only.
- (b) This right of use is restricted to a specific person: The user of a License for Educational Purposes for Public Educational Institutions such as vocational schools, colleges and universities must be matriculated at any of the educational institutions defined above or be an employee or independent contractor working for a qualified educational institution as defined above. The right of use is granted only to Customers whose teaching activities relate to a field for which the licensed Software is of relevance.
- (c) The right of use is limited in content: The Customer may use the Software under the license for educational purposes for vocational schools, colleges or universities exclusively for teaching

purposes and not directly or indirectly for research, commercial, professional or other profit-generating purposes. The Licensor and the Customer may deviate from this and agree by separate agreement that the Customer may use the Software not only for teaching purposes but also directly or indirectly for business and commercial purposes. The license for educational purposes for vocational schools, colleges and universities includes maintenance and support.

- (d) The right of use is limited in time: The limited term of the Subscription License is determined at the time the Software is transferred. Accordingly, the license for educational purposes for vocational schools, colleges and universities has a limited term of twelve (12) months, which is also the minimum term for this type of license. The Subscription License shall be automatically renewed for the same term, unless the Licensor or the Customer terminate the Subscription License before the end of the then current term or the Customer fails to prove, at Licensor's request, that it belongs to the group of eligible educational institutions or persons defined above until the end of the current term. During the term, ordinary termination of the Subscription License is excluded.
- (e) The amount of the license fee depends on the term of the right of use. The license fee is due upon the first transfer of the Software and upon each renewal of the term. The granting of the right of use is subject to the condition that the Customer pays the due license fee.
- (f) Section 4.7(f) shall also apply accordingly to the License for Educational Purposes for Public Educational Institutions.

#### **4.9 Trial License**

- (a) With a Trial License, the Customer is granted a temporary, royalty-free, non-exclusive, non-transferable, non-sublicensable and personalized right, by way of a Named User License, to install the Software on any number of devices and to use the Software on one (1) single device, but not on different devices at the same time. This right of use is limited in content: The Customer may use the Software for testing and evaluation purposes. Any use, either directly or indirectly, for business or commercial purposes, for training purposes or for other purposes (in particular for purposes other than testing or evaluation) is expressly prohibited. The functions and use of the Software can be restricted. The Customer may only use one (1) single Trial License of the respective Software for the period defined by Licensor. Details about this period are given on the respective Licensor's website. The Trial License has a limited term of fourteen (14) days without automatic renewal.
- (b) In deviation from Sections 10 and 11, Section 4.7(e) shall apply accordingly to a Trial License with regard to claims for defects and liability of Licensor.

#### **4.10 AI Visualizer**

- (a) **Usage Requirements and Restrictions**
  - (i) Licensor may provide the AI Visualizer in connection with the Software. However, the Customer may use the AI Visualizer exclusively in connection with a lawfully licensed version of the Software.
  - (ii) The User is prohibited from using the AI Visualizer:
    - In any way that violates any applicable law;



- For the purposes of exploiting, harming or attempting to exploit or harm minors in any way;
- To generate or spread verifiably false information and/or content;
- To generate or spread personal identifiable information that can be used to harm an individual or to defame, disparage or otherwise harass others;
- For fully automated decision making that adversely impacts an individual’s legal rights or otherwise creates or modifies a binding legal obligation;
- For any use intended or which has the effect of discrimination against or harming individuals or groups based on social behavior, known or predicted personal or personality characteristics, or any other vulnerabilities;
- To provide medical advice or medical results interpretation;
- To generate or disseminate information to be used for administration of justice, law enforcement, immigration or asylum processes (such as predicting an individual will, commit fraud/crime, for example by text profiling, drawing causal relationships between assertions made in documents).

(b) **Content**

- (i) If not set forth differently herein, Licensor claims no right in the Output (as defined below in Section 4.10(b)(ii)) generated by using the AI Visualizer. The Customer is responsible for the Output generated and its subsequent usage. The use of the Output must comply with these Terms of Use.
- (ii) The Customer can upload screenshots from the model created with the Software and additionally input prompt commands in any language to the input field of the interface (collectively “Input”), and receive output generated and returned by the AI Visualizer based on the Input (“Output”). Input and Output are collectively “Content.” To the extent permitted by applicable law, Licensor does not claim ownership to and Customer has the license/ownership rights related to all Input. Licensor (and its subcontractors) may store and use Content for development purposes of Customer’s usage patterns and activities.
- (iii) The user prompt Input provided by Customer shall not contain any personal data. It is the Customer's responsibility to ensure that the user prompt Input is free from any personal data, as no personal data is needed for Licensor and its subcontractors to provide the AI Visualizer service. Therefore, Licensor will not be liable for use and storage of personal data and business secrets in case of intentional or unintentional inclusion of personal data and or business secrets in the user prompt Input. Subject to Customer’s compliance with these Terms of Use, Licensor hereby assigns to Customer all its right, title and interest in and to Output. This means Customers can use the Content for any purpose connected to the planning process of buildings, if Customers comply with these Terms of Use. Customers are responsible for all the Content, including for ensuring that it does not violate any applicable law, any ethical standards or these Terms of Use.
- (iv) The Customer acknowledges and accepts that its user prompt Input may be used by Licensor and its subcontractors to ensure the functionality of the AI Visualizer, but also to improve the AI Visualizer and to develop new products and services. For these purposes, Licensor shall be entitled to use the prompt Input without restriction in all known and unknown forms of use and without limitation of transferability, sublicences, time,

place or manner, even after termination of the contractual relationship and free of charge.

- (v) Artificial intelligence and machine learning are rapidly evolving fields of study. Given the probabilistic nature of machine learning, the use of the AI Visualizer add-on may in some situations result in incorrect, inaccurate or unreliable output that does not accurately reflect real places or provide legally, technically or economically feasible solutions. AI can neither check the accuracy of the Customer's input. It is the Customer's responsibility and expense to evaluate and check the accuracy of any Input and Output as appropriate for the use case of the Customer, including by using human review of the Input and the Output.

(c) **Limited Warranty**

The AI Visualizer is provided as a free add-on to the licensed Software. The Licensor is entitled to stop providing the AI Visualizer at any time, either completely or temporarily. Licensor does also not provide any warranty, express or implied, regarding the sources on which the AI was trained, including their ethical and lawful nature. Furthermore, Licensor does not offer warranties for the output created by the AI using AI Visualizer add-on or service, encompassing considerations such as general quality, appearance, and content of the output, usability, compliance with applicable regulations, adherence to industry standards (e.g., structural integrity), and non-infringement of copyright, particularly if an Allplan model is generated from the output. Also, given the feedback learning algorithm of the AI Visualizer, the Licensor does not warrant that the Content created by the User will not be accessible to other Users wholly or partly. Therefore, Licensor recommends using the AI Visualizer for inspiration purposes only and does not guarantee any specific results.

(d) **Updates and Runtime Restrictions**

Licensor reserves the right to restrict (remotely or otherwise) usage of the AI Visualizer add-on in violation of these Terms of Use, update the AI Visualizer add-on through electronic means, or modify the Output of the AI Visualizer add-on based on updates.

(e) **License**

AI Visualizer contains the limited usage right to Stable Diffusion artificial intelligence software according to its applicable license terms available at <https://github.com/easydiffusion/stable-diffusion/blob/main/LICENSE-MODEL>.

#### 4.11 Terms of Use for Services and Software from Third Parties

For certain services and Software which are not licensed to the Customer by ALLPLAN or any Licensor mentioned in these Terms of Use (third party products), the license agreement of these products shall prevail. Such license agreements for third party products are brought to the Customer's attention at the conclusion of the contract. For services and Software of Bluebeam, Inc., their General Terms and Conditions of Use shall apply (available at <https://www.bluebeam.com/legal/>).

## **5 Special Terms for ALLPLAN Cloud**

For ALLPLAN Cloud ("Services"), the terms of this Section 5 shall additionally apply.

### **5.1 Scope of Services, Provision of Services**

ALLPLAN keeps the Services ready for use by the Customer on central servers. The current technical specifications of the software, hardware and network configurations required on the Customer's part as well as the supporting browsers and data formats are set out in the notes "System Requirements" which can be downloaded from <https://www.allplan.com/system/system-requirements/>. ALLPLAN is not responsible for the suitability and quality of the hardware and software required on the Customer's part, nor for the telecommunications connection between the Customer and ALLPLAN up to the transfer point. Furthermore, ALLPLAN is not obliged to provide support for the Customer's use of the Services.

### **5.2 Maintenance Work**

ALLPLAN is entitled to temporarily suspend or restrict the availability of the Services even during business hours to carry out necessary maintenance work or improvements to the Services. ALLPLAN will notify the Customer of the start and duration of the maintenance work as far as possible in a timely manner via the e-mail address provided by the Customer. The business hours are all working days Monday through Friday - except for public holidays at the headquarter of ALLPLAN - from 9:00 a.m. to 5:00 p.m. CET/CEST.

### **5.3 Return of Project Data**

Customers remain exclusive owners and retain the power of disposal concerning all data entered and transmitted by Customers or their employees ("Project Data"). Thus, Customers may demand return of some or all of their Project Data at any time. The right to receive the Project Data expires six (6) weeks after the end of the contract. Customers' Project Data will be deleted six (6) weeks after the end of the contract.

### **5.4 Monitoring Rights**

The Customer grants ALLPLAN the right to read and review the user data transmitted by the Customer if Customer questions via the hotline of ALLPLAN have to be answered or if ALLPLAN has good reasons to assume that the entire or a part of the data is linked to illegal actions. Furthermore, the Customer grants ALLPLAN the right to access all Customer data stored on the Services used by the Customer, if and to the extent that this is necessary for administration of the Services.

### **5.5 Blocking**

Access to the Services may be blocked if (a) the Customer's actions pose a threat to ALLPLAN's facilities or public safety, or if (b) the Customer uses the Services for illegal purposes (e.g. storage of copyright infringing content) or if (c) the Customer otherwise gives cause for termination of the contract without notice.

## 6 Special Terms for Maintenance and Support

### 6.1 Scope

For Customers with a Serviceplus Contract or a Subscription License, ALLPLAN provides the following maintenance and support services:

#### (a) Assistance (Technical Support)

ALLPLAN's technical support assists Customers with individual questions regarding the use of the purchased Software, both by telephone and by e-mail or, if necessary, in writing. Technical support is available Monday through Friday from 8:00 a.m. to 6:00 p.m. and on non-federal holidays in Germany from 9:00 a.m. to 4:00 p.m. (CET/CEST). Technical support is not provided on Saturdays, Sundays or national holidays (at the headquarter of ALLPLAN). The assistance provided by technical support is limited to the answering of individual questions. General explanations of how the Software works or training on individual program sequences are not part of technical support but may be the subject of ALLPLAN Connect or ALLPLAN LEARN NOW or may be ordered separately.

#### (b) Access to and Use of ALLPLAN Connect

After registration, the Customer will receive access to the ALLPLAN Connect service portal and can use the services provided there (e.g. access to user forums, downloading CAD objects, e-learning, online library, FAQ database).

#### (c) Trainings / Jour Fixe Events

The Customer may participate in training sessions and jour fixe events organized by ALLPLAN at special rates or free of charge. It is at the sole discretion of ALLPLAN to decide at what intervals training sessions and jour fixe events will be offered.

### 6.2 Excluded Services

(a) The following services are not included in the Allplan maintenance and support services and will therefore be agreed and charged separately:

- Technical service at the Customer's site
- Support with installation of the Software, updates and upgrades (except for faults in the Allplan-Installer)
- Training (special conditions are offered to Serviceplus and Subscription customers)
- Consulting services beyond assistance.

(b) Technical support does not include:

- Administration of the computer system (hardware and operating system),
- Support in converting old data versions into new data versions,
- Support in converting data from third party formats into Software-compatible formats,
- answering not Software related technical questions,

- Hardware support,
- Support for third party software, even if a connection to the Allplan Software has been created via interfaces.

**6.3** Services provided by ALLPLAN that are not expressly mentioned in this Section 6 are voluntary services, to which there is no legal claim for the future, even if they are provided repeatedly. ALLPLAN is entitled at any time to discontinue voluntary services with a notice period of four (4) weeks.

## **7 Obligation to Cooperate**

**7.1** Insofar as necessary for the provision of services by ALLPLAN, Customers shall grant ALLPLAN upon request, directly or by remote data transmission, access to hardware and computer programs on which the Software is installed. Insofar as necessary for the performance of the contractual services, Customers shall name a person in charge to ALLPLAN who has decision-making powers, access rights to the computer system and powers of attorney necessary for the purposes of performing the contract.

**7.2** Insofar as Customers make use of technical support in accordance with Section 6, the following obligations to cooperate shall apply:

- (a) Any questions regarding applications, in particular errors, shall be documented in a manner that is comprehensible for ALLPLAN (e.g. by screenshots etc.) and reported without undue delay in sufficient detail (e.g. number of users affected, description of the system and hardware environment, third party software loaded in parallel, sending system displays etc.).
- (b) Insofar as necessary for the provision of maintenance and support services by ALLPLAN, the Customer shall grant ALLPLAN, upon request, direct or by means of remote data transmission, access to its hardware and computer programs on which the Software or other services for maintenance and support are located.

**7.3** The Customer shall take appropriate measures to protect the Software from unauthorized access by third parties.

**7.4** ALLPLAN fulfills its information obligations regarding the Software by publishing information on the ALLPLAN Connect service portal. Any necessary publications regarding the Software, including information on defects and their effects that have become known, will be made exclusively on the ALLPLAN Connect service portal. The Customer is obliged, as part of his obligation to cooperate, to regularly check the service area on ALLPLAN Connect.

**7.5** Customers undertake to regularly back up the Project Data uploaded by them, their employees or any Authorized Users and to create own backup copies to enable reconstruction of the Project Data in case of loss depending on the importance of the Project Data. Project Data which is deleted by the Customer or Authorized Users is not subject to data backup and cannot be restored later. A “trash function” is not offered.

**7.6** Operation of the Software via the internet requires, that Customers are in possession of the corresponding technical equipment. Therefore, Customers must ensure that workplaces have a sufficient connection to the internet, meeting current standards, and thus being able to connect to the Services. Furthermore, Customers are responsible for the services of their internet provider. The Customer is aware that the use of the Services requires a certain software and hardware environment. The use of cookies must be activated in the browser to enable the Services to function in an optimal manner. Furthermore, the Customer

shall ensure that other software products from the Customer's infrastructure (such as his firewall) do not interfere with the functioning of the Services.

- 7.7 The Customer shall store Customer's access data securely and ensure internally that they do not come to the attention of persons who are not registered as Authorized Users with ALLPLAN.
- 7.8 The Customer shall ensure that the transmitted data does not contain any viruses, trojans or similar malware. In the event of a breach of these requirements, ALLPLAN shall be entitled to delete the affected data and block the Customer's access. If the Customer discovers that the Customer's IT system has been compromised or that the Customer's data has been infected by malware, Customer shall inform ALLPLAN immediately.
- 7.9 The Customer undertakes not to use or store any data in the Services that is illegal, violates laws, official requirements or rights of third parties.
- 7.10 The Customer undertakes to notify ALLPLAN in writing or text form without undue delay upon becoming aware of any disruption of the contractual Service.
- 7.11 The Customer will inform ALLPLAN without undue delay if there is a change in the person of the Customer (universal succession), a change of address, name, legal form, company or a change of shareholders.
- 7.12 In addition, the Customer will support ALLPLAN in the performance of its obligations if and to the extent necessary and cooperate accordingly.

## **8 Fees and Payment Terms**

- 8.1 Fees shall be invoiced in advance for the agreed term of the contract and shall be due within 30 days if a SEPA direct debit mandate is issued, or otherwise within 14 days of the invoice date. Any discounts granted are conditional pursuant to Section 9.1(d) of these Terms of Use.
- 8.2 All prices and fees are exclusive of the statutory value added tax.
- 8.3 If a Customer is in default of payment, ALLPLAN shall be entitled to claim default interest at the statutory rate in accordance with Section 288 German Civil Code (*BGB*). ALLPLAN expressly reserves the right to claim further damages. Furthermore, if the Customer is in default with a part of the fees that is not insignificant, ALLPLAN shall be entitled to temporarily suspend the contractual services until all due claims have been fully settled.
- 8.4 The Customer may only set off undisputed or legally established counterclaims against due claims of ALLPLAN.
- 8.5 ALLPLAN may increase the fee for a contract with certain term by written notice to the Customer with a notice period of three (3) months once per calendar year by an appropriate and reasonable amount. The increase will take effect upon invoicing at the beginning of a calculation period or on the date specified in the notice.

## **9 Term and Termination**

**9.1** The following applies to a contract with a certain term (in particular, Serviceplus or Subscription):

- (a) The contract will come into effect upon order confirmation or performance of the contractual services, unless the parties have agreed otherwise in the order.
- (b) The contract term will be determined in accordance with the respective contract.
- (c) Unless otherwise contractually specified, the contract shall be automatically renewed for the duration specified in the contract at the terms and conditions applicable at the time of renewal and at the applicable fee, unless the contract is terminated with due notice in accordance with the notice period specified in the contract.
- (d) If the contract is automatically renewed, any fee discounts granted for the initial term of the contract shall not be granted for the renewal period.
- (e) Ordinary termination is excluded during the term of the contract.
- (f) Either party may terminate the contract for good cause without observing a notice period. ALLPLAN is entitled to terminate the contract without notice for good cause, in particular if
  - the Customer is in default of payment of the fee or a significant part of the fee for two consecutive dates or, in a period covering more than two dates, is in default of payment of payment of a fee in the amount corresponding to the fee for two months, or
  - if the Customer culpably violates the license terms according to Section 4,
  - if the Customer uses the Software in breach of contract and fails to discontinue such use despite a warning from ALLPLAN, or
  - if the Customer has suspended payments or has filed for insolvency.

If ALLPLAN exercises its right of termination for good cause, the Customer is obliged to delete the Software.

**9.2** Any termination must be made in writing or in text form.

## **10 Claims for Defects**

**10.1** The Customer acknowledges and agrees that computers, software and telecommunication systems are not free of errors and that downtimes may occasionally occur. ALLPLAN therefore cannot guarantee that the Services will be available without interruption or that they can be always used without errors.

**10.2** If the functions and/or operation of the Software show defects, the Customer shall report these in writing or text form without undue delay. In the event of defective delivery or performance, ALLPLAN shall be entitled, at its discretion, to rectify the defect free of charge or to provide a replacement, including by providing a newer version. In the event of defective Software, subsequent performance may also be affected by providing a reasonable workaround, e.g. adapting workflows or recommending alternative functions, provided that the defect is subsequently completely eliminated in an updated or new version of the Software. ALLPLAN may also fulfill its obligation to rectify defects by providing sufficient information to correct the defect. The evaluation of defects will be carried out at the registered office of

ALLPLAN. The Customer grants ALLPLAN, upon request and to the extent necessary, direct or remote access to its hardware and computer programs on which the defective Software is installed. If technical access is not possible or only possible under difficult conditions for reasons for which the Customer is responsible, the Customer shall bear the additional costs incurred as a result.

- 10.3** The Customer shall have no claim as to rectification of defects by ALLPLAN if the defect cannot be reproduced or demonstrated based on machine generated output.
- 10.4** If the occurred defects are due to circumstances within the Customer's sphere of influence for which the Customer is responsible, any liability for defects shall be excluded. This applies, for example, to malfunctions resulting from the use of unsuitable operating materials (e.g. hardware, operating system, etc.) or if an error was caused, because a Customer has not complied with the provisions of the associated user manuals or the terms of use or installation requirements for the Software. Furthermore, any liability for defects shall be excluded if a Customer has made changes to and/or intervened with the Software, unless the Customer can prove, in connection with the error report, that the changes/intervention have not caused the defect.
- 10.5** If rectification or replacement delivery ultimately fails despite two attempts by ALLPLAN, the Customer shall be entitled to an appropriate reduction of the fee or the right to extraordinarily terminate the contract. The latter right shall only exist if essential functions of the Software are significantly affected by the defect in the Software or the other Service.
- 10.6** Except for claims for damages, warranty claims due to material defects become time-barred after one (1) year. This does not apply to fraudulently concealed defects.
- 10.7** In case of a Perpetual License, the following shall additionally apply to this Software:
- (a) The Customer is obliged to inspect the Software for obvious defects, in particular regarding completeness and basic functionality, immediately after delivery or receipt. Defects detected or detectable in this process shall be notified to ALLPLAN in text form without undue delay. The notification shall include a detailed description of the defect. The same shall apply if such a defect becomes apparent later. Section 377 of the German Commercial Code (HGB) shall apply accordingly.
  - (b) The limitation period for warranty claims shall begin upon delivery or, if ALLPLAN is also responsible for installation, after completion of installation or electronic transmission.
  - (c) If the contract covers the delivery of several software products and only individual software products are defective, the Customer's claims for defects shall be limited to the defective software, unless the Customer objectively has no interest in the non-defective software without the defective software.
- 10.8** In case of a Subscription License, the following shall additionally apply to the Software provided:
- (a) The Customer's right of termination due to non-granting of use according to Section 543 paragraph 2 no. 1 BGB shall only exist under the conditions of this Section 10.8.
  - (b) ALLPLAN warrants the functional and operational readiness of the Software in accordance with these Terms of Use. The warranty provisions of rental law (Sections 535 et seq. BGB) shall apply.
  - (c) The Customer is in particular entitled to reduce the fee in case of impossibility or failure to rectify a defect, culpable and unreasonable delay to rectify a defect, or serious and final refusal to rectify a defect by ALLPLAN or if rectification of the defect is deemed unacceptable for the



Customer. A Customer shall only be authorized to extraordinarily terminate the respective contract, if the continuation of the contractual relationship is unacceptable or if a significant defect persists despite the Customer having set a time limit for rectification. The Customer shall not be obliged to set a time limit, if the defect is of such a serious nature that setting a time limit does not appear suitable to rectify the defect and/or restore trust.

- (d) The Customer shall have no warranty claims
- (i) in the event of only an insignificant deviation from the agreed quality or only an insignificant impairment of the usability of the Software,
  - (ii) in the event of incorrect operation of the Software or Service by the Customer,
  - (iii) in the event of the usage of hardware, software or other equipment that is not suitable for the use of the Software (e.g. electronic communication interference caused by the Customer's services such as firewalls, etc.).

**10.9** In all other respects, the statutory warranty claims shall apply.

## **11 Liability**

**11.1** ALLPLAN shall be liable, irrespective of the legal basis, exclusively in accordance with the provisions of this Section 11 and as set out below:

- (a) ALLPLAN shall be liable without limitation
- in the event of intent or gross negligence,
  - in the event of damage resulting from injury to life, limb or health,
  - in accordance with the provisions of the Product Liability Act and
  - in the event of the assumption of a guarantee.
- (b) Insofar as no case as set forth in Section 11.1(a) exists, for slightly negligent behavior, ALLPLAN shall only be liable, if ALLPLAN breaches a contractual obligation whose fulfillment is essential for the proper execution of the contract, whose breach endangers the achievement of the purpose of the contract and on whose compliance the Customer may regularly rely (cardinal obligations). In these cases, liability is limited to the amount of foreseeable damage typical for the contract, but not more than 200% of the contractual fee, up to a maximum of EUR 50,000.00 per year. Otherwise, ALLPLAN's liability for slight negligence is excluded.

**11.2** In deviation from this, the following shall apply:

- (a) Insofar as ALLPLAN provides services limited to a specific term, such as Subscription Licenses, the culpability-independent liability of ALLPLAN for defects already existing at the time of conclusion of the contract according to § 536 a paragraph 1 BGB is expressly excluded. This shall not apply in cases of fraudulent intent.
- (b) Insofar as ALLPLAN provides services, such as technical support, ALLPLAN shall be liable for defects of these services exclusively in accordance with the rules of the law on service contracts (Sections 611 et seq. BGB).

- 11.3** Claims under this Section shall become time-barred in 12 months, provided that the statutory limitation period shall apply to claims under Section 11.1(a).
- 11.4** If damage is attributable to the fault of ALLPLAN as well as to the fault of the Customer, the fault of the Customer shall be taken into account. In particular, the Customer is responsible for regularly backing up his data. In the event of a loss of data attributable to the fault of ALLPLAN, ALLPLAN shall be liable only for the costs of reproducing the data of the backup copies to be made by the Customer and for reconstructing the data which would have been lost even if backup copies had been made at appropriate intervals.
- 11.5** To the extent that the liability of ALLPLAN is excluded or limited, this shall also apply to the personal liability of the employees, representatives and vicarious agents of ALLPLAN.
- 11.6** Insofar as actions or posted contents of the Customer, its employees or Authorized Users infringe statutory provisions or third-party rights (e.g. copyrights), the Customer shall fully indemnify ALLPLAN from liability and reimburse ALLPLAN for all costs incurred as a result. ALLPLAN is not obliged to check Customer data for possible legal violations. If ALLPLAN determines or is notified by others that certain content might lead to civil or criminal liability, ALLPLAN reserves the right to delete this content, if this is technically possible and reasonable.

## **12 Third Party Proprietary Rights**

- 12.1** To the knowledge of ALLPLAN, there are no third-party proprietary rights that impair the contractual use of the Software. ALLPLAN shall not be liable for claims of the Customer that are based on changes to the Software which have not been made by ALLPLAN or on defects of title to third-party software that is not part of the Software or on culpable disregard of the associated user manual.
- 12.2** If the contractual use of the Software is affected by third party proprietary rights, ALLPLAN shall have the right, at its discretion and at its own expense, to acquire licenses and/or modify the Software or replace it in whole or in part, to an extent reasonably acceptable for the Customer. If this fails, the Customer shall have the right to reduce the fee appropriately or to terminate the contract. Termination shall be excluded if the Software has only insignificant defects in title.
- 12.3** The Customer shall support ALLPLAN appropriately in the event of disputes under this Section. This includes in particular to immediately notify ALLPLAN of the assertion of alleged infringements of proprietary rights by third parties with regard to the Software, as well as to grant powers to adequately defend the rights to the Software.

## **13 Force Majeure**

- 13.1** Insofar as and as long as a case of force majeure exists, the parties shall be temporarily released from their obligations under the contract.
- 13.2** Force majeure is an external event caused from outside by elementary forces of nature or by the actions of third parties, which is unforeseeable according to human insight and experience, and which cannot be prevented or rendered harmless by economically tolerable means, even with the utmost care that can reasonably be expected in the given circumstances, and which cannot be tolerated because of its frequency. This includes, in particular, strikes, lockouts, orders by authorities, the outage of communication networks and gateways, disruptions in the sphere of the respective service provider, as well as disruptions that lie within the area of risk of other network providers.

**13.3** The parties may terminate this contract, if the force majeure event lasts longer than ten days and an amicable contract adjustment cannot be achieved.

## **14 Confidentiality**

**14.1** The parties undertake to treat as confidential all confidential information of which they become aware during the execution of the contract and to use it only for the contractually agreed purposes. The parties undertake to treat the confidential information received from the other party with at least the same degree of care that they apply in their own affairs. Confidential information in the sense of this provision is information, documents, statements and data that are designated as such or are to be regarded as confidential by their nature. This obligation to protect confidential information does not include information that is publicly known. Publicly known information is information that can be proven to have been accessible to the respective party or its organs, employees and authorized representatives (“Representatives”) prior to its disclosure or that became publicly known without the fault of the respective party during the term of this contract. The term “confidential information” also does not include information that the respective party has derived itself, provided that this is evidenced by written records of that party or otherwise and that no obligations set forth in this Section 14 are undermined.

**14.2** The parties undertake to grant access to confidential information of the other party only to those Representatives who are entrusted with contractual performance and who have undertaken to maintain confidentiality in accordance with this Section 14.

**14.3** The confidentiality obligation does not apply in relation to courts and authorities to the extent that there is a legal obligation to disclose, or the relevant information is of relevance in civil proceedings between the parties or between one of the parties and a third party. The other party must be notified immediately if confidential information is disclosed. Each party undertakes to inform the other party before disclosing confidential information, unless such notification is not permitted by law.

**14.4** The rights and obligations under Sections 14.1 and 14.2 shall not be affected by termination of this contract. Upon termination of this contract, both parties shall, at the choice of the other party, return or destroy confidential information of the other party.

## **15 Data Protection**

**15.1** The parties will comply with the statutory provisions on data protection. Information on data protection and the currently valid data protection information for business partners can be accessed via the following hyperlink: <https://www.allplan.com/data-protection#c305268>. The data protection information for the respective Software (Allplan, FRILO, DC-Software, SCIA or SDS2 Software) can be accessed on starting the Software.

**15.2** If while performing the contract, ALLPLAN gains access to personal data of the Customer and acts as a processor of personal data, the parties will conclude a corresponding data processing agreement before the start of processing. In this case, ALLPLAN will process the corresponding personal data solely in accordance with its provisions and the instructions of the Customer.

## **16 Export Control**

If the export of the Software is subject to national or international export regulations, the Customer shall obtain the consent of the relevant authorities. Any costs of export, in particular customs duties, taxes, fees and other costs, shall be borne by the Customer.

## **17 Final Provisions**

- 17.1** If these terms of use are written in several languages, only the English version is binding, and the other versions are for information purposes only.
- 17.2** Tacit, oral or written ancillary agreements have not been made. Amendments and supplements to these Terms of Use must be made in text or written form. This also applies to an amendment or waiver of this written form requirement.
- 17.3** The Customer may assign or transfer the contract concluded based on these Terms of Use or its rights or obligations arising from this contract to third parties only with the prior written consent of ALLPLAN. ALLPLAN will not unreasonably withhold such consent. This provision shall not apply to the extent that Section 354a of the German Commercial Code (HGB) is applicable.
- 17.4** Insofar as a provision in these Terms of Use requires the written form, this includes both the written form and any document with a handwritten signature that is transmitted by fax or scan by e-mail.
- 17.5** Should any provision of these Terms of Use be or become invalid or unenforceable, in whole or in part, or contain a gap, all remaining provisions shall remain unaffected. In this case, the invalid provision shall be replaced by a valid and enforceable provision that comes as close as possible to the economic and legal purpose of the invalid provision. The same applies to closing a contractual gap.
- 17.6** These Terms of Use are governed by German law excluding the German conflict of laws provisions and the UN Sales Convention.
- 17.7** Exclusive place of jurisdiction is the place of the registered office of ALLPLAN. ALLPLAN is also entitled to commence legal action at the place of the registered office of the Customer.