



Astun Digital Services

Data Protection Terms

*With particular reference to the requirements of
the General Data Protection Regulations
(GDPR)*

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Document Relevance

Astun Digital Services Customers

If you are an Astun Digital Services customer using solutions such as *iShare in the Cloud* then Astun are acting as a data processor for you.

This document is intended to help your organisation with the requirements for GDPR compliance for *iShare in the Cloud* and other services available via the Astun Digital Services platform.

On Premise Customers

If you are using Astun solutions such as *iShare On Premise* then Astun are not acting as a data processor for you and therefore you need to ensure that your GDPR requirements are fully met internally.

Astun will, where required, provide answers regarding *iShare On Premise* to help your organisation with GDPR compliance.

Use of Astun Digital Services

The Customer must comply with all laws and regulations applicable to its use of Astun Digital Services, including laws related to privacy, personal data, biometric data, data protection and confidentiality of communications.

The Customer is responsible for determining whether the Astun Digital Services are appropriate for storage and processing of information subject to any specific law or regulation and for using the Astun Digital Services in a manner consistent with Customer's legal and regulatory obligations.

1 Introduction

The parties agree that these Data Protection Terms govern the Customer's use of the Astun Digital Services ("Digital Services") and set forth their obligations with respect to the processing and security of Customer Data and Personal Data by the Digital Services.

The parties also agree that, unless a separate Technical Support and Consultancy Services agreement exists, these Digital Services Terms govern the provision of Technical Support and Consultancy Services and the processing and security of Support Data and Personal Data in connection with that provision. Separate terms, including different privacy and security terms, govern the Customer's use of Non-Astun Supported Products (as defined below).

1.1 Applicable Digital Services Terms and Updates

When the Customer renews or purchases a new subscription to a Astun Digital Service, the then-current Digital Services Terms will apply and will not change during the Customer's subscription for that Digital Service. When Astun introduces features, supplements or related software that are new (i.e., that were not previously included with the subscription), Astun may provide terms or make updates to the Digital Services Terms that apply to the Customer's use of those new features, supplements or related software.

1.2 Electronic Notices

Astun may provide the Customer with information and notices about Digital Services electronically, including via email, through the Support Portal, or through a web site that Astun identifies. Notice will be given as of the date it is made available by Astun.

2 Definitions

In these Data Protection Terms the following terms shall have the following meanings:

- “Digital Services” means those Digital Services provided by Astun Technology Ltd (Astun) including but not limited to:
 - Astun Data Services
 - Get INSPIREd
 - Get INSPIREd for iShare
 - Get INSPIREd Enterprise
 - iShare in the Cloud

 - QGIS in the Cloud
 - Custom Cloud Solutions
 - Metadata Catalogue Services
- “Customer Data” means all data, including all text, sound, video, or image files, and software, that are provided to Astun by, or on behalf of, Customer through use of the Digital Service. Customer Data does not include Support Data.
- “External User” means a user of a Digital Service that is not an employee, onsite contractor, or onsite agent of Customer or its Affiliates.
- “General Data Protection Regulation” or “GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.
- “GDPR Terms” means the terms in Appendix 1, under which Astun makes binding commitments regarding its processing of Personal Data as required by Article 28 of the General Data Protection Regulation.
- “Non-Astun Supported Product” means any third-party-branded software, data, service, website or product, unless incorporated by Astun in a Digital Service.
- “Digital Service” means a Astun-hosted service to which Customer subscribes under a Astun Subscription Agreement.
- “DST” means these Digital Services Terms.
- “Personal Data” means any information relating to an identified or identifiable natural person. 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.
- “Previews” means preview, beta or other pre-release features and services offered by Astun for optional evaluation.
- “Processor” means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.
- “Controller” - means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing

are determined by the EU or Member State law, the controller or the specific criteria for its nomination may be provided for by the EU or Member State law;

- “Processing” means any operation or set of operations which is performed on personal data or on sets of 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;
- “Subprocessor” means means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the processor.
 - **NB:** Digital Services are hosted on the Amazon Web Services (AWS) platform which will act as a subprocessor but only as an automated cloud computing platform with no AWS staff having direct access to the data.
- “Support Data” means all data, including all text, sound, video, image files, or software, that are provided to Astun by or on behalf of Customer (or that Customer authorizes Astun to obtain from a Digital Service) through an engagement with Astun to obtain technical support for Digital Services covered under this agreement. The terms “data subject”, “processing”, “processor”, and “supervisory authority” as used herein have the meanings given in the GDPR and the terms “data importer” and “data exporter”.
- “Technical Support and Consulting Services” means those technical support and consulting services (e.g., for data migration) provided by Astun Technology Ltd (Astun) related to any Digital Service, including but not limited to:
 - Geospatial Open Source Training and Mentoring
 - Geospatial Open Source Support
 - Geospatial Cloud Consultancy Services

3 General Terms

3.1 Using the Digital Services

The Customer may use the Digital Services and related software as expressly permitted in the Customer's Subscription Agreement.

3.1.1 Acceptable Use Policy

Neither the Customer, nor those that access a Digital Service through the Customer, may use a Digital Service:

- in a way prohibited by law, regulation, governmental order or decree;
- to violate the rights of others;
- to try to gain unauthorized access to or disrupt any service, device, data, account or network;
- to spam or distribute malware;
- in a way that could harm the Digital Service or impair anyone else's use of it; or
- in any application or situation where failure of the Digital Service could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage.

Violation of the terms in this section may result in suspension of the Digital Service. Astun will suspend the Digital Service only to the extent reasonably necessary. Unless Astun believes an immediate suspension is required, Astun will provide reasonable notice before suspending a Digital Service.

3.2 Use of Software with the Digital Service

The Customer may need to install certain Astun software to use the Digital Service. If so, the following terms apply:

3.2.1 Astun Software License Terms

The Customer may install and use the software only for use with the Digital Service. The Digital Service-specific Terms may limit the number of copies of the software the Customer may use or the number of devices on which the Customer may use it. The Customer's right to use the software begins when the Digital Service is activated and ends when the Customer's right to use the Digital Service ends. The Customer must uninstall the software when Customer's right to use it ends. Astun may disable it at that time.

3.2.2 Third-party Software Components

The software may contain third party software components. Unless otherwise disclosed in that software, Astun, not the third party, licenses these components to the Customer under Astun's terms and notices.

3.3 Technical Limitations

The Customer must comply with, and may not work around, any technical limitations in a Digital Service that only allow the Customer to use it in certain ways. The Customer may not download or otherwise remove copies of software or source code from a Digital Service except as explicitly authorized.

3.4 Import/Export Services

The Customer's use of any Import/Export Service is conditioned upon its compliance with all instructions provided by Astun regarding the preparation, treatment and shipment of physical media containing its data ("storage media"). The Customer is solely responsible for ensuring the storage media and data are provided in compliance with all laws and regulations. Astun has no duty with respect to the storage media and no liability for lost, damaged or destroyed storage media. Examples of data may include large static datasets such as database backups, GIS files whether vector or raster.

3.5 Changes to and Availability of the Digital Services

Astun may make commercially reasonable changes to each Digital Service from time to time. Astun may modify or terminate a Digital Service in any country where Astun is subject to a government regulation, obligation or other requirement that (1) is not generally applicable to businesses operating there, (2) presents a hardship for Astun to continue operating the Digital Service without modification, and/or (3) causes Astun to believe these terms or the Digital Service may conflict with any such requirement or obligation. If Astun terminates a Digital Service for regulatory reasons, Customers will receive a credit for any amount paid in advance for the period after termination.

3.6 Compliance with Laws

Astun will comply with all laws and regulations applicable to its provision of the Digital Services, including security breach notification law. However, Astun is not responsible for compliance with any laws or regulations applicable to the Customer or Customer's industry that are not generally applicable to information technology service providers. Astun does not determine whether Customer Data includes information subject to any specific law or regulation. All Security Incidents are subject to the Security Incident Notification terms below.

The Customer must comply with all laws and regulations applicable to its use of Digital Services, including laws related to privacy, Personal Data, biometric data, data protection and confidentiality of communications. The Customer is responsible for determining whether the Digital Services are appropriate for storage and processing of information subject to any specific law or regulation and for using the Digital Services in a manner consistent with the Customer's legal and regulatory obligations. The Customer is responsible for responding to any request from a third party regarding the Customer's use of a Digital Service, such as a request to take down content under Copyright Acts or other applicable laws.

3.7 Other

3.7.1 Non-Astun Supported Products

Astun may make Non-Astun Supported Products available to the Customer through the Customer's use of the Digital Services (such as through a virtual desktop). If the Customer installs or uses any Non-Astun Supported Product with a Digital Service, the Customer may not do so in any way that would subject Astun's intellectual property or technology to obligations beyond those expressly included in the Customer's Subscription Agreement. For the Customer's convenience, Astun may include charges for certain Non-Astun Supported Product as part of the Customer's payments for Digital Services. Astun, however, assumes no responsibility or liability whatsoever for any Non-Astun Supported Product. The Customer is solely responsible for any Non-Astun Supported Product that it installs or uses with a Digital Service. The Customer's use of any Non-Astun Supported Product shall be governed by the license, service, and/or privacy terms between the Customer and the publisher of the Non-Astun Supported Product (if any).

4 Data Protection Terms

4.1 Scope

The terms in this section (“Data Protection Terms”) apply to Digital Services provided by Astun Technology Ltd (Astun).

Previews (Prototypes or Pre-release versions) may employ lesser or different privacy and security measures than those typically present in the Digital Services. Unless otherwise noted, Previews are not included in the SLA for the corresponding Digital Service, and Customers should not use Previews to process Personal Data or other data that is subject to legal or regulatory compliance requirements. The following terms in this section (“Data Protection Terms”) do not apply to Previews: Processing of Personal Data; GDPR, and Data Security.

Appendix 2 includes the terms that apply to Consultancy & Support Services, including privacy and security of Support Data and Personal Data in connection with the provision of those services. Therefore, unless expressly made applicable in Appendix 2, the terms in this section (“Data Protection Terms”) do not apply to the provision of Consultancy & Support Services.

4.2 Processing of Customer Data; Ownership

Customer Data will only be used or otherwise processed to provide the Customer with the Digital Services, including purposes compatible with providing those services. Astun will not use or otherwise process the Customer Data or derive information from it for any other commercial purposes. As between the parties, the Customer retains all right, title and interest in and to Customer Data. Astun acquires no rights in the Customer Data, other than the rights the Customer grants to Astun to provide the Digital Services to the Customer. This paragraph does not affect Astun’s rights in software or services to the Customer.

4.3 Disclosure of Customer Data

Astun will not disclose Customer Data outside of Astun except (1) as Customer directs, (2) as described in the DST, or (3) as required by law.

Astun will not disclose Customer Data to law enforcement unless required by law. If law enforcement contacts Astun with a demand for Customer Data, Astun will attempt to redirect the law enforcement agency to request that data directly from the Customer. If compelled to disclose Customer Data to law enforcement, Astun will promptly notify the Customer and provide a copy of the demand unless legally prohibited from doing so.

Upon receipt of any other third-party request for Customer Data, Astun will promptly notify the Customer unless prohibited by law. Astun will reject the request unless required by law to comply. If the request is valid, Astun will attempt to redirect the third party to request the data directly from the Customer.

Astun will not provide any third party: (a) direct, indirect, blanket or unfettered access to Customer Data; (b) platform encryption keys used to secure Customer Data or the ability to break such encryption; or (c) access to Customer Data if Astun is aware that the data is

to be used for purposes other than those stated in the third party's request.

In support of the above, Astun may provide the Customer's basic contact information to the third party.

4.4 Processing of Personal Data; GDPR

Personal Data provided to Astun by, or on behalf of, the Customer through use of the Digital Service is also Customer Data. Pseudonymized identifiers may also be generated through the Customer's use of the Digital Services and are also Personal Data. To the extent Astun is a processor or subprocessor of Personal Data subject to the GDPR, the GDPR Terms in Appendix 1 govern that processing and the parties also agree to the following terms in this sub-section ("Processing of Personal Data; GDPR"):

4.4.1 Processor and Controller Roles and Responsibilities

The Customer and Astun agree that the Customer is the controller of Personal Data and Astun is the processor of such data, except when (a) The Customer acts as a processor of Personal Data, in which case Astun is a subprocessor or (b) stated otherwise in the Digital Service-specific terms. Astun will process Personal Data only on documented instructions from the Customer. The Customer agrees that the Customer's use and configuration of features in the Digital Services are the Customer's complete and final documented instructions to Astun for the processing of Personal Data. In any instance where the GDPR applies and the Customer is a processor, the Customer warrants to Astun that the Customer's instructions, including appointment of Astun as a processor or subprocessor, have been authorized by the relevant controller.

4.4.2 Processing Details

The parties acknowledge and agree that:

- The subject-matter of the processing is limited to Personal Data within the scope of the GDPR;
- The duration of the processing shall be for the duration of the Customer's right to use the Digital Service and until all Personal Data is deleted or returned in accordance with Customer instructions or the terms of the DST;
- The nature and purpose of the processing shall be to provide the Digital Service pursuant to the Customer's service needs;
- The types of Personal Data processed by the Digital Service include those expressly identified in Article 4 of the GDPR; and
- The categories of data subjects are the Customer's representatives and end users, such as employees, contractors, collaborators, and customers.

4.4.3 Data Subject Rights; Assistance with Requests

Astun will make available to the Customer in a manner consistent with the functionality of the Digital Service and Astun's role as a processor Personal Data of data subjects and the ability to fulfill data subject requests to exercise their rights under the GDPR. Astun shall comply with reasonable requests by the Customer to assist with the Customer's response to such a data subject request. If Astun receives a request from the

Customer's data subject to exercise one or more of its rights under the GDPR in connection with a Digital Service for which Astun is a data processor or subprocessor, Astun will redirect the data subject to make its request directly to the Customer. The Customer will be responsible for responding to any such request including, where necessary, by using the functionality of the Digital Service. Astun shall comply with reasonable requests by the Customer to support with the Customer's response to such a data subject request.

4.4.4 Records of Processing Activities

Astun shall maintain all records required by Article 30(2) of the GDPR and, to the extent applicable to the processing of Personal Data on behalf of Customer, make them available to the Customer upon request.

4.5 Data Security

4.5.1 Shared Responsibility Security Model

Astun use a Shared Responsibility Security model as defined below.

Security OF the Cloud

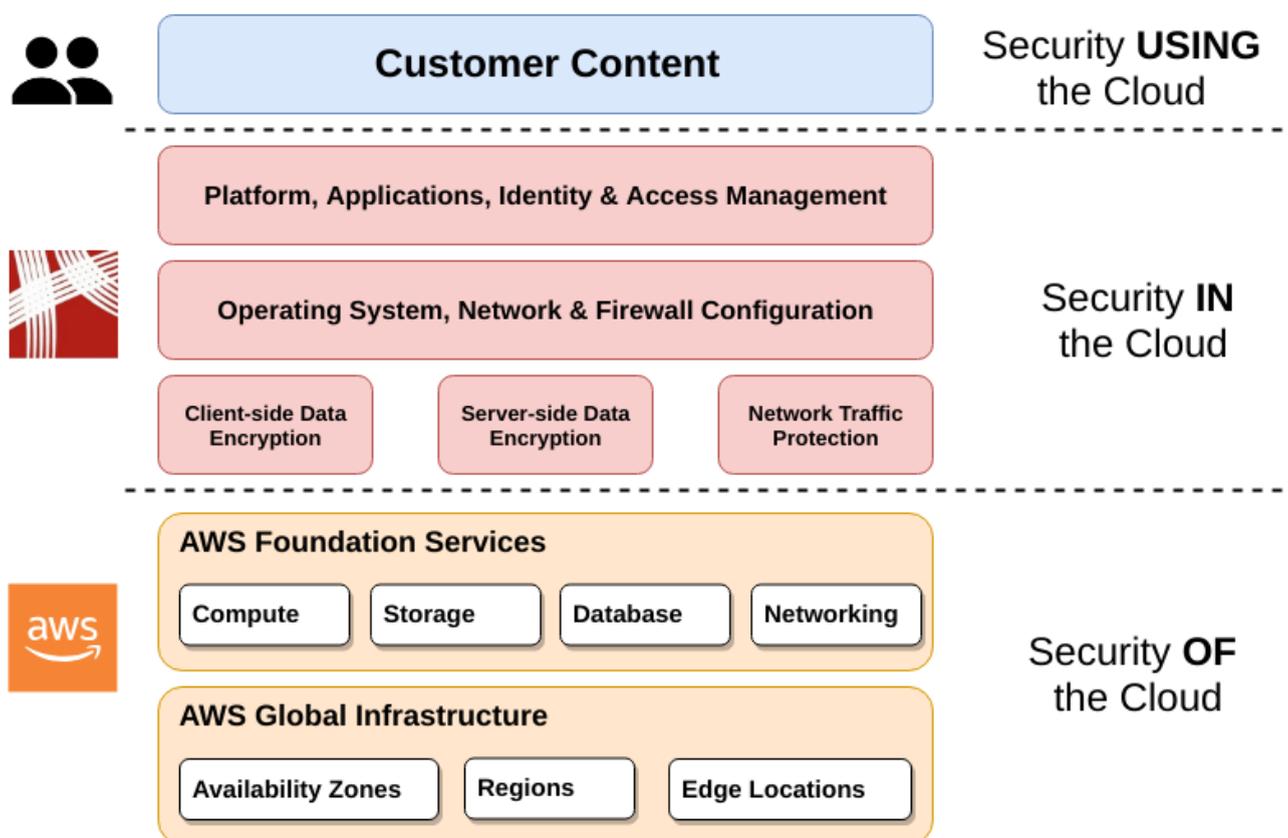
- Responsibility of Amazon Web Services (AWS)
- Security Responsibilities
 - Compute
 - Storage
 - Databases
 - Networking

Security IN the Cloud

- Responsibility of Astun Technology
- Security Responsibilities
 - Platform, Applications, Identity & Access Management
 - OS, Network and Firewall Config
 - Client-side data encryption
 - Server-side data encryption
 - Network traffic protection

Security USING the Cloud

- Responsibility of Customer
- Security Responsibilities
 - Sensitivity of data loaded within Service
 - Publishing or appropriate data to users (i.e. non-sensitive data to public)
 - Apply appropriate Security models (i.e. database security models etc)



4.5.2 Security Practices and Policies

Astun will implement and maintain appropriate technical and organizational measures to protect Customer Data and Personal Data. Those measures shall be set forth in a Astun Security Policy. Astun will make that policy available to the Customer, along with descriptions of the security controls in place for the Digital Service and other information reasonably requested by the Customer regarding Astun security practices and policies.

Astun may add support for industry or government standards at any time.

4.5.3 Customer Responsibilities

The Customer is solely responsible for making an independent determination as to whether the technical and organizational measures for a Digital Service meets the Customer’s requirements, including any of its security obligations under the GDPR or other applicable data protection laws and regulations. The Customer acknowledges and agrees that (taking into account the state of the art, the costs of implementation, and the nature, scope, context and purposes of the processing of its Personal Data as well as the risks to individuals) the security practices and policies implemented and maintained by Astun provide a level of security appropriate to the risk with respect to its Personal Data. The Customer is responsible for implementing and maintaining privacy protections and security measures for components that the Customer provides or controls.

4.5.4 Auditing Compliance

Astun will conduct audits of the security of the computers, computing environment and physical data centers that it uses in processing Customer Data and Personal Data, as follows:

- Where a standard or framework provides for audits, an audit of such control standard or framework will be initiated at least annually.
- Each audit will be performed according to the standards and rules of the regulatory or accreditation body for each applicable control standard or framework.
- Each audit will result in the generation of an audit report (“Astun Audit Report”). The Astun Audit Report will be Astun’s Confidential Information and will clearly disclose any material findings by the auditor. Astun will promptly remediate issues raised in any Astun Audit Report to the satisfaction of the auditor.

If the Customer requests, Astun will provide the Customer with each Astun Audit Report. The Astun Audit Report will be subject to non-disclosure and distribution limitations of Astun and the auditor.

Nothing in this section or the GDPR Terms or affects any supervisory authority’s or data subject’s rights under the GDPR.

4.6 Security Incident Notification

If Astun becomes aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Data or Personal Data while processed by Astun (each a “Security Incident”), Astun will promptly and without undue delay (1) notify the Customer of the Security Incident; (2) investigate the Security Incident and provide the Customer with detailed information about the Security Incident; (3) take reasonable steps to mitigate the effects and to minimize any damage resulting from the Security Incident.

Notification(s) of Security Incidents will be delivered to one or more of the Customer’s administrators by any means Astun selects, including via email. It is the Customer’s sole responsibility to ensure the Customer’s administrators maintain accurate contact information with Astun. The Customer is solely responsible for complying with its obligations under incident notification laws applicable to the Customer and fulfilling any third-party notification obligations related to any Security Incident.

Astun shall make reasonable efforts to assist the Customer in fulfilling the Customer’s obligation under GDPR Article 33 or other applicable law or regulation to notify the relevant supervisory authority and data subjects about such Security Incident.

Astun’s obligation to report or respond to a Security Incident under this section is not an acknowledgement by Astun of any fault or liability with respect to the Security Incident.

The Customer must notify Astun promptly about any possible misuse of its accounts or authentication credentials or any security incident related to a Digital Service.

4.7 Data Transfers and Location

4.7.1 Data Transfers

Except as described elsewhere in the DST, Customer Data and Personal Data that Astun processes on the Customer's behalf will be transferred to, and stored and processed in, the European Union. The Customer appoints Astun to perform any such transfer of the Customer Data and Personal Data to any such country and to store and process the Customer Data and Personal Data to provide the Digital Services.

4.7.2 Location of Customer Data at Rest

For the Digital Services, Astun will store the Customer Data at rest within the European Union. A minimum of two availability zones will be used (for Disaster Recovery purposes) such as Ireland (Dublin) and UK (London).

Astun does not control or limit the regions from which the Customer or Customer's end users may access or move Customer Data.

4.8 Data Retention and Deletion

At all times during the term of the Customer's subscription, the Customer will have the ability to access, extract and delete Customer Data stored in each Digital Service.

On receipt of a written request to terminate the Digital Service and subject to there being no unpaid charges outstanding, Astun will delete the hosted environment including all servers, datasets, user details and customer specific configuration stored within the Digital Service. Any further "Off-boarding" assistance is chargeable in accordance with Astun's SFIA rate card.

In the event that the customer terminates the service they can download their data from the service in a standard geographic file format or as a database export/backup. The Digital Service may not support retention or extraction of software provided by Customer. Astun has no liability for the deletion of Customer Data or Personal Data as described in this section.

4.9 Processor Confidentiality Commitment

Astun will ensure that its personnel engaged in the processing of Customer Data and Personal Data (i) will process such data only on instructions from the Customer, and (ii) will be obligated to maintain the confidentiality and security of such data even after their engagement ends.

4.10 Notice and Controls on use of Subprocessors

With the exclusion of Amazon Web Services EMEA SARL, Astun do not currently use third parties as subprocessors but in the future Astun may hire third parties to provide certain limited or ancillary services on its behalf. The Customer consents to the engagement of these third parties and Astun Affiliates as Subprocessors. The above authorizations will constitute the Customer's prior written consent to the subcontracting by Astun of the processing of Customer Data and Personal Data if such consent is required under the GDPR Terms.

- NB: Digital Services are hosted on the Amazon Web Services (AWS) platform provided by Amazon Web Services EMEA SARL who act as a subprocessor for the provision of the cloud computing platform. No AWS staff have direct access to Customer Data.

4.11 How to Contact Astun Technology

If the Customer believes that Astun is not adhering to its privacy or security commitments, the Customer may contact customer support (<https://astuntech.atlassian.net/servicedesk/>) or email the Astun's Data Protection Officer (dpo@astuntechnology.com). Astun's mailing address is:

Data Protection Officer
Astun Technology Ltd
PO Box 696
Epsom, Surrey
KT17 9QL
UK

5 Appendix 1 – GDPR Terms

European Union General Data Protection Regulation Terms

Astun makes the commitments in these GDPR Terms, to all customers effective May 25, 2018. These commitments are binding upon Astun with regard to the Customer regardless of (1) the version of the DST that is otherwise applicable to any given Digital Services subscription or (2) any other agreement that references this attachment.

For purposes of these GDPR Terms, the Customer and Astun agree that the Customer is the controller of Personal Data and Astun is the processor of such data, except when the Customer acts as a processor of Personal Data, in which case Astun is a subprocessor. These GDPR Terms apply to the processing of Personal Data, within the scope of the GDPR, by Astun on behalf of the Customer. These GDPR Terms do not limit or reduce any data protection commitments Astun makes to the Customer in the Digital Services Terms or other agreement between Astun and the Customer. These GDPR Terms do not apply where Astun is a controller of Personal Data.

5.1 Relevant GDPR Obligations: Articles 28, 32, and 33

1. Astun shall not engage another processor without prior specific or general written authorisation of the Customer. In the case of general written authorisation, Astun shall inform the Customer of any intended changes concerning the addition or replacement of other processors, thereby giving the Customer the opportunity to object to such changes. (Article 28(2))
2. Processing by Astun shall be governed by these GDPR Terms under European Union (hereafter “EU”) or Member State law and are binding on Astun with regard to the Customer. The subject-matter and duration of the processing, the nature and purpose of the processing, the type of Personal Data, the categories of data subjects and the obligations and rights of the Customer are set forth in the Customer’s Subscription Agreement, including these GDPR Terms. In particular, Astun shall:
 - (a) process the Personal Data only on documented instructions from the Customer, including with regard to transfers of Personal Data to a third country or an international organisation, unless required to do so by EU or Member State law to which Astun is subject; in such a case, Astun shall inform Customer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
 - (b) ensure that persons authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - (c) take all measures required pursuant to Article 32 of the GDPR;
 - (d) respect the conditions referred to in paragraphs 1 and 3 for engaging another processor;
 - (e) taking into account the nature of the processing, assist the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer’s obligation to respond to requests for exercising the data subject’s rights laid down in Chapter III of the GDPR;
 - (f) assist the Customer in ensuring compliance with the obligations pursuant to

Articles 32 to 36 of the GDPR, taking into account the nature of processing and the information available to Astun;

- (g) at the choice of the Customer, delete or return all the Personal Data to the Customer after the end of the provision of services relating to processing, and delete existing copies unless EU or Member State law requires storage of the Personal Data;
- (h) make available to the Customer all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer.

Astun shall immediately inform the Customer if, in its opinion, an instruction infringes the GDPR or other EU or Member State data protection provisions. (Article 28(3))

3. Where Astun engages another processor for carrying out specific processing activities on behalf of the Customer, the same data protection obligations as set out in these GDPR Terms shall be imposed on that other processor by way of a contract or other legal act under EU or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the GDPR. Where that other processor fails to fulfil its data protection obligations, Astun shall remain fully liable to the Customer for the performance of that other processor's obligations. (Article 28(4))
4. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Customer and Astun shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate:
 - (a) the pseudonymisation and encryption of Personal Data;
 - (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - (c) the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; and
 - (d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing. (Article 32(1))
5. In assessing the appropriate level of security, account shall be taken of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed. (Article 32(2))
6. The Customer and Astun shall take steps to ensure that any natural person acting under the authority of the Customer or Astun who has access to Personal Data does not process them except on instructions from the Customer, unless he or she is required to do so by EU or Member State law. (Article 32(4))
7. Astun shall notify the Customer without undue delay after becoming aware of a personal data breach. (Article 33(2)). Such notification will include that information a processor must provide to a controller under Article 33(3) to the extent such information is reasonably available to Astun.

6 Appendix 2: Technical Support and Consulting Services

Technical Support and Consulting Services are provided subject to the “Technical Support and Consulting Services Terms” below. If, however, Technical Support and Consulting Services (TSCS) are included in a separate agreement, then the terms of that separate agreement will apply.

The TSCS to which this Notice applies are not Digital Services, and the rest of the Digital Services Terms, as well as any data processing amendment signed by the parties, do not apply unless expressly made applicable by the TSCS Terms below.

6.1 Support Data

6.1.1 Processing of Support Data

Support Data will be used and otherwise processed only to provide the Customer with technical support, including purposes compatible with providing technical support. Astun will not use or otherwise process Support Data or derive information from it for commercial purposes without the Customer’s permission. As between the parties, the Customer retains all right, title and interest in and to Support Data. Astun acquires no rights in Support Data, other than the rights the Customer grants to Astun to provide support to the Customer. This paragraph does not affect Astun’s rights in software or services Astun provides to the Customer through a Subscription or other agreement.

6.1.2 Processing of Personal Data included in Support Data; GDPR

Personal Data provided to Astun by, or on behalf of, the Customer in connection with the provision of technical support is also Support Data. To the extent Astun is a processor or subprocessor of Personal Data subject to the GDPR, the GDPR Terms in Appendix 1 govern that processing and the parties also agree to the following terms in this sub-section (“Processing of Personal Data included in Support Data; GDPR”):

Processor and Controller Roles and Responsibilities

The Customer and Astun agree that the Customer is the controller of Personal Data included in Support Data and Astun is the processor of such data, except when the Customer acts as a processor of Personal Data, in which case Astun is a subprocessor. However, Astun and the Customer agree that Astun is the data controller for business contact information or other Personal Data that may be collected at the same time as Support Data but is needed to maintain the business relationship with the Customer. Astun will process Personal Data only on documented instructions from the Customer. The Customer agrees that its Subscription Agreement (including the DST) along with Customer’s use of TSCS are the Customer’s complete and final documented instructions to Astun for the processing of Personal Data. Any additional or alternate instructions must be agreed to according to the process for amending the Customer’s Subscription Agreement. In any instance where the GDPR applies and the Customer is a processor, the Customer warrants to Astun that the Customer’s instructions, including appointment of Astun as a processor or subprocessor, have been authorized by the relevant controller.

Processing of Personal Data included in Support Data

The parties acknowledge and agree that:

- The subject-matter of the processing is limited to Personal Data within the scope of the GDPR;
- The duration of the processing shall be for the duration of the Customer's right to receive technical support and until all Personal Data is deleted or returned in accordance with the Customer instructions or the terms of the DST;
- The nature and purpose of the processing shall be to provide technical support pursuant to the Customer's Subscription Agreement;
- The types of Personal Data processed in connection with the provision of technical support include those expressly identified in Article 4 of the GDPR; and
- The categories of data subjects are the Customer's representatives and end users, such as employees, contractors, collaborators, and customers.

For data subject requests and records of processing activities related to Support Data, and Personal Data included therein, Astun will abide by the applicable obligations set forth in the "Data Subject Rights; Assistance with Requests" and "Records of Processing Activities" provisions in the Data Protection Terms section of the DST.

6.2 Security of Support Data

Astun will implement and maintain technical and organizational measures to protect Support Data. If Astun becomes aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Support Data while processed by Astun, Astun will abide by the obligations set forth in the "Security Incident Notification" provision in the Data Protection Terms section of the DST.

6.3 Data Location and Transfer

Support Data will abide by the DST Data Location and Transfer terms.

6.3.1 Other Support Data Commitments

Disclosure

The disclosure of Support Data by Astun to third parties is governed by the same restrictions and procedures that govern Customer Data set forth in the "Disclosure of Customer Data" provision in the Data Protection Terms section of the DST.

Deletion or Return

Astun will delete or return all copies of Support Data, and Personal Data included therein, after the business purposes for which the Support Data was collected or transferred have been fulfilled or earlier upon the Customer's request.

Use of Subprocessors

Astun's use of Subprocessors in connection with the provision of technical support for Digital Services is governed by the same restrictions and procedures that govern its use of Subprocessors in connection with the Digital Services set forth in the "Use of

Subprocessors” provision in the Data Protections Terms section of the DST.

6.4 Other Consultancy & Support Services Terms

6.4.1 Processing of Personal Data

To the extent Astun is a processor or subprocessor of Personal Data, not included within Support Data, in connection with the provision of TSCS, Astun makes the commitments in the GDPR Terms in Appendix 1 to all customers effective May 25, 2018.

6.4.2 Obligations of the Parties

Astun warrants that all TSCS will be performed with professional care and skill. If Astun fails to do so and the Customer notifies Astun within 30 days of the date of performance, then Astun will either re-perform the TSCS or return the price paid for them as Customer’s sole remedy for breach of the TSCS warranty.

Customer will perform its applicable responsibilities and obligations to support Astun’s performance of the TSCS, as specified in the description of each service.

6.4.3 Limitation of Liability

To the extent permitted by applicable law, each party’s total liability for all claims relating to TSCS will be limited to the amounts Customer was required to pay for the TSCS or the limitation of liability for the Digital Service with which the services are offered, whichever is greater. In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, including loss of use, loss of profits, or interruption of business, however caused or on any theory of liability in relation to the TSCS. No limitation or exclusions will apply to liability arising out of either party’s (1) confidentiality obligations; or (2) violation of the other party’s intellectual property rights.

6.4.4 Fixes

“Fixes” are Product or Services fixes, modifications or enhancements, or their derivatives, that Astun either releases generally (such as monthly patches) or that Astun provides to Customer to address a specific issue. Each Fix, is licensed under the same terms as the Product or Service to which it applies. If a Fix is not provided for a specific Product, any use terms Astun provides with the Fix will apply.

6.4.5 Pre-Existing Work

“Pre-Existing Work” means any computer code or non-code based written materials developed or otherwise obtained independent of Customer’s Subscription Agreement. All rights in Pre-Existing Work shall remain the sole property of the party providing the Pre-Existing Work. Each party may use, reproduce and modify the other party’s Pre-Existing Work only as needed to perform obligations related to TSCS.

6.4.6 Consultancy Deliverables

“Consultancy Deliverables” means any computer code or materials other than Products or Fixes that Astun leaves with the Customer at the conclusion of Astun’s performance of TSCS. Astun grants the Customer a non-exclusive, non-transferable license to reproduce, use, and modify the Consultancy Deliverables solely for Customer’s internal business purposes, subject to the terms and conditions in Customer’s Subscription Agreement.

6.4.7 Non-Astun Supported Technology

Customer is solely responsible for any non-Astun supported software or technology that it installs or uses with the Digital Services, Fixes, or Consultancy Deliverables.