

INAP Acceptable Use Policy – General Data Protection Regulation Terms

INAP makes the commitments in these INAP Acceptable Use Policy – General Data Protection Regulation Terms (these “GDPR Terms”), to all applicable customers effective May 25, 2018, pursuant to the General Data Protection Regulation (GDPR) (EU) 2016/679.

For purposes of these GDPR Terms, Customer and INAP agree that Customer is the controller of Personal Data and INAP is the processor of such data, except when Customer acts as a processor of Personal Data, in which case INAP is a subprocessor. These GDPR Terms apply to the processing of Personal Data, within the scope of the GDPR, by INAP on behalf of Customer. These GDPR Terms do not limit or reduce any data protection commitments INAP makes to Customer in any other agreement between INAP and Customer (the “Agreement”). These GDPR Terms do not apply where INAP is a controller of Personal Data. Capitalized terms have the meanings ascribed to them in GDPR.

1. INAP shall not engage another processor without prior specific or general written authorization of Customer. In the case of general written authorization, INAP shall inform Customer of any intended changes concerning the addition or replacement of other processors, thereby giving Customer the opportunity to object to such changes.¹ Adherence to these GDPR Terms and use of INAP services shall be deemed a general written authorization.
2. Processing by INAP shall be governed by these GDPR Terms and to the extent applicable the Model Clauses under European Union (hereafter “Union”) or Member State law and are binding on INAP with regard to 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 Agreement between Customer and INAP. In particular, INAP shall:
 - (a) process the Personal Data only on documented instructions from Customer, including with regard to transfers of Personal Data to a third country or an international organization, unless required to do so by Union or Member State law to which INAP is subject; in such a case, INAP 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 authorized 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 Customer by appropriate technical and organizational 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 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 INAP;
 - (g) at the choice of Customer, delete or return all the Personal Data to Customer after the end of the provision of services relating to processing, and delete existing copies unless Union or Member State law requires storage of the Personal Data; and
 - (h) make available to 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 Customer or another auditor mandated by Customer.

INAP shall immediately inform Customer if, in its opinion, an instruction infringes the GDPR or other Union or Member State data protection provisions.²

3. Where INAP engages another processor for carrying out specific processing activities on behalf of 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 Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organizational 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, INAP shall remain fully liable to the Customer for the performance of that other processor’s obligations.³

4. INAP shall implement appropriate technical and organisational measures to protect the data in accordance with (i) the services purchased by the Customer from INAP, and (ii) applicable law.

¹ See Article 28(2).

² See Article 28(3).

³ See *id.*

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, unauthorized disclosure of, or access to Personal Data transmitted, stored or otherwise processed.⁴

6. INAP shall take steps to ensure that any natural person acting under the authority of Customer or INAP who has access to Personal Data does not process them except on instructions from Customer, unless he or she is required to do so by Union or Member State law.

7. INAP shall notify Customer without undue delay after becoming aware of a personal data breach. 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 INAP.⁵

8. The transfer mechanism listed below shall apply to any transfers of Personal Data under this agreement from the European Union, the European Economic Area and/or their member states, Switzerland and the United Kingdom to countries which do not ensure an adequate level of data protection to the extent such transfers are subject to GDPR:

- (a) The Model Clauses as executed by INAP set forth [here](#).

[Remainder of Page Intentionally Blank]

⁴ See *id.* at (2).

⁵ See Article 33.