

## Commissioned-processing contract

(regarding the measurement of sites on the basis of the SZMnG procedure)

<p>Party responsible</p> <p>– hereinafter known as “Customer” or “Client” –</p>	<p>Contract processor</p> <p><b>INFOOnline GmbH</b></p> <p><b>Brühler Str. 9</b> <b>53119 Bonn</b> <b>Germany</b></p> <p>– hereinafter known as “INFOOnline” or “Contractor” –</p>
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My INFOOnline GmbH account number is \_\_\_\_\_

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## 1 Subject Matter and Duration of the Contract – (Art.28 Para.3 Sentence 1 GDPR)

- 1.1 The subject matter of the contract is the anonymisation of measurement data, particularly of the IP address, in connection with the usage measurement of websites, smartphone applications and other Internet content of sites operated by the Client. Further details about the subject matter of the contract are in the performance agreement between the Contractor and the customer referred to here (“customer contract”).
- 1.2 The duration of this contract (“term”) corresponds to the term of the customer contract.

## 2 The nature and purpose of the intended processing or use of data, the type of data and the group of data subjects – (Art. 28 Para. 3 Sentence 1 GDPR)

- 2.1 The purpose of personalised data processing by the Contractor for the Client is defined explicitly in the customer contract agreed upon by the client and contractor.

The delivery of contractually agreed data processing will take place exclusively in a European Union member state or in another Contracting State through the European Economic Area Agreement.

- 2.2 The subject matter of the data collection is the following data, which could in some cases could be linked to a actual person:

- IP address
- Browser fingerprint
- Installation ID
- Advertising ID
- Android ID
- Cookie ID
- Vendor ID

- 2.3 Data subjects

The group of data subjects affected by the handling of their data in connection with this contract are identified as follows:

- Internet users of sites (including any smartphone applications that are involved) operated by the Client that are recorded as part of the data collection.

## 3 Technical and Organisational Measures (Art. 28 Para. 3 Sentence 2 lit. c GDPR)

- 3.1 The Contractor observes the principles of lawful digital storage and implements the technical and organisational measures required to comply with the contract as per Art. 28 Para. 3 Sentence 2 lit c, 32 GDPR. The agreed technical and organisational measures in accordance with Art. 28 Para. 3 Sentence 2 lit c, 32 GDPR are found in the annex of the attached document.

- 3.2 The Contractor enables and supports the examination of the implementation of the agreed measures before the start as well as during the processing by the Client.
- 3.3. The technical and organisational measures are subject to technical progress and further development. In this regard, the Contractor is permitted to implement adequate alternative measures. If the Contractor does so, the level of security provided must not drop below the security level of the specified measures. Any significant changes must be documented.

## 4 Data subject guarantee (Art. 28 Para. 3 Sentence 2 lit. e GDPR)

- 4.1 The Contractor may not correct, delete or restrict the processing of the data processed on behalf of the contract, only on the basis of documented instructions from the Client. If a data subject directly addresses the Contractor in this regard, the contractor will immediately forward this request to the Client.
- 4.2 The Contractor shall, as far as possible, assist the Client with suitable technical and organisational measures to comply with the client's obligation to respond to applications for the data subject rights to exercise their rights (see Chapter III of the GDPR).

## 5 Contractor's obligations (Art. 28 Para. 3 Sentence 2 lit b GDPR)

- 5.1 The Contractor, in addition to the compliance and regulation of the contract, has legal obligations in concordance with Art. 28 to 33 of the GDPR, insofar as the Contractor guarantees compliance with the following obligations:
  - Written order of a data protection officer who carries out their work in accordance with Art. 38 to 39 of the GDPR. Their contact details are communicated to the Client on request for the purpose of direct contact.
  - The preservation of the data secrecy and/or confidentiality according to Art. 28 Para. 3 Sentence 2 lit. b), 29, 32 Para. 4 GDPR. The Contractor only uses employees who have been obliged to maintain confidentiality and who have been familiarised with the data protection regulations that are relevant to them when carrying out contract processing. The Contractor and any person subordinated to the Contractor who has access to personal data may process such data only in accordance with the instructions of the Client, including the powers granted in this Contract, unless they are required by law to process them.
  - Implementation and compliance with all technical and organisational measures are required for this contract in accordance with Art. 32 to 34 of the GDPR.
  - The Client must be informed without delay of any supervisory activities and measures performed by the supervisory body in accordance with Art. 55 to 58 of the GDPR. This also applies to supervisory authorities investigating the Contractor in accordance with Art. 57 and 58 of the GDPR.
  - The Contractor must perform job control by means of inspections with regard to the execution/fulfilment of the contract, in particular compliance with and any required adjustment of regulations and measurements for fulfilling the order.
  - Verifiability of the technical and organisational measures taken towards the Client. In this regard, the Contractor can provide evidence of up-to-date auditor certificates, reports or excerpts of reports from independent bodies (such as external or internal auditors, data protection officers, IT security departments, data protection auditors, quality auditors) or appropriate certification from the IT security or data protection audit (such as certification to BSI basic protection).

## 6 Subcontractor Conditions (Art.28. Para.3 Sentence2 lit. d GDPR)

- 6.1 The Contractor avails itself of the following subcontractors:
- gridscale GmbH (<https://www.gridscale.io>)
- 6.2 The Client authorises the Contractor to use additional subcontractors (general approval). The Contractor shall always inform the Client of any intended change in relation to the involvement or replacement of other subcontractors, giving the Client the opportunity to object to such changes in writing within a period of 14 days.
- If the Client objects, despite the condition in 6.3, the Contractor may terminate this contract and the associated customer contract without notice.
- 6.3 In the case of subcontracting, the Contractor must impose the same data protection obligations on the subcontractor set out in this contract between the Client and the Contractor. Sufficient guarantees must be provided to ensure that the appropriate technical and organisational measures are taken and that processing takes place in accordance with the requirements of the GDPR. If the subcontractor does not comply with these data protection obligations, the Contractor shall be liable for the Client. This also includes the Client's right to receive from the Contractor, upon written request, information on the essential subject matter of the contract and the implementation of obligations relevant to data protection in the subcontractor relationship, where necessary by accessing the relevant contractual documents. The Contractor performs the required checks pursuant to Art. 28 Para. 3 lit. h) on behalf of the Client. The Contractor makes the latest inspection logs available to the Client upon request. The Client's right to carry out checks on the subcontractor and to request and inspect evidence remains unaffected.
- 6.4 Services that the contractor uses as an ancillary service from third parties to assist in the fulfilment of the contract shall not be understood as subcontracting as defined in this provision. This includes, for example, telecommunications services, user service, cleaning staff, inspectors or the disposal of data storage media – insofar as these media do not contain personal data.

## 7 The Client's Right to Perform Monitoring – (Art.28 Para.3 Sentence 2 lit. h GDPR)

- 7.1 The intended monitoring in connection with the present contract processing is made possible by appointing a neutral inspection body, chosen by the Contractor. The findings of the monitoring that is performed at the Contractor's premises once a year are published in the customer area (<https://www.infonline.de/de/extra/downloads/>). The Client is entitled to perform inspections as well as independent inspections, which the Contractor needs to be notified of in due time, to ensure that the Contractor is complying with the agreement, as in Art. 28 of the GDPR, in the Contractor's business operations.
- 7.2 The Contractor undertakes to provide the Client, upon request, with the information required for compliance with the Client's obligation to perform contract processing of the above-mentioned data and to provide appropriate evidence. This also applies insofar as the Contractor performs the inspection of the subcontractor on behalf of the Client.

- 7.3 The Contractor provides the Client, upon request, evidence that the technical and organisational measures pursuant to Art. 32 to 34 of the GDPR, or section 64 para. 3 of the BDSG (new), are being implemented. In this regard, evidence of the implementation of measures that do not relate to the specific contract may also be provided by submitting an up-to-date auditor certificate, reports or excerpts of reports from independent bodies (such as external or internal auditors, data protection officer, IT security department, data protection auditors, quality auditors) or appropriate certification from the IT security or data protection audit (such as certification to BSI basic protection or Art.28 Para. 5 GDPR).
- 7.4 The Contractor may assert a claim for remuneration in order to enable the investigation by the Client.

## 8 Contractor's notification and support obligations to the Client (Art. 28 Para. 3 Sentence. 2 lit. f GDPR)

- 8.1 The Contractor supports the Client, taking into account the type of processing and the information available to them in compliance with the Client's obligations, according to Art. 32 to 36 of the GDPR, on the security of personal data, reporting of data breaches, data protection impact assessments and previous consultations. These include, among others:
- Ensuring an adequate level of protection through technical and organisational measures that take into account the circumstances and purposes of the processing and the predicted likelihood and severity of a possible rights infringement by a security leak, and enable the immediate detection of such violation incidents
  - The obligation to report violations of personal data immediately to the Client
  - The obligation to assist the Client in providing information to the data subject and, in this context, to provide him with all relevant information without delay
  - the Client's support for a privacy impact assessment
  - the Client's support in the context of prior consultations with the supervisory authority
- 8.2 The Contractor shall report to the Client without delay if the Contractor becomes aware of any breaches of provisions for the protection of the Client's personal data by themselves or by persons employed by them. The same applies to the suspicion of such violations, serious disruptions to the operation (such as prolonged failure of the measuring server) and to violations of the provisions made in this contract.

## 9 Authority of the Contractor (Art. 28 Para. 3 Sentence. 1, 2 lit. a and Art. 29 GDPR)

- 9.1 It is the sole responsibility of the Client (Art. 28 in conjunction with Art. 4 No. 7 GDPR) to assess the legitimacy of the processing of personal data and the protection of the data subject's rights.
- 9.2 Item 9.1 also applies to the use and incorporation of the following data-protection-related technical measures for the purpose of consenting to or revoking consent to participation in

the measurement of the visit to the site on the part of the user:

- use of an opt-out procedure

- 9.3 Data is handled exclusively in connection with the agreements made. Data will only be handled in accordance with this contract and on the Client's documented instructions – including those relating to the transfer of personal data to a third country or an international organisation – unless the Contractor is obliged to do so by the law of the Union or a Member State to which the Contractor is subject. In such a case, the Contractor shall inform the Client of these legal requirements prior to initiating the handling of the data, unless the law in question does not prohibit this e.g. because of an important public interest. The Client's instructions must be issued in text form.
- 9.4 As far as instructions concerning the subject matter of the service provision, in particular the operation of the SZM in accordance with the IVW's standardised test criteria, are affected by this, the Contractor is entitled to suspend the giving of instructions or the service provision in coordination with the Client. The suspension only applies while it can be implemented without affecting the subject matter of the service provision, in particular the operation of the SZM in accordance with the IVW's standardised test criteria. If the parties are not able to implement the instructions without affecting the subject matter of the service provision, in particular without jeopardising the operation of the SZM in accordance with standardised test criteria, they are entitled to an extraordinary termination of the contract (customer contract).
- 9.5 If the Contractor believes that an instruction breaches the German Data Protection Act, the General Data Protection Regulation, or other regulations concerning data protection, the Contractor must notify the Client of this without delay. The Contractor is entitled to suspend the execution of the corresponding instruction until it has been confirmed or altered by the Client. The Contractor is not entitled to investigate the substantive legality of the instruction.
- 9.6 No copies or duplicates are to be made without the Client's knowledge. This does not apply to backup copies, insofar as they are required to ensure orderly processing of the data.

## 10 Deleting Data and Returning Supplied Data Storage Media (Art. 28 Para.3 Sentence 2 lit. g GDPR)

- 10.1 The data collected and stored for the contract implementation shall be deleted regularly and promptly if it is no longer required for the purpose of the contract and if existing statutory retention periods have expired.
- 10.2 The compressed IP addresses collected in the procedure are retained for the purpose of technical maintenance and ruling out misuse of the counting mechanism for a maximum of 60 days and then deleted.
- 10.3 After the contractual data processing work has been concluded, including data collection and use, or earlier upon request from the Client, the Contractor must hand over to the Client all documents that have come into the Contractor's possession, all processing and usage findings and all data inventories that relate to the order relationship and that could be linked to a particular person or, after prior agreement, destroy them in compliance with data protection regulations. The same applies for test and scrap material. This does not apply if there is an obligation to store personal data under EU law or national law of a member state.
- 10.4 No exchange of data storage media can occur between the parties involved in processing the order data. Accordingly, no such return needs to be governed by this agreement.

10.5 Any documentation that serves to verify orderly processing of data must be kept by the Contractor beyond the term of the agreement in accordance with the applicable data retention period. The Contractor may hand over such documentation to the Client for safekeeping when the agreement comes to an end. This also applies insofar as data retention obligations extending beyond the term of the agreement apply in accordance with the criteria of IVW e.V. or AGOF e.V. in relation to the SZM. In this case, the Contractor locks this data for these purposes until the retention period has expired. After the retention period has expired, the Contractor deletes this data without further demand and provides the Client with evidence of successful deletion upon request.

By signing this document, I certify that I have read, understand and comply with the agreement on contract data processing in the version given below.

Bonn, \_\_\_\_\_

Place, date \_\_\_\_\_

\_\_\_\_\_  
INFOOnline's Signature

\_\_\_\_\_  
Client's signature

Dr Christof Rieck / Wolfgang Lanzrath

Name in block capitals

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Name in block capitals

INFOOnline GmbH

Dr Christof Rieck / Wolfgang Lanzrath

**Annex: Technical and Organisational Measures**