

## PRIVACY POLICY AND COOKIE POLICY

### ADVISORY NOTE ON THE PROCESSING OF PERSONAL DATA

#### INTRODUCTION

This document describes the policy regarding the processing of personal data in relation to the use of the site, [www.astes4.ch](http://www.astes4.ch) and the resources connected to it, including social media and email (hereinafter the “Site”).

It should be noted that **the Site has not been specifically designed for European users** and that **no monitoring activity of user behaviour is done**, as such, the processing of the personal data connected to the site is governed by **Swiss law on the protection of data** (“[LPD](#)”, RS 235.1).

This document notifies the user, pursuant to and for the effects of article 4 para. 5 of the federal law on the protection of data (LPD) and, where exceptionally applicable, articles 13 and 14 of the European Regulation (EU) 679/2016 (GDPR), that personal data supplied or otherwise acquired within the scope of the Platform’s activity will be subject to processing, in compliance with the principles set out in the aforementioned regulations.

It should be noted that the GDPR, in compliance with art. 3 para. 2, since the Site’s Controller is based in Switzerland, only applies in the case of processing personal data related to:

- a) the supply of goods or services to natural persons in the EU;
- b) monitoring the behaviour of natural persons in the EU.

Paragraphs A and B give the Site’s Controller, contact details for any communication and describe the mechanism by which this document is accepted and updated. Paragraphs C and D describe the Site’s policy with regard to processing the personal data of users. Finally, Paragraph E governs the material law applicable to the legal relationship between the parties and establishes jurisdiction in the event of a dispute arising which is connected to the same relationship.

The terms and conditions which govern the use of the Site are described in a separate document which is available from this [link](#). The same is understood as being reproduced and integrated here in its entirety.

#### A. THE SITE’S CONTROLLER AND COMMUNICATION

The Site is owned by ASTES4 SA (“AS4”), Balerna (CH).

All communications shall be made in writing and will be deemed to have been validly and effectively carried out upon receipt of the same, if sent by ordinary post, or at the moment the “read confirmation” is sent, if communication is by email.

##### Contact details:

- ASTES4 SA, Via Passeggiata 3A, CH – 6828 Balerna
- Extract from the Companies Register: [link](#)
- [info@astes4.ch](mailto:info@astes4.ch)
- P +41 91 6829320/321
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## **B. ACCEPTING AND MODIFYING THIS POLICY**

By using the Site, the user accepts the terms and conditions, as well as the processing of their personal data as described in this policy, in the version in effect at the time of access. The current version may be viewed by clicking the link at the bottom of the page on the Site. It is the user's responsibility to carefully check the status of the terms and conditions, as well as any other information before accessing the Site, since the Controller has the right to update this document at any time and at its sole discretion, and in particular as a result of changes in applicable law, functionality, and the services and products made available to the user.

Where required by law, the Controller will request the user's express consent through electronic channels (online or via email).

## **C. POLICY REGARDING THE PROCESSING OF PERSONAL DATA**

### **Controller (in terms of processing personal data)**

The Controller is AS4, whose details are given above, represented by its own bodies in accordance with its entry in the Companies Register ([link](#)).

The Controller may be contacted by using the details given under [paragraph A](#), above.

### **Processor (in terms of processing personal data)**

AS4, within the scope of promoting the user's relationship of trust regarding the proper processing of his/her personal data, has appointed, on the basis of art. 11a of the LPD, a Data Protection Officer ("RPD"), whose tasks are to provide the Controller with advice on the applicable data regime, to carry out regular audits, to respond to requests for information and to follow up on data subjects exercising their rights.

The Processor may be contacted by post at the following address: RPD c/o ASTES4 SA, Via Passeggiata 3A, CH – 6828 Balerna.

Any communication relative to processing personal data may be sent to the following email address: [privacy@astes4.ch](mailto:privacy@astes4.ch).

### **Legal regime applicable to processing personal data**

The Controller, as the legal person under Swiss law with offices in Switzerland, operating in the private sector, processes the personal data of users in compliance with federal law on the protection of personal data ("[LPD](#)", RS 235.1).

Given that AS4, in principle, does not process personal data that falls within the field of application of the GDPR, where the Regulation were to be exceptionally applicable, the Controller grants data subjects the protection envisaged by the same GDPR (specifically those rights set out in articles 12 – 23). The GDPR text may be viewed by clicking this [link](#).

### **Concepts and categories of personal data**

The term "personal data" is taken to mean any information regarding an identified or identifiable natural person ("Personal Data"). Also considered as personal data meriting particular protection is sensitive information such as, for example, information concerning the intimate sphere, social assistance measures, racial and ethnic origin, political opinions, religious conviction or philosophy, trade union membership, biometric data or data relative to health, mental or physical condition, as well as data regarding criminal convictions and crimes or related security measures.

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The Controller does not need nor requests that personal data meriting particular protection be provided. It is, therefore, recommended that the user does not send information of this nature via the Site or via related resources (for example, by post, fax, chat, email or via social media).

### **Purpose and lawfulness of processing personal data**

The Controller processes Personal Data in relation to the purposes summarised in the following table:

<b><i>Purpose for processing data</i></b>	<b><i>Legal basis</i></b>	<b><i>Data storage period</i></b>
Browsing the site	Legitimate overriding private interest   fulfilment of pre-contractual or contractual obligations	12 months; the information regarding cookies and social media plug-ins is reserved
Applying for a job via post, fax or electronic channels	Legitimate overriding private interest   pre-contractual or contractual obligations	Until the job has been assigned, unless consent is granted by the candidate (not yet employed) to store the data for a further period; in the case of an unsolicited application: immediate deletion unless consent is granted by the candidate (not yet employed) to store the data for a further period; in the case of being employed, the documentation is entered into the employee's records and stored until the contractual relationship is terminated (subject to a later deletion/destruction of any irrelevant documents)
Organisational, administrative, financial, accounting and client/user data management activities, regardless of the nature of the data processed. Specifically, internal organisational activities pursue these aims.	The Law   legitimate overriding private interest   fulfilment of contractual obligations	General: 10 years (general legal term to store documents having an accounting value); otherwise, data is destroyed or made anonymous as soon as the purposes on which processing is based are achieved
Email communications	Legitimate overriding private interest   fulfilment of contractual obligations	General: 12 months; 10 years if the communication has an accounting, contractual or commercial value

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Newsletter	<u>In the case of existing customers:</u> Overriding private interest   fulfilment of contractual obligations <u>In the case of prospective customers of for the benefit of the GDPR:</u> consent	Until the subscription is cancelled
Online form	Legitimate overriding private interest   fulfilment of contractual obligations	General: 12 months; 10 years if the communication has an accounting, contractual or commercial value

The Controller collects and processes the Personal Data needed to make use of the Site possible and to optimise it. Such data includes the IP address of the user's device. This data is processed in an automated way exclusively to allow the user to browse the Site, to assess the introduction of new functionality, to improve the quality of the services offered, to measure the Site's use and to optimise its usability.

The Site processes Personal Data provided voluntarily by the user, specifically by email or by online form for communication purposes or to make the information requested available to the user.

The Site does not process, nor does it transmit, content or advertising messages based on online behaviour, nor does it profile the user for direct marketing purposes, nor does it use web resources internal or external to the astes4.ch domain or email. The Site does not sell, rent, trade or lend Personal Data to third parties.

The Site does not convey, nor does it implement, automated decision-making processes that determine legal effects or inconveniences relevant to the user.

The data collected and the messages received through the Site and the related resources are not entered into the company's management system, except when necessary in order to execute a data subject's request efficiently or when there is a legal obligation or a binding contractual provision.

Users are advised not to email information and/or documents containing personal and/or confidential information, since this is an insecure communication method and does not guarantee confidentiality. AS4 is available to provide, upon the request of the user, secure electronic communication channels to transmit sensitive data (for example: VPN or encrypted email).

**The obligation to provide data; Alternatives to digital communication**

Apart from that specified for data needed to make use of the Site possible and to optimise it (for example, the IP address to browse the site or the email address to communicate with AS4), the user is free to provide, or not, his/her Personal Data.

In general, the Controller emphasises that the data subject may use ordinary channels of communication, such as the telephone, fax or ordinary post, if he/she does not intend to use electronic and/or telematic resources.

### **Data transfer to a third country and/or to an international organisation**

Where strictly necessary, taking into account the purposes for processing data or upon the request of the user, Personal Data is transferred overseas (with respect to Switzerland), but this is limited, however, to the European Union or to countries that guarantee adequate protection for personal data (with respect to Swiss law) such as the List established by the Federal Data Protection and Information Commissioner ([link](#)). The data subject has the right to obtain a copy of this data, indicating the reason and providing his/her legitimacy to the same.

In the case of transferring Personal Data to non-European countries, and in particular the United States, whose level of data protection is not generally considered adequate by the EU and Swiss Authorities, personal data may be transferred only to natural persons, entities and companies that have adhered to specific agreements and/or international instruments regarding the protection of personal data (for example: Swiss / EU – US Privacy Shield). The data subject may obtain information on the protection adopted to transfer Personal Data by sending an email to the Controller, indicating the reason and providing his/her legitimacy to the same.

### **Personal data storage period**

The Controller maintains the Personal Data for as long as its storage is necessary considering the purposes for which the data were collected, to the extent that there is a legal storage obligation (usually 10 years from the end of the accounting year (31 December) of reference, where the personal data is relevant for accounting purposes) (see table above). Once the purpose for which collecting the Personal Data expires, and therefore the obligation to store the data as established by law also expires, the Controller will delete the data in a definitive and secure way or, as an alternative, will render the data anonymous.

Access to the detailed policy on storing personal data may be requested from the Controller by sending an email, indicating the reason and providing legitimacy to the same.

### **Newsletter**

The Controller may offer, without having the obligation to do so, a free update service on its business via a Newsletter.

The Newsletter is sent only to those recipients who have signed up for it and, therefore, who have provided their email address. The immediate removal from this list is possible at any time by clicking on the link “*unsubscribe*” in the footer of each email.

Failure to sign up for the Newsletter or being removed from the list of recipients does not prejudice, nor does it reduce, in any way whatsoever, the usability of the Site and/or the related resources.

The Controller does not monitor the behaviour and nor does it profile, in any way whatsoever, recipients of the Newsletter. The Controller does not send email addresses to third parties, with the exception of the provider of the Newsletter service, who receives the recipient emails as a function of managing the Newsletter. This provider must be established in a State that guarantees the adequate protection of personal data with respect to Switzerland and the EU.

### **Data relating to minors**

Processing, as justified by the data subject’s consent, is permissible if the minor who expresses his/her consent is at least 16 years old. Where the minor is younger than 16 years old, processing his/her personal data is permissible only and to the extent where consent is granted or authorised

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by a legal guardian. The Controller will take every reasonable measure, and in consideration of the technologies available, to verify that the consent granted by the legal guardian is effective. However, the Controller is not liable, in any way whatsoever, for any false declarations that may be provided by a minor and, in any case, should the Controller ascertain that a false declaration has been made, it will immediately delete all the personal data and any other material acquired. The Controller will assist in responding to requests made by a legal guardian concerning a minor's personal data.

#### **The Processor, recipients or categories of recipient, access to personal data**

Personal Data provided by the User may be communicated to recipients who may process data as a Processor (in terms of processing personal data) and/or as a natural person acting under the Controller's and/or the Processor's authority. Where they operate in full autonomy, the parties assume the role of distinct Controllers (in terms of processing personal data).

Data transmissions required by law aside, personal data may be communicated to recipients belonging to the following categories:

- parties who provide services to manage the information and telecommunications systems used by the Controller to make the Site available and to organise, program, create and execute the activities linked with the Site;
- companies and freelance professionals who provide the Controller with certain services such as, for example, in the fields of accounting, administration and tax.

Within the scope of managing the Site and the related resources (specifically: email, back-ups, web design, graphics, maintenance, translation, domain registration, hosting and internet access), AS4 employs external providers of goods and/or services established in Switzerland or in the EU.

External providers have access to data only to the extent strictly necessary to carry out their tasks properly and efficiently, subject to assuming, by agreement, an obligation of confidentiality and non-use in relation to the Personal Data.

The complete, updated list of Processors is available at the company's offices to those data subjects who have indicated, in writing, the reason for the request and who have provided proof of their legitimacy to it. For reasons of computer security, certain information may be made anonymous or masked.

#### **Communication by email, risks**

The user is advised that (i) using email does not ensure the confidentiality and integrity of the data in transit, (ii) numerous email service providers are located or hold data in countries that do not guarantee an adequate protection of personal data (for example the USA, see the official, updated and downloadable list [here](#)), (iii) using such an email service implies the transfer to and storage of data in a country that does not guarantee an adequate protection of such data.

The user authorises the Controller (including bodies, auxiliaries, agents and delegated parties) to send documents and/or information, including those containing personal and/or confidential data, by ordinary email (not certified and/or not encrypted), using the email address provided by the user in response to a request made by the user and received by the Controller via post, telephone, fax or email. The user, being fully aware of the risks as outlined above, exonerates the Controller from any liability in the case of unauthorised access by a third party to the documents and/or personal and/or

confidential information transmitted or received via email from the Controller and/or from its organs and auxiliaries.

### **Links to third-party resources**

The Site may contain links to online sites, services, products and resources which refer to third parties. The Controller is not, in any way whatsoever, responsible for the content, security and usability of these sites and resources; specifically, the Controller does not verify the policies of these third parties nor does it issue a guarantee in terms of protecting privacy and personal data by these third parties.

### **Security**

The Site implements security measures reasonably imposed by the circumstances and proportionate to the risks against unauthorised access, use, transmission, alteration, loss or destruction of the Personal Data. These include technical, physical and organisation measures. However, given the internet's nature of being an "open network", the Controller cannot guarantee, nor does it guarantee, that the data will not be intercepted or acquired by unauthorised third parties.

### **The data subject's rights**

Within the limits established by the LPD, the data subject may:

- obtain the rectification of any inaccurate personal data (art. 5 para. 2 LPD);
- ask, free of charge, and with a written reply whether any data which is subject to processing concerns him/her (art. 8 para. 1 LPD);
- suspend or revoke consent to the processing of personal data (art. 12 para. 2 lett. b) LPD);
- suspend unlawful processing of personal data (art. 12 para. 2 lett. a) LPD);
- prevent, in the absence of justification, the communication of personal data that merits particular protection or personality profiles to a third party (art. 12 para. 2 lett. c) LPD);
- ask for the processing of personal data to be blocked, such that this prevents the data from being communicated to a third party or that the personal data is rectified or destroyed (art. 15 para. 1 LPD);
- ask, if neither the accuracy nor the inaccuracy of personal data can be demonstrated, that a comment be added to the data which indicates the disputed nature of the same (art. 15 para. 1 LPD);
- ask for the rectification, destruction, block, particularly that of communication to a third party, as well as the comment regarding the disputed nature or the ruling, is communicated to third parties or publicised (art. 15 para. 3 LPD);
- have the personal data that was collected, stored or used unlawfully destroyed;
- have the unlawfulness of processing personal data ascertained.

If the processing of personal data falls with the field of application pursuant to art. 3 of the GDPR, the data subject may enforce the rights as expressed by articles 15, 16, 17, 18, 19, 20, 21, 22 of the GDPR, by contacting the Controller or the Processor. The GDPR text may be viewed by clicking this link. The user has the right, which may be exercised at any time, within the limits and under the terms and conditions established by the GDPR, to ask the Controller for access to his/her personal

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data, to have this data rectified or deleted, to restrict processing of the data that concerns him/her or to object to his/her data being processed as well as to exercise the right for such data to be made portable. If processing is based on article 6, para. 1, lett. a) or on article 9, para. 2, lett. a) of the GDPR, the user has the right to revoke his/her consent, at any time, without prejudice to the lawfulness of the processing carried out on the basis of the consent granted prior to it being revoked. The user has the right to lodge a complaint with the competent Supervisory Authority. In the event that the user requests his/her data to be made portable, the Controller will provide the user with the same in a structured, commonly used and machine-readable format, subject to paras. 3 and 4 of art. 20 of the GDPR.

## **D. COOKIE AND SOCIAL MEDIA PLUG-INS**

### **Introduction**

This chapter describes the Site's policy on processing the personal data of users in relation to so-called "cookies" and "widgets".

### **Technical concepts**

#### **What are cookies?**

Cookies are text files stored in the user's browser by sites/Apps or servers when browsing the web. Thanks to cookies, these sites or servers can recognise the browser when browsing and even subsequently. Cookies help to improve the user's online experience by, for example, storing his/her preferences or by avoiding the user having to login with every page change. Cookies can also be used to monitor the user's online behaviour, with a consequential impact on user privacy.

#### **What are social media plug-ins and widgets?**

Social media plug-ins are optional software modules that connect websites to social media networks, thereby allowing users to interact easily with site content (for example: "Like" or sharing interesting site content via Facebook). Social media plug-ins include so-called "widgets", graphic control elements that are inserted into corresponding sections of the website, thereby allowing users access to the plug-in's functionality. By clicking a widget, the user promotes it on the corresponding social media network with a simple click. If the User activates the plug-in, his/her browser makes a direct connection to the plug-in service provider's servers (for example, Facebook). The plug-in's content is sent directly from the respective service provider to the User's browser and is entered into the page. By using social media plug-ins, certain personal information is sent to the plug-in service provider and is processed by the same. Even if the user has not registered with the social media network, the possibility exists that the network will collect the user's IP address via the social media plug-in. If the user has registered, the social media network may link the visit to the web pages to the user's personal profile on the social media network. If the user interacts with a plug-in, the relative information will be sent directly to the plug-in service provider's servers. Information is also published on social media networks and, therefore, is shown to the user's contacts or is made public (in the case of a public profile).

#### **Types of cookies**

Cookies can be divided into various types.

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Considering the party who sets the cookie on the user's device, if this coincides with the owner (or Controller) of the site visited, the cookie is called a "first-party" cookie, whilst if it involves a third-party site/server, the cookie is called a "third-party" cookie.

Considering the cookie's duration, "session" cookies are set as a function of the access to the site and are, therefore, deleted when the browser is closed. "Persistent" cookies, on the other hand, are kept on the device even after the browser is closed (and until the cookie expires).

Considering the purposes of setting a cookie, a distinction needs to be made between "technical" cookies and "profiling" cookies. Technical cookies make browsing the web possible, as well as providing the service requested by the user. These are not used for any other aim and, in general, are managed by the owner (or Controller) of the site being visited. "Analytical" or "statistical" cookies are similar to technical cookies when used directly by the owner (or Controller) of the site to collect information, in an aggregated form, on how many users visit the site and on how these users interact with it. Profiling cookies are generally third-party cookies used to establish a profile about the user based on his/her online behaviour and on his/her habits in order to deliver personalised advertisements to him/her.

### **Controller's statement regarding cookies**

#### **In general**

The Site implements technical or analytical session cookies and persistent cookies, specifically for the purpose of personalising the Site's configuration, analysing how users use the Site (in an anonymous way), keeping browsing active, analysing traffic flow, as well as for system administration purposes.

#### **List of active cookies, their purpose and duration**

##### Third-party analytical cookies (pseudonymised)

- Provider: Google Inc.
- Product: Google Analytics
- Names: (a) \_gat, (b) \_ga e (c) \_gid
- Type: Analytical - statistical
- Purposes: (a) to speed up user requests; (b) to distinguish users by assigning them a random number, and (c) to distinguish users (for more information: [link](#))
- Duration: (a) 1 minute, (b) 2 years, and (c) 24 hours
- IP Masking: YES
- Opting-out: [link](#)
- Needed in order to be able to use the Site: NO
- Provider's privacy policy: [link](#)

### **Controller's statement regarding social media plug-ins**

#### **In general**

Social media plug-ins, where present, are set in the "two click" procedure, so that the plug-in is only activated if the user clicks on the relative widget.

#### **List of active social media plug-ins; protection of data**

- LinkedIn; data protection and privacy policy ([privacy information](#); [cookie information](#))
- YouTube: data protection and privacy policy ([link](#); [Questions and Answers](#))

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- Twitter: data protection and privacy policy ([link](#))

#### E. APPLICABLE LAW AND JURISDICTION

The legal relationship between the user and ASTES4 SA, Balerna, with reference to accessing and using the Site (and the related resources) is governed by Swiss material law, excluding the regulations of private international law.

The Parties choose the competent ordinary Court on the basis of the offices of ASTES4 SA, Balerna, as the sole competent Court with exclusive jurisdiction in the event of a dispute related to or simply connected with use of the Site (and the related resources), without prejudice to any imperative legal provisions that require a different court. ASTES4 SA, Balerna, reserves the right to apply to the competent Court on the basis of the user's offices, branch offices or domicile.

Effective date: 1 August 2019