

# ENTRUSTMENT AGREEMENT

## Processor

Vercom S.A., 22 Roosevelta Street, 60-829 Poznań, NIP: 7811765125, REGON: 300061423, KRS: 0000535618, District Court Poznań - Nowe Miasto and Wilda in Poznań, VIII Economic Department of the National Court Register, share capital: PLN 444,475.70, performing telecommunications activities on the basis of a certificate of entry in the register of telecommunications entrepreneurs, maintained by the President of UKE, under number 9919. **Main office and mailing address: 27 Ogrodowskiego Street, 44-203 Rybnik.**

## Entrusting Entity

### Customer data

Login in SerwerSMS.pl	.....		
Name of the company		Street	
TAX id number		City	
REGON		Zip code	
Trade Registry under registration number			

collectively referred to as the **Parties**, and each individually as a **Party**

Considering the fact that the Parties are connected by a separate Master Agreement, the subject of which is the provision of ICT services in the Processor's application, on the account with the ....., for the performance of which it is necessary to process personal data, the Parties have unanimously agreed as follows:

## § 1 Definitions

Terms used in the Agreement have the following meanings:

**Controller** - a natural or legal person, public authority, entity or other entity that independently or jointly with others determines the purposes and means of processing personal data,

**Entrusting Entity** - a natural or legal person, public authority, entity or other entity that, as a Controller or jointly with other Controllers, determines the purposes and means of processing personal data and transfers them to a Processor for processing,

**Processor** - an entity accepting data for processing from the Entrusting entity or the Controller,

**Personal data** - information about an identified or identifiable natural person ("data subject"); An identifiable natural person is a person who can be directly or indirectly identified, in particular on the basis of an identifier such as a name, an identification number, location data, an online identifier or one or more specific factors that determine the financial, fiziological, genetic, mental, economic, cultural or social identity of the natural person,

**Business Days** - days from Monday to Friday, except public holidays,

**Breach** - a breach of security leading to the accidental or unlawful destruction, loss, modification, unauthorized disclosure or unauthorized access to personal data transmitted, stored or otherwise processed,

**Sub-entrustment** - further entrusting of the processing of Personal Data by the Processor,

**GDPR** - Regulation 2016/679 of the European Parliament and of the Council of April 27, 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 (General Data Protection Regulation)

**Master Agreement** - a separate agreement between the Entrusting Entity and the Processor, the subject of which is the provision of ICT services, for the performance of which it is necessary to process Personal Data.

**Entrustment Card** - functionality in the Processor's application to manage: the entrustment process, informing about changes and updates to the Agreement including annexes to the Agreement, realization of information obligations and rights of data subjects.

## § 2 Subject matter of the Agreement

The Entrusting Entity entrusts the Processor with the Personal Data for processing under the terms of the Agreement.

The Processor shall not be entitled to additional remuneration over and above that specified in the Master Agreement for the performance of the services specified in the Agreement.

### **§ 3 Subject matter and processing time**

The subject of processing is the Personal Data entrusted for processing in connection with the implementation of the Master Agreement, as specified in Attachment No. 1 to the Agreement.

The scope of the entrustment may be changed, expanded or limited by the Entrusting Entity at any time, which shall be done by sending the Processor electronically a new version of Attachment 1 or by updating Attachment 1 in the Processor's application in accordance with §12.5.

The entrustment of the processing of Personal Data is carried out for the duration of the Main Agreement.

### **§ 4 Purpose and nature of processing**

Personal data is processed for the purpose of implementing the Master Agreement.

The processing of entrusted Personal Data is continuous and occurs in the application of the Processor. The processing of entrusted Personal Data includes the following processing activities at the express direction of the Controller: modifying, collecting, capturing, organizing, structuring, storing, adapting, reviewing, deduplicating,

### **§ 5 Processing order**

By entering into the Agreement, the Entrusting Entity instructs the Processor to process the Personal Data, as well as any person acting under the authority of the Processor with access to the Personal Data, which constitutes a documented instruction within the meaning of Article 28(3)(a) in conjunction with Article 29 of the GDPR.

### **§ 6 Statements of the Parties**

The Processor shall act in accordance with its obligations under the GDPR and generally applicable provisions of Polish law.

The Entrusting Entity declares that it is authorized to entrust the processing of Personal Data.

The Entrusting Entity entrusts for processing Personal Data for which it is a Controller or which it processes on behalf of another or other Controllers.

In the event that the Entrusting Entity entrusts Personal Data it processes on behalf of another or other Controllers, these entities shall indicate in Attachment No. 2. The scope of entities that are Controllers may be changed, expanded or limited by the Entrusting Entity at any time, which shall be done by sending the Entrusting Entity electronically a new version of Attachment No. 2. to the Processor or by updating the data in the Processor's application.

The Entrusting Entity is authorized to grant authorizations, instructions and orders within the meaning of Article 29 of the GDPR with respect to the Processor, as well as to grant the authority referred to in paragraph 6 below.

The Entrusting Entity authorizes the Processor to grant authorizations, issue instructions and orders within the meaning of Article 29 of the GDPR to further Processors.

### **§ 7 Obligations of the Parties**

1. The Processor declares that it provides due guarantees to implement appropriate technical and organizational measures to ensure the degree of security of the Data corresponding to the risks associated with the entrusted processing activities and that the processing meets the requirements of the GDPR and protects the rights of the Data Subjects.

2. The processor shall:

a) process Personal Data in a manner consistent with the GDPR, other generally applicable laws, the Agreement, and instructions issued by the Entrusting Entity,

b) process Personal Data only on the documented instructions of the Entrusting Entity, which shall also apply to the transfer of Personal Data to a third country or an international organization, unless such obligation arises from generally applicable laws. In such case, the Processor shall inform the Entrusting Entity of the legal obligation to process Personal Data prior to the start of processing, unless commonly applicable laws prohibit such information due to important public interest,

c) allow only the persons it authorizes to process Personal Data,

d) allow only persons who have committed themselves to secrecy or who are subject to the relevant statutory obligation of secrecy to process Personal Data,

e) ensure that any person acting under the authority of the Processor and having access to the Personal Data processes the Personal Data only on the instructions of the Entrusting Entity, unless required by EU or Polish law,

f) take all technical and organizational measures required pursuant to Article 32 of the GDPR,

g) comply with the terms and conditions of use of the entity to which it subcontracts the processing of Personal Data, as indicated in paragraphs 7-11 below,

- h) if necessary and at the request of the Entrusting Entity, assist the Entrusting Entity in the time and form designated by the Entrusting Entity, through appropriate technical and organizational measures, in fulfilling its obligation to respond to the Data Subject's requests for the exercise of his or her rights set forth in Chapter III of the GPPR,
- i) promptly, but no later than within 2 Business Days, inform the Entrusting Entity that the data subject has sent correspondence to the Processor containing a request with respect to the exercise of the person's rights set forth in Chapter III of the GDPR, as well as provide access to the content of such correspondence; the Processor is not authorized to provide any information to the person on its own in connection with the submitted request,
- j) The Parties will comply with the obligations set forth in Articles 32 - 36 of the GDPR, including measures to remedy the Breach and, where applicable, measures to minimize its possible negative effects,
- k) make available to the Entrusting Entity, upon request, all information necessary to demonstrate compliance with the obligations set forth in the provisions of the GDPR, other generally applicable laws and the Agreement.
3. Upon discovery of a Breach, the Processor shall notify the Entrusting Entity without undue delay, but no later than 24 hours after discovery of the Breach. The notification shall be made to the Entrusting Entity's email address, using the template attached as Attachment No. 3 to the Agreement, or electronically by the Processor's application. In the first instance, the Processor shall notify the designated Data Protection Officer (DPO) of the Breach, if the Entrusting Entity has appointed and designated his contacts.
4. If the information in the Notification referred to in paragraph 3 above cannot be provided at the same time, the Processor is obliged to provide it successively without undue delay.
5. The Processor shall document any Breach, including the circumstances of the Breach, the consequences of the Breach, and the remedial actions taken.
6. The Processor shall not be entitled to provide information about the Breach to any other entities, in particular to Personal Data subjects or to the supervisory authority.
7. A processor may only use the services of such further processors that provide sufficient guarantees to implement appropriate technical and organizational measures so that the processing meets the requirements of the GDPR and protects the rights of data subjects.
8. The Processor Entity is authorized to subcontract to the entities indicated in Attachment No. 4 to the Agreement. Updating and notification of changes to the attachment will be done electronically through the Processor's application and by email.
- a) The Entrusting Entity further grants general consent for further subcontracting of data to entities with the help of which the Processor provides the service (subcontractors). A detailed list of the above entities, as well as information on any intended changes regarding the addition or replacement of further processors, will be made available upon request, in order to allow the Entrusting Entity to object to such changes.
- b) The Entrusting Entity also agrees to share data with other entities that will become controllers of such data, to the extent that such sharing is necessary for the performance of the service ordered by the Entrusting Entity. This applies, in particular, to the sharing of data with telecommunications service providers who remain authorized by law to process end-user data (number owners) in connection with the service provided, retention of telecommunications data, inter-operator settlements or other obligations imposed by law.
9. The Processor shall inform the Entrusting Entity of any intended changes regarding the addition or replacement of the entities indicated in Attachment No. 4 no later than 2 days prior to their implementation, and the Entrusting Entity may object to such changes within such period, in which it shall explain the grounds for disapproval of the new entity. The filing of an objection implies disagreement with the addition or replacement of such entity. Due to the nature of the service provided under the Master Agreement, in the event of an objection, the Entrusting Entity accepts that some or all of the functionality of the service may be limited.
10. In the event that the Processor intends to carry out Sub-entrustment necessary and arising from the provision of services to a third-country entity, information regarding the country of origin of the entity is provided in the list of further subprocessors in Attachment No. 4 and in the subprocessing card within the Processor's application.
11. If the Processor subcontracts the Subprocessor to perform specific processing activities on behalf of the Processor, the Processor shall ensure that the Subprocessor performs the same obligations for the protection of Personal Data as imposed on the Processor in the Agreement.

## **§ 8 Right of control**

1. The Processor shall enable and contribute to the Entrusting Entity or an auditor authorized by the Entrusting Entity to conduct audits, including inspections.
2. The Entrusting Entity will notify the Processor in traditional written form of its intention to audit the Processor. The Processor will set dates for possible audits within 21 business days of receiving the notification. The audit must not disrupt the operation of the Processor, in which case the Processor may interrupt the audit process while it is in progress. The right of audit shall apply only to the data entrusted by the Entrusting Entity and the place where it is processed, and may not extend to the audit of other data processed by the

Processor. The audit may take place at a time designated by the Processor and under the control of a person designated by the Processor, after both parties have agreed on a suitable date.

3. The Processor shall immediately inform the Entrusting Entity if the instruction given to the Processor based on §7.2(b) of the Agreement or based on paragraph 1 above constitutes a violation of the GDPR or other generally applicable regulations.

4. Where the Processor is required to maintain a register of all categories of processing activities performed on behalf of the Entrusting Entity, such register shall be made available to the Entrusting Entity upon any request.

### **§ 9 Liability**

1. Each Party shall be liable for damages caused to the other Party and to third parties in connection with the performance of the Agreement, in accordance with the provisions of the Civil Code.

2. The Processor shall be liable for the actions of its employees and other persons with the help of whom it processes Personal Data as for its own acts and omissions.

3. The Processor shall be liable for damages caused by the processing of Personal Data in violation of the provisions of the GDPR, other generally applicable regulations or the provisions of the Agreement if it has failed to comply with the obligations imposed on it by the provisions of the GDPR, other generally applicable regulations or the provisions of the Agreement, or if it has acted outside of or contrary to the lawful instructions of the Entrusting Entity.

4. The Processor is obliged to cooperate with the Entrusting Entity at the Entrusting Entity's request in determining the causes of damage to the data subject.

### **§ 10 Duration and Termination of the Agreement**

1. The Agreement is concluded for the duration of the Master Agreement. For the avoidance of doubt, termination of the Master Agreement shall result in termination of the Agreement.

2. Upon termination of the Main Agreement, the Administrator is obliged to retrieve on its own the personal data that were subject to processing under this Agreement in connection with the Service provided or to give an order to the Processor to delete them. If the Administrator fails to retrieve the data within three working days from the date of termination of the Main Agreement, as well as to issue an order for their deletion, the data shall be deleted without calling the Administrator to issue an order in this regard. The provisions of this paragraph 2 shall not apply to the data processed by the Processor as part of backups - backups are created, in particular, to secure the data and to ensure the availability of the data in the course of providing the Service. The backups are stored for 13 months from the date of their creation and are erased automatically after this period. Personal data are processed within the backups in encrypted forms. Only authorised persons acting on behalf of the Processor will have access to such data. This Agreement will terminate on the expiry of the time period of data processing within the backups..

3. In the event that the scope of the entrusted Personal Data is changed or restricted, paragraph 2 shall apply accordingly to those Personal Data which, as a result of such change or restriction, shall no longer be entrusted to the Processor.

4. The Entrusting Entity is entitled to terminate the Agreement without notice if at least one of the following occurs:

- a) The Processor fails to comply with the obligations indicated in the GDPR or other generally applicable data protection laws,
- b) The Processor does not fulfill the obligations indicated in the Agreement.

5. The existence of grounds for termination without notice shall constitute grounds for termination of the Master Agreement without notice.

6. Each Party shall have the right to terminate the Agreement with immediate effect in the event of breach of the Agreement by the other Party.

### **§ 11 Contact details of the Parties**

1. For matters related to the implementation of the Agreement, the Parties specify the contact details in Attachment No. 5.

2. Deliveries and notices for which the Agreement or generally applicable regulations do not require written form shall be made electronically to the Parties' e-mail addresses.

3. Each Party shall promptly notify the other Party of any change in the data contained in Attachment No. 5 above in electronic form, e.g., by e-mail or through the Processor's application. Changing the data contained in Attachment No. 5 above shall not constitute an amendment to the Agreement.

### **§ 12 Final provisions**

1. The Agreement shall be governed by Polish law and shall enter into force as of the date of its conclusion by the Parties.

2. The Attachments are an integral part of the Agreement and may be updated electronically by the Processor's application.

Attachment No. 1: Subject of processing

Attachment No. 2: List of Controllers on whose behalf processing of Personal Data takes place

Attachment No. 3: Template for notification of Personal Data Breach.

Attachment No. 4: List of entities to which the Processor subcontracts the processing of Personal Data

Attachment No. 5: Contact information related to personal data protection

3. Matters not regulated by the Agreement shall be governed by generally applicable laws.

4. Any changes to the Agreement must be made in the form in which it was concluded under pain of nullity, unless the Agreement provides otherwise.

5. All information obligations and updates to the attachments can be carried out electronically, e.g. through the Entrustment Card or / and using email.

6. The competent court for disputes arising in connection with the performance of the Agreement shall be the court having jurisdiction over the claimant's registered office.

[Redacted signature area]

Entrusting entity

[Redacted signature area]

Processor

## Attachment No. 1

## Subject of processing

## 1. Categories of data subjects:

List what categories of data will be processed: (e.g., customers or potential customers, subscribers, employees, business partners):

.....

## 2. Type of Personal Data:

Ordinary data (e.g., first name, last name, phone number, e-mail)	Special categories of personal data (e.g., those revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a final person, or data concerning that person's health, sexuality or sexual orientation)	Personal data on convictions and violations of the law or related security measures
..... ..... .....	<input type="checkbox"/> Not applicable <input type="checkbox"/> Applicable ..... ..... .....	<input type="checkbox"/> Not applicable <input type="checkbox"/> Applicable ..... ..... .....

## Attachment No. 2

# List of Controllers on whose behalf processing of Personal Data takes place

(If you are the sole Controller of the data entrusted to us, this attachment can be left blank)

Lp.	Nazwa lub kategoria podmiotów	Adres lub kraj
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		





## Attachment No. 3

# Data Protection Breach Notification Template

Data breach notification No .....	
Application date: .....	
Nature of the Violation	
Date of Violation	
Duration of Violation	
Place of occurrence of the Violation	
Data stwierdzenia Naruszenia	
Place of Determination of Violation	
Categories of data subjects affected by the Breach	
Approximate number of data subjects affected by the Breach	
Categories of personal data affected by the Breach	
Approximate number of personal data entries affected by the Breach	
Description of Possible Consequences of Violation	
Description of the measures applied or proposed by the Processor to remedy the Breach, including, where applicable, measures to minimize its possible negative effects	
Does the information provided constitute all the information that pertains to the Data Protection Breach?	

## Attachment No. 4

# List of entities to which the Processor subcontracts the processing of Personal Data

## Approved processing subcontractors.

Categories of processors: Server rooms and Data Centers (hosting, colocation services, backup), In order to provide services, the Company cooperates with domestic telecommunications operators (in the case of domestic SMS dispatch) and foreign SMS service providers (in the case of SMS dispatch abroad).

### Detailed list of major processors:

Name	Scope	Area
<b>Beyond.pl sp. z o.o., Polska</b> Ul. Adama Kręglewskiego 11, 61-248 Poznań	Server rooms and data centers (colocation, backup)	EOG
<b>NTT Global Data Centers EMEA GmbH</b> Voltastraße 15, 65795 Hattersheim	Server rooms and data centers (colocation, backup)	EOG
<b>Cyber Folks S.A.</b> Ul. Roosevelta 22, 60-829 Poznań	Server rooms and data centers (colocation, backup)	EOG

## Attachment No. 5

# Contact information for the data controller

Data on the part of the Controller	
Name or surname:	
Address:	
Email:	
Phone:	
Name of the controller's data protection officer (DPO):	
DPO contact information:	
Data from the Processor page	
Name or surname:	
Address:	
Mailing address:	
Email:	
Phone:	
Name of Data Protection Officer (DPO):	