AGREEMENT FOR THE ENTRUSTMENT OF PERSONAL DATA PROCESSING

Entered into as of .... in .... by and between:

.... having its registered office in .... ul. ...., entered in the register of entrepreneurs of the National Court Register kept by the District Court in ...., ... Commercial Division of the National Court Register, under KRS number: …………………………., VAT No.: ………………………, share capital of PLN …………………..,

hereinafter referred to as the "**Controller**"

represented by:

- _____

and

Lerg Spółka Akcyjna with its registered office in Pustków-Osiedle, No. 59D, 39-206 Pustków 3, Poland, the registration files of which are kept by the District Court in Rzeszów, 12th Economic Division of the National Court Register, entered in the Register of Entrepreneurs of the National Court Register under the number KRS: 0000033727, VAT No.: 8720003568, REGON: 850022800, share capital: PLN 3,813,981.60, contact details: e-mail address: lerg@lerg.pl, phone: T: +48 68 06 211, F: +48 68 06 300. We work on business days from Monday to Friday from 07:00 to 15:00 hrs.

hereinafter referred to as the "**Processor**"

represented by:

- _____

The Controller and the Processor are hereinafter collectively referred to as "**Parties**" or each individually as a "**Party**".

Whereas the Parties intend to cooperate in the processing of Personal Data of the Controller, the Parties have agreed as follows:

§ 1. Definitions

Wherever the following terms are used in this Agreement, they have the following meanings:

1. **Personal Data** - information on an identified or identifiable natural person collected as part of Data Sets entrusted by the Administrator, which is characterized by:
   a) type of Personal Data: ordinary / sensitive / regarding convictions and violations of law
   b) categories of data subjects: customers, employees
2. **Data Set** - a structured set of Personal Data, available according to specific criteria,
3. **GDPR** - Regulation (EU) No 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 (General Data Protection Regulation, (OJ EU L 119/1),
4. **Civil Code** - the Act of 23 April 1964 Civil Code (consolidated text - Journal of Laws of 2017, item 459, as amended),

5. **Personal Data Processing** - data processing within the meaning of Article 4 (2) GDPR, i.e. the processing by the Processor (or as appropriate by natural persons employed by the Processor) of any operations on the personal data entrusted for processing in an automated or non-automated manner, such as collecting, recording, organizing, structuring, storing, adapting or modifying, downloading, viewing, using, disclosing by sending, distributing or other type of sharing, matching or combining, restricting, erasing or destroying, especially those that are performed in the Information System,

6. **Information System** - a set of cooperating devices, programs, information processing procedures and software tools used for Personal Data Processing,

7. **Controller** - an authority, institution, organizational unit, entity or person deciding on the purposes and means of Personal Data Processing, meeting the conditions for being considered a "controller" in accordance with the provisions of the GDPR,

8. **Personnel** - employees, members of management and supervisory bodies, associates and subcontractors of the Processor who will directly perform the obligations of the Processor arising from this Agreement,

9. **Agreement** - an agreement concluded between the Controller and the Processor regarding the provision of training services.

10. **Service** - a training service provided by the Processor under the Agreement.

§ 2. Representations of the Parties

1. The Controller represents and warrants that it is the Controller of Personal Data collected in Data Sets and that all Personal Data have been collected in accordance with the applicable laws, and in particular that each Personal Data subject has consented to the Processing of their Personal Data when required by law.

2. The Controller represents and warrants that it has the right to entrust Personal Data Processing to the Processor under the Agreement and that the above entrusting does not violate the law or the rights of third parties.

3. The Processor represents and warrants that it has the appropriate means to perform its obligations under the Agreement and this Agreement, including in particular the required knowledge, experience, equipment and human resources.

4. The Processor represents and warrants that it adopts appropriate technical and organizational measures so that the Processing is carried out in accordance with the GDPR and protects the rights of data subjects, and the Processor will be able to demonstrate the same. These measures are reviewed and updated as necessary.

5. The Processor represents and warrants that it is the owner or licensee of all components making up the Information System necessary for Personal Data Processing.

§ 3. Authorization to Process Personal Data

1. Based on Article 28 (3) GDPR, the Controller hereby entrusts to the Processor, and the Processor undertakes to carry out, Personal Data Processing in accordance with this Agreement. The Parties represent and warrant that the Processor is a "processor" within the meaning of Article 4 (8) GDPR.

2. The Controller authorizes and obliges the Processor to Process Personal Data only in the following areas:
   a) copying Personal Data,
   b) storing of Personal Data,
   c) erasing Personal Data at the Controller's request.

3. The Controller may additionally authorize and oblige the Processor to Process Personal Data for activities other than those indicated in para. 2 above, by submitting to the Processor an additional order in this regard by written or electronic means.
4. Personal Data Processing will be carried out solely for the purpose of performing the Agreement concluded by the Controller with the Processor.
5. The Processor accepts the authorization and obligations indicated in § 3 para. 2 and 3 and undertakes not to Process Personal Data in a manner and for purposes other than those indicated in § 3 para. 2 and 3.
6. This Agreement is concluded to ensure the security of Personal Data Processed in the Information System.

§ 4. Method of Transfer and Place of Storage of Personal Data

1. Personal Data will be transferred to the Processor by the Controller on its own:
   a) automatically - via the Internet using an encrypted connection,
   b) in exceptional cases, where automatic transmission is not possible, manually - using data storage devices such as discs, disks or USB memory sticks,
   c) in paper form.

§ 5. Obligations of the Processor

1. The Processor Processes Personal Data only on the Controller's documented instruction contained in this Agreement, agreement or otherwise transferred to the Processor, which also applies to the transfer of Personal Data to a third country or international organization, unless it is required to do so by law. In such case, before processing begins, the Processor will inform the Controller of such legal obligation.
2. The Processor may use the services of other processors that will act as a subcontractor in the provision of services under the Agreement, to which the Controller agrees. The list of other processors (hereinafter: the "List") referred to in the previous sentence is attached as Appendix 1 to this Agreement.
3. Where specific Processing activities are performed on behalf of the Controller, the Processor, using the services of another processing entity referred to in para. 2 above, imposes on such other processor, under an agreement for further entrustment of Personal Data Processing, the same data protection obligations as those indicated in this Agreement, in particular the obligation to provide sufficient guarantees for the implementation of appropriate technical and organizational measures so that the Processing meets the requirements of the GDPR. If such other processor fails to fulfil its data protection obligations, the Processor will bear full liability towards the Controller for fulfilling the obligations of that other processor.
4. The Processor informs the Controller of any intended changes regarding the addition or replacement of other processors on the List. Within 21 days from the date of notification, the Controller may object to such changes, in which objection it will explain the grounds for non-acceptance of a new processor. Raising an objection means no consent to the addition or replacement of such a processor for further entrustment of Processing of Personal Data provided pursuant to this Agreement. In such case, unless it is possible to provide services under the Agreement, with the exclusion of the processor to which the Controller has objected, the Parties will have the right to terminate the Agreement with immediate effect.
5. When processing Personal Data, the Processor is obliged to apply technical and organizational measures to ensure the protection of Personal Data, in accordance with Article 32 GDPR, and in particular the Processor will secure Personal Data against disclosure to unauthorized persons, loss, damage or destruction, including, but not limited to:
   a) pseudonymization and encryption of Personal Data;

b) capability to continuously ensure the confidentiality, integrity, availability and resilience of Processing systems and services;
c) capability to quickly restore the availability of Personal Data and access to the same in the event of a physical or technical incident;
d) regular testing, measuring and assessing the effectiveness of technical and organizational measures to ensure security of Processing.

6. In order to perform the obligation referred to in the previous paragraph, the Processor is obliged to keep documentation describing the method of Personal Data Processing and the means indicated in the previous paragraph.

7. Any activities for Personal Data Processing may only be undertaken by Personnel members who have previously obtained a written authorization from the Processor. Each authorization or its withdrawal must be entered by the Processor in the "Register of Persons Authorized to Process Personal Data", which should contain the following data:
   a) first name and surname of the authorized person,
   b) date of granting and expiry, as well as the scope of authorization to access Personal Data,
   c) identifier, if Personal Data Processing is carried out using the Information System.

8. Personnel Members whom the Processor will use in performing this Agreement will be obliged by the Processor to keep confidentiality of Personal Data and apply protection measures for Processing of the same.

9. The Processor is obliged to train the Personnel in the ways of securing the Processed Personal Data.

10. Where applicable, the Processor, taking into account the nature of the Processing and the information available to it, will assist the Controller and provide necessary information in order for the Controller to properly fulfil its obligations provided for by law, in particular those specified in Chapter III and Article 32-36 GDPR.

11. The Processor undertakes to provide the Controller, at the Controller's request, with all information necessary to demonstrate compliance with the obligations set out in this Agreement. In connection with the above obligation, the Processor will immediately inform the Administrator if, in its opinion, an instruction issued to it constitutes a violation of the GDPR or other rules concerning the Personal Data protection.

12. Without prejudice to separate provisions, if the Processor violates the GDPR in determining the purposes and methods of Processing, it will be considered a controller in relation to such Processing.

§ 6. Audits

1. The Controller may carry out audits of the compliance of the Processor's activities with this Agreement.
2. The Controller is obliged to inform the Processor at least 7 days before the audit, if it is to be carried out by a third party.
3. The audit should be carried out during working hours in force at the Processor's premises or other place indicated by the Processor, and should not unduly disturb the normal operations of the Processor.
4. Audit reports are confidential data of the Parties.
5. The costs of conducting the audit will be borne by the Controller, except for the working time of the Processor's Personnel.
6. The Processor undertakes to comply with post-audit recommendations aimed at removing deficiencies and improving the security of Personal Data Processing, if any.
7. The audit referred to in this paragraph should be carried out in such a way that Personal Data or confidential information of the Processor and third parties, in particular other entities entrusting the Processor with Personal Data Processing, are secured.

8. The Parties declare that in the event of an audit of the President of the Office for Personal Data Protection carried out at one of the Parties regarding the Processing of entrusted Personal Data under this Agreement, one Party will provide the other Party with the necessary information and explanations to the extent permitted by law.

§ 7. Obligations of the Controller

1. The Controller undertakes to perform the agreement and this Entrustment Agreement in accordance with applicable law concerning personal data protection, including the GDPR, and in particular to place legally Processed data in the Processor's Information System, while respecting the rights of data subjects.
2. The Controller is responsible for entities or third parties which, on behalf of the Controller, will administer the Service in the Processor's infrastructure. At the same time, the Controller is responsible for providing access passwords to the Service to third parties and for storing insufficiently secured passwords to access the Service on its devices.
3. If the Controller loses the access to its service in which Personal Data are processed, for security reasons it will be obliged to report this fact immediately to the Processor.

§ 8. Liability of the Parties

1. Each Party is liable for damage caused to the other Party and third parties in connection with the performance of this Agreement, in accordance with the provisions of the Civil Code and the provisions of the GDPR and in accordance with the provisions of this Agreement.
2. The Processor bears full liability for its actions, the actions of its Personnel, as well as other processing entities for which the Processor is responsible, and to which the Processor has further entrusted Personal Data Processing.

§ 9. Term and termination

1. This Agreement is concluded for the duration of the Agreement. Upon the expiry or termination of the Agreement for any reason, this Agreement will terminate.
2. Either Party may terminate this Agreement with immediate effect in the event of a breach of material provisions of this Agreement and after requesting the other Party to cease such breaches within a time limit of not less than seven days. In such case, upon termination of this Agreement, the Agreement will be terminated automatically.
3. In the event of termination of this Agreement, the Processor will immediately return to the Controller or enable it to recover Personal Data in any other manner. After the return of Personal Data, the Processor will erase all copies of the Data Set or render the access to the same impossible in any other way, unless the obligation to keep a copy of it arises from applicable laws.

§ 10. Miscellaneous

1. This Agreement enters into force as of .... and its provisions also apply to previous activities undertaken between the Parties, and it cancels and supersedes all previous agreements, arrangements and understandings regarding the protection of personal data.

2. To matters on which this Agreement remains silent, the applicable provisions of Polish law will apply, in particular the Civil Code and the GDPR.
3. If any provision of this Agreement is or becomes invalid, the remainder of the Agreement will remain in full force and effect and the Parties will negotiate to immediately replace such invalid provision by an appropriate provision which is valid and closest to the original intention of the Parties.
4. Any amendments or additions to this Agreement, with the exception of Appendix 1, require written form and signatures of both Parties, otherwise being null and void.
5. Any Appendices to this Agreement form an integral part hereof.
6. The competent court for resolving disputes arising under this Agreement is the court competent for the registered office of the Controller.
7. This Agreement is made in two counterparts, one for each Party.

_____   _____

      For the Controller   For the Processor

Appendices:

1. List of other processors