

## CONFIDENTIALITY AGREEMENT

concluded in ..... , on the day |..... |

(hereinafter: "**The Agreement**")

by and between:

"PKP Intercity" Spółka Akcyjna with its seat in Warsaw, al. Jerozolimskie 142A, 02-305 Warszawa, entered into the Register of Entrepreneurs of the National Court Register kept by the District Court for the capital city of Warsaw, 12th Commercial Division of the National Court Register under the KRS number 0000296032, NIP 526-25-44-258, REGON 017258024, with the share capital of ....., paid up in full, represented by:

..... – .....

..... – .....

|on the basis of a power of attorney - a copy of the power of attorney is attached|

hereinafter referred to as "**PKP IC**"

and

..... with its registered office in ..... ul. ...., - ..... , a company entered in the register of entrepreneurs of the National Court Register kept by the District Court for ..... in ..... Commercial Division of the National Court Register, under KRS number: ..... , NIP: ..... , REGON: ..... , share capital of ..... zlotys, paid up in full / up to the amount of ..... zlotys, represented by:

..... – .....

As a person(s) entitled to representation / on the basis of a power of attorney<sup>1</sup> (attached a printout from the Central Information Office of the National Court Register and the original power of attorney<sup>2</sup>)

hereinafter referred to as the "**Contractor**"

//or//

..... residing in... - ..... , ul. ...., running a business under the name of: ..... entered into the Central Register and Information on Economic Activity, address of the main place of business ... - ..... ul. ...., NIP: ..... , REGON: ..... , PESEL: ..... , with an identity card, series and number: .....,

|hereinafter referred to as the "**Contractor**"|

hereinafter referred to jointly as "**Parties**", or each separately a "**Party**",

Hereby, in connection with:

|with the Contractor's declaration of willingness to provide agency services for the sale of train tickets to PKP IC, through the Agent's services, on the basis of uniform commercial conditions|

hereinafter referred to as the "**Project**"

The Parties conclude this Agreement that reads as follows:

## **§ 1**

### **CONFIDENTIAL INFORMATION**

1. Confidential information (hereinafter: "**Confidential Information**") is any technical, financial and commercial data, materials and documents, any ideas, know-how, inventions, trade secrets, projects and business plans, data relating to business processes or other information, regardless of the fact whether they are stated in writing or in any other way, recorded in any form and on any medium (including, but not limited to, presentations, drawings, films, documents, in electronic form) regarding PKP IC or its clients, contractors, suppliers, as well as information on services, pricing policy, sales, employee remuneration that the Contractor has received or will receive during the term of the Agreement or other agreements applicable in relations between the Parties, or about which he learned, or to which he had access or will be in possession of, in connection with the Project, and which are not generally known (not in the public domain). Confidential information also includes legally protected information constituting a business secret of PKP IC.
2. Company secret of PKP IC, within the meaning of Art. 11 sec. 2 of the Act of April 16, 1993 on Combating Unfair Competition, is undisclosed protected, technical, technological, organizational, financial or other information having economic value for PKP IC, or the unauthorized disclosure of which violates or may violate the interests of PKP IC, clients or entities related by capital or organization.
3. Confidential information includes both information provided to the Contractor by PKP IC, its staff and obtained by the Contractor independently during the term of the Agreement.
4. The Parties declare that by defining the Confidential Information in the Agreement and the rules applicable to them, the condition of taking appropriate steps to ensure the confidentiality of information, as specified in Art. 11 sec. 2 of the Act of April 16, 1993 on Combating Unfair Competition, is met.

## **§ 2**

### **KEEPING CONFIDENTIAL INFORMATION SECRET**

1. The Contractor undertakes that:
  1. Any information provided, made available or disclosed by PKP IC will be protected and kept secret, in a manner consistent with applicable law and the provisions of the Agreement,
  2. the obtained Confidential Information will be used only for the purpose for which it was provided, made available or disclosed, in particular the implementation of the Project,
  3. the Confidential Information held will not be transferred or disclosed to any third party - directly or indirectly (subject to the exceptions provided for in the Agreement or resulting from other agreements existing between the Parties) - without the prior consent of PKP IC, expressed in writing under pain of nullity,
  4. will protect the Confidential Information, at its own expense, against disclosure, subject to the cases provided for in the Agreement, by applying at least such care as the Contractor makes to protect its own information constituting a business secret;
2. The Contractor is obliged to protect the Confidential Information, regardless of the form of its transmission and processing (e.g. oral transfers, paper documents or electronic transfers). The Parties agree that the Confidential Information will be transferred between them only in a predetermined form by authorized persons.

3. The Contractor undertakes not to copy or otherwise duplicate the Confidential Information or parts thereof provided by PKP IC, except for cases when it is necessary for the implementation of the Project or for another purpose closely related to the subject of cooperation between the Parties. Any copies or reproductions of the Confidential Information made in such a case, recorded on any information media, including electronic media, remain the property of PKP IC and will be returned, destroyed or effectively removed from information media upon request.
4. The obligation to keep the Confidential Information secret also covers all collective studies, compilations, papers and other documents to the extent that they contain any Confidential Information or are based on Confidential Information.
5. Confidential information may be provided only to authorized employees of the Contractor, persons employed by the Contractor on the basis of civil law contracts, entities associated with the Contractor and subcontractors of the Contractor who, due to the scope of their duties or tasks entrusted to their care, will be involved in the implementation of the Project and tasks for the Contractor.
6. Due to the obligation to keep the information confidential, the Contractor is obliged in particular to:
  1. inform the persons referred to in point 5 above on the confidential nature of the information provided and the Contractor's obligations under the Agreement, in particular the obligation to keep the Confidential Information secret;
  2. ensure compliance by the persons referred to in point 5 above to the Contractor's obligations under the Agreement, referred to in the Agreement, in particular in the scope of keeping the Confidential Information secret;
  3. for the avoidance of doubt, the Parties explain that for the obligations specified in point 6.2 above, the Contractor is liable to PKP IC pursuant to Art. 391 of the Civil Code;
7. The Parties agree that if the Contractor engages third parties other than those mentioned in point 5, Confidential Information may be transferred to such third parties only after receiving the written consent of PKP IC and in compliance with the requirements specified in the Agreement.
8. Each Party allows the transmission of Confidential Information via e-mail encrypted with PGP / SMIME.

### **§ 3**

#### **RESTRICTIONS ON THE OBLIGATION TO MAINTAIN CONFIDENTIALITY**

1. The Parties agree that the Confidential Information and the obligation to keep it secret do not include:
  1. information that is publicly available without violating the provisions of the Agreement,
  2. information that was legally in the possession of the Contractor prior to the signing of the Agreement or other agreements in force between the Parties and was not covered by the obligation of secrecy before it was disclosed,
  3. information obtained from third parties who had the right to possess and disclose it, and information resulting from the processing of this information, provided, however, that it was obtained without violating the law and the Agreement.
2. The Contractor will be released from the obligation to keep the Confidential Information secret if the obligation to disclose the Information results from mandatory provisions of law or a decision / decision of an authorized court or authority. The Contractor is obliged to immediately notify PKP IC of the circumstances

justifying the disclosure of Confidential Information of any occurrence of such an obligation, not later than within one day of learning about the occurrence of such circumstances.

3. In the case referred to in paragraph 2 above, the Contractor is obliged to:
  1. immediately inform PKP IC about the obligation to disclose Confidential Information to persons or authorities the disclosure of which is to take place or already took place, if it is in accordance with the law,
  2. disclose only such part of the Confidential Information as is required by law,
  3. take all possible steps to ensure that the disclosed Confidential Information will be treated confidentially and used only for legitimate purposes of disclosure.

#### **§ 4**

##### **OTHER OBLIGATIONS OF THE PARTIES**

1. The Contractor undertakes to return to PKP IC immediately after their use any media containing Confidential Information and received by the Contractor from PKP IC, .
2. PKP IC may at any time request the return, destruction or effective removal of individual or any disclosed Confidential Information, along with appropriate media and their copies and notes about them within the prescribed period, as well as prohibit their further use. The Contractor may decide to return the Confidential Information media if the request of PKP IC to destroy the Confidential Information necessitated the Contractor to incur excessive costs.
3. The Contractor is entitled to store one copy of the documents resulting from the work performed for PKP IC (if the Project is related to the performance of such obligations) containing the Confidential Information, while maintaining the obligation to protect it on the terms specified in the Agreement. In the case of documents containing a business secret, the return of all copies is, however, obligatory no later than 3 months from the date of limitation of claims related to the works performed by the Contractor for PKP IC, unless keeping one copy is required by law or in order to fulfill obligations imposed on the Contractor.
4. Non-public information by the Contractor about the establishment of cooperation with PKP IC and its scope, in particular for marketing or reference purposes, requires the prior explicit written consent of PKP IC, otherwise null and void.
5. Public information or notifications regarding the Contractor's cooperation with PKP IC, its scope and results require the prior written approval of PKP IC, otherwise null and void as to their content and form, as well as the manner, place and date of the announcement.

#### **§ 5**

##### **PROHIBITION OF ANY OTHER USE OF CONFIDENTIAL INFORMATION**

PKP IC discloses to the Contractor the Confidential Information solely in connection with the implementation of the Project. Therefore, it is agreed that both in the event of the Project being implemented or its abandonment for any reason, the Contractor will not use the obtained Confidential Information for any other purpose, in particular for the purpose of conducting its own business activity based on it, unrelated to cooperation with PKP IC.

## **§ 6**

### **PROVISIONS RELATING TO INTANGIBLE RIGHTS**

1. The provision of Confidential Information does not mean or imply that the Contractor is authorized to use the industrial property rights or copyrights of PKP IC, even if the intangible goods referred to here are included in the Confidential Information provided.
2. PKP IC retains the legal title to all Confidential Information as well as to media previously provided to the Contractor.

## **§ 7**

### **BREACH OF THE AGREEMENT**

1. In the event of a breach by the Contractor of any obligations under the Agreement, PKP IC has the right to demand immediate cessation of the breach and removal of its effects.
2. In addition, for each breach of obligations under the Agreement, PKP IC may require the Contractor to pay a contractual penalty in the amount of PLN 50,000 (say: fifty thousand zlotys).
3. The payment of the contractual penalty referred to in paragraph 2, does not exclude the possibility of PKP IC seeking compensation on general terms in a situation where the amount of the damage suffered exceeds the amount of the contractual penalty.
4. The Contractor is responsible for all acts or omissions of persons who are used by the Contractor to perform the Agreement as for his own.
5. Contractual penalties stipulated in the Agreement will be payable within 7 days from the date of delivery of the accounting note.

## **§ 8**

### **NOTICES**

All notices, summons and other information required or permitted under the Agreement shall be made in writing and shall be deemed effectively delivered to the Parties if they are:

1. delivered to the representative of the Party by hand with acknowledgment of receipt, or
2. sent to the Party by courier or by post with return acknowledgment of receipt, or
3. sent to the Party by e-mail or by fax - however the original message sent in this form will be immediately sent by at least one of the methods provided for in point 1 or 2 above.

## **§ 9**

### **DURATION OF THE CONTRACT**

1. The Agreement is concluded for an indefinite period of time, subject to the following:
  1. The Contractor may not terminate the Agreement during the first 15 years of its term,
  2. The Agreement may not expire or be terminated earlier than after 6 months from the date of termination of any other contracts and agreements existing between the Parties or the completion by the Parties of all negotiations between them.
  3. The Agreement shall remain in force if, in the period referred to in point 2, the Parties re-conclude the contract or agreement with each other or resume negotiations within the six-month period referred to in point 2.

2. Termination of the Agreement (regardless of the reason) does not release the Contractor from liability for breach of the confidentiality obligations of the received Confidential Information under the terms of the Agreement, unless PKP IC releases the Contractor from the obligation of confidentiality in writing.

## **§10**

### **FINAL PROVISIONS**

1. Any changes and additions to the Agreement must be made in writing, otherwise being null and void.
2. The Contractor may not transfer (assign) the rights under the Agreement without the prior written consent of PKP IC, otherwise null and void.
3. In the event of a reservation in writing in the Agreement, it is assumed that it has been reserved under the pain of nullity.
4. The Agreement is subject to Polish law. In matters not covered by the Agreement, the applicable law shall apply.
5. Any disputes arising from the Agreement shall be settled by the Parties by a common court having jurisdiction over PKP IC.
6. The data of the Contractor's proxies and persons representing the Contractor and other persons whose personal data will be processed in connection with the conclusion and performance of the Agreement are provided by the Contractor for the purposes of concluding and performing the concluded Agreement.
7. The Contractor undertakes to provide the content of the PKP IC information clause on the processing of personal data, constituting an appendix to this Agreement, to the persons specified in section 6 above.
8. In the event of non-performance or improper performance of the obligation referred to in paragraph 7 above, the Contractor undertakes to pay to PKP IC an amount in the amount of the penalty imposed on PKP IC by the supervisory body in matters relevant to the processing of personal data as a result of non-performance or improper performance of the obligation referred to in the previous sentence and any costs resulting from the participation of PKP IC in the proceedings initiated in connection with non-performance or improper performance of the obligation referred to in the previous sentence.
9. In the event that any provision of the Agreement is found to be illegal, invalid or unenforceable, such provision shall be deemed not stipulated in the Agreement, and all further provisions shall remain in force. A provision found to be illegal, invalid or unenforceable will be replaced with a provision of a similar meaning, including, in particular, the content that reflects the original intentions of the Parties to the extent permitted by law.
10. The Agreement has been drawn up in two counterparts, one for each of the Parties.

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**PKP IC**

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**CONTRACTOR**

## Appendix

### **Information clause on the processing of personal data of natural persons representing the entity entering into an agreement with “PKP Intercity S.A.”, and natural persons designated by that entity as contact persons and other persons responsible for performing the Agreement**

1. PKP Intercity S.A. (hereinafter the PKP IC) represents to be the Data Controller of personal data within the meaning of the Regulation (EU) 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 (the general data protection regulation), hereinafter the GDPR, with respect to personal data of natural persons representing the entity entering into an agreement with PKP IC, and natural persons designated by that entity as contact persons and other persons responsible for the performance hereof.
2. Contact details of the PKP IC Data Controller: [jod@intercity.pl](mailto:jod@intercity.pl), Al. Jerozolimskie 142A, 02-305 Warszawa.
3. PKP IC wishes to inform that the following form the legal basis for the processing of personal data:
  - a. Article 6(1)(c) of the GDPR – meeting the legal obligation imposed onto the data controller, i.e., the requirement to document the concluded agreement under tax law,
  - b. Article 6(1)(f) of the GDPR – the obligation to exercise legitimate interests pursued by PKP IC and the entity entering into an agreement with PKP IC, i.e., the requirement to use personal data to enter into and perform the Agreement.
4. Personal data of persons referred to in (1) shall not be transferred to third parties; however, pursuant to applicable law, PKP IC may transfer the data to entities processing them, for instance under personal data processing agreements, on behalf of PKP IC, e.g., IT service providers, auditors, advisors, and to entities entitled to obtain the data under applicable law, e.g., courts or law enforcement agencies – provided that such entities make a request to obtain personal data and specify the legal basis for their request.
5. Personal data of the persons referred to in (1) shall not be transferred to a third country or an international organization within the meaning of the GDPR.
6. Personal data of the persons referred to in (1) shall be processed for the duration of the Agreement, unless a longer period of processing is required, e.g., due to archiving obligations, pursuing claims or other obligations required under generally applicable law.
7. The persons referred to in (1) have the right to request the Data Controller to grant them access to their personal data and have them rectified or erased, or restrict the processing thereof, or object to the processing of their personal data, and also have the right to data portability. These rights shall be exercised by the Data Controller within the limits of applicable law.
8. In connection with the processing of their personal data, the persons referred to in (1) have the right to lodge a complaint to the supervisory authority competent for the processing of personal data.
9. Personal data of the persons referred to in (1) were provided by the entity entering into an agreement with PKP IC.
10. Based on the personal data of the persons referred to in (1), PKP IC shall not make automated decisions, including decisions resulting from profiling within the meaning of the GDPR.
11. In the event that, in connection with the performance of the Agreement, the entity entering into an agreement with PKP IC makes available personal data of persons associated with this entity, in particular employees, agents, management board members, vendors, suppliers and persons who are not entering into the Agreement, the entity undertakes, on behalf of PKP IC, to inform these persons of the content hereof.