

Regulations for the subcontracting of personal data processing at JAS-FBG S.A. of 24 May 2018

§ 1 DEFINITIONS

1. **Personal Data Controller (hereinafter: the Controller)** – a natural or legal person, public body, unit or other entity that independently or jointly with others sets the purposes and means of the processing of personal data. Due to the nature of the services provided by JAS-FBG S.A., the following parties may be the Controller: JAS-FBG S.A., a Customer of JAS-FBG S.A. (hereinafter: the Customer) at whose request JAS-FBG S.A. performs services, a Subcontractor (hereinafter: the Subcontractor) that performs services at the request of JAS-FBG S.A.
2. **Processor** – a natural or legal person, public body, unit or other entity that processes personal data on behalf of the Controller. Due to the nature of the services provided by JAS-FBG S.A., the following parties may be the Processor: JAS-FBG S.A., a Customer of JAS-FBG S.A. (hereinafter: the Customer) at whose request JAS-FBG S.A. performs services, a Subcontractor (hereinafter: the Subcontractor) that performs services at the request of JAS-FBG S.A.
3. **Personal data** – information about an identified or identifiable natural person (the “data subject”), where an identifiable natural person is a person who can be directly or indirectly identified, in particular on the basis of an identifier such as the name and surname, identification number, location data, Internet identifier or one or more specific factors determining the physical, physiological, genetic, psychological, economic, cultural or social identity of the natural person;
4. **Processing** – any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
5. **Subprocessing** – a type of the outsourcing of personal data processing that takes place when the Contractor outsources the processing of personal data, in part or in whole, to the entity with whom the Contractor cooperates – a subcontractor;
6. **Subprocessor** – means the entity used by the Processor in exercising the rights and fulfilling the obligations set out in the forwarding service order;
7. **IT infrastructure** – the whole of the applied hardware and software solutions as well as organisational ones that form the basis for the implementation and operation of an IT system;
8. **Personal data filing system** – any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis.
9. **Data protection** – it means the implementation and operation of appropriate technical and organisational measures ensuring protection of personal data against their unauthorised processing;
10. **Regulation** – the Regulation of the Minister of the Interior and Administration of 29 April 2004 on the documentation of personal data processing and technical and organisational conditions which should be met by IT devices and systems used to process personal data (Journal of Laws No 100 of 2004, item 1024, as amended);
11. **Act** – the Personal Data Protection Act of 10 May 2018;
12. **GDPR** – Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, referred to as the General Data Protection Regulation;
13. **Supervisory body** – means the supervisory body, referred to in Article 4(21) of the GDPR.
14. **Customer of JAS-FBG S.A. (hereinafter: the Customer)** – a natural or legal person contracting to JAS-FBG S.A. the performance of services involving logistics, road transport, road freight forwarding, sea freight forwarding, air freight forwarding, rail freight forwarding and customs agency.

15. **Subcontractor of JAS-FBG S.A. (hereinafter: the Subcontractor)** – a natural or legal person to whom JAS-FBG SA contracts the performance of road, rail, sea or air transport.

§ 2 GENERAL PROVISIONS

1. There is a need to regulate the processing of personal data and the outsourcing of personal data processing in connection with the services provided by JAS-FBG S.A.
2. These Regulations for the outsourcing of personal data processing at JAS-FBG SA, hereinafter referred to as the Regulations, shall govern the mutual rights and obligations of JAS-FBG S.A., Customers of JAS-FBG S.A. and Subcontractors of JAS-FBG S.A. with regard to the outsourcing of personal data processing.
3. The legal basis for the Regulations is formed by the Personal Data Protection Act of 10 May 2018 and Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, referred to as the General Data Protection Regulation (hereinafter: the GDPR).

§ 3 DESCRIPTION OF THE RELATIONS IN THE PROCESS OF PERSONAL DATA PROCESSING WHEN PROVIDING SERVICES BY JAS-FBG S.A.

1. JAS-FBG S.A. provides services in the field of:
 - 1) Logistics (hereinafter: logistics)
 - 2) Road transport (hereinafter: road transport services)
 - 3) Road freight forwarding (hereinafter: road freight forwarding services)
 - 4) Sea freight forwarding (hereinafter: sea freight forwarding services)
 - 5) Air freight forwarding (hereinafter: air freight forwarding services)
 - 6) Rail freight forwarding (hereinafter: rail freight forwarding services)
 - 7) Customs agency (hereinafter: customs agency services)
2. In the field of performance of road, sea, rail and air freight services, road transport services, logistic services, customs agency services, at the request of its Customers, JAS-FBG S.A. acts as the Processor of personal data transferred to it by Customers who are the Controllers of these personal data.
3. In the field of contracting of road, sea, rail and air transport to be performed by Subcontractors, JAS-FBG S.A. acts as the Controller of personal data, and Subcontractors act as the Processors of these personal data.
4. In the field of performance of road transport services, the Subcontractors as the Controllers of personal data, transfer to JAS-FBG S.A. their personal data and those of their employees responsible for co-operation with JAS-FBG S.A., and personal data of drivers who are employees of Subcontractors and provide transport services contracted by JAS-FBG S.A., and JAS-FBG S.A. acts as the Processor of these personal data.
5. In the field of performance of road, sea, rail and air freight forwarding services, at the request of Customers, when transferring the data of Subcontractors and Subcontractors' employees to Customers, JAS-FBG S.A. acts as the Processor of these data, the Customers act as Subprocessors, and the Subcontractors act as the Controllers of personal data.

§ 4 PERSONAL DATA PROCESSING

1. In connection with the performance of services, referred to in § 3 SECTION 1 of these Regulations, there is a need to define the obligations of the parties involved in the process of performance of the above-mentioned services in terms of personal data protection.

2. The scope of personal data processed in connection with the performance of services, referred to in § 3 section 1 of these Regulations, shall include:
 - 1) In the case referred to in § 3 SECTION 2, the Customer outsources the processing of the following data to JAS-FBG S.A.:
 - a. Name and surname, business telephone number, business e-mail address of employees assigned to work with JAS-FBG S.A., company name, office address, registered business addresses, name and surname of the Customer if the legal form of the customer is sole proprietorship, NIP, communicator number e.g. GG, Trans;
 - b. Data of the recipient of the cargo whose transport has been contracted to JAS-FBG S.A.: Company name, recipient's name and surname, address, recipient's telephone number.
 - c. Data of the Subcontractor of the Customer of JAS-FBG S.A., collecting the cargo from the JAS-FBG S.A. warehouse, including: company name, driver's name and surname, driver's ID card number, driver's passport number, vehicle's registration number.
 - 2) In the case referred to in § 3 SECTION 3, JAS-FBG S.A. outsources the processing of the following data to Subcontractors:
 - a. Name and surname, business telephone number, business e-mail address of employees assigned to work with the Subcontractor, registered business address;
 - b. Data of the recipient of the cargo whose transport has been contracted to JAS-FBG S.A. by the Customer: Company name, recipient's name and surname, address, recipient's telephone number;
 - c. Address of the place of loading, if different from the address of one of the offices of JAS-FBG S.A., company name, name and surname of the persons indicated by the Customer for contact, telephone number.
 - 3) In the case referred to in § 3 SECTION 4, the Subcontractor outsources the processing of the following data to JAS-FBG S.A.:
 - a. Name and surname, business telephone number, business e-mail address of employees assigned to work with JAS-FBG S.A., company name, office address, registered business addresses, name and surname of the Customer if the legal form of the customer is sole proprietorship;
 - b. Name and surname, driver's licence number, ID card number, passport number, business telephone numbers of drivers performing the transport.
 - 4) In the case referred to in § 3 SECTION 5, JAS-FBG S.A. outsources the processing of the following data to Customers:
 - a. Name and surname, business telephone number, business e-mail address of Subcontractors' employees assigned to work with JAS-FBG S.A. and with the Customer, company name, office address, registered business addresses, name and surname of the Subcontractor if the legal form of the Subcontractor is sole proprietorship;
 - b. Name and surname, driver's licence number, ID card number, passport number, business telephone numbers of drivers employed by the Subcontractor performing the transport.
3. Personal data, referred to in § 4 SECTION 2, shall be processed during the period of performance of services by JAS-FBG S.A. in favour of the Customers and by the Subcontractors in favour of JAS-FBG S.A., unless any of the Parties is required to further process them under applicable law.
4. The nature of data processing: data shall be processed in paper and electronic form.
5. If the personal data transferred to JAS-FBG S.A. are the data outsourced for processing to the Customer by other Controllers of personal data, the data of these Controllers shall be transferred together with transport documents.

6. Categories of data subjects: recipients and senders of cargo whose transport is contracted to JAS-FBG S.A. by the Customers, Customers' employees, Subcontractors of JAS-FBG S.A. and their employees and employees of JAS-FBG S.A.
7. Each of the Parties to these Regulations processes personal data solely in the manner specified in these Regulations or at the documented request of the party acting as the Controller, unless the obligation to process data is imposed by Union law or the law of the Member State to which it is subject; in this case, before commencing processing, the Processor or Subprocessor shall inform the Controller about this legal obligation, unless such law prohibits disclosing such information on grounds of important public interest.
8. Each of the Parties to these Regulations shall agree to process data in accordance with the law, in particular to:
 - 1) process the data, referred to in section 2 above, solely at the documented request of the Controller, with the documented request of the Controller being understood as a transport order forwarded to JAS-FBG S.A. by the Customer or a transport order forwarded to the Subcontractor by JAS-FBG S.A.;
 - 2) apply technical and organisational measures that ensure protection of personal data being processed, adequate to risks and categories of data protected, and in particular to protect data against unauthorised access, taking away by unauthorised person, processing in violation of the law and change, loss, damage or destruction;
 - 3) take any measures required under Article 32 of the GDPR, in particular:
 - a. taking into account the state of the art, the cost of implementation and the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for rights and freedoms of natural persons posed by the processing, the Processor shall implement adequate technical and organisational measures to ensure a degree of security corresponding to this risk,
 - b. assessing the appropriate level of security, account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed.
 - 4) keep documentation describing the method of data processing and measures referred to in subsections a and b of this section;
 - 5) if the data protection inspector has been appointed, each of the Parties agrees that the appointed data protection officer shall perform tasks in accordance with the Personal Data Protection Act of 10 May 2018 and in accordance with the GDPR;
 - 6) issue individual authorisations to process personal data;
 - 7) admit to the processing of personal data only authorised persons;
 - 8) keep the record of persons authorised to process personal data;
 - 9) ensure control over what personal data, when and by whom were entered into the data filing systems and to whom they are transferred;
 - 10) meet technical and organisational conditions that should be met by IT devices and systems used to process personal data, set out in the Regulation of the Minister of the Interior and Administration of 29 April 2004 on the documentation of personal data processing and technical and organisational conditions which should be met by IT devices and systems used to process personal data (Journal of Laws No 100, item 1024);
 - 11) keep the record of all categories of the processing activities performed on behalf of the Controller, in accordance with Article 30 section 2 of the GDPR;
 - 12) provide the Controller with all information necessary to demonstrate compliance with the obligations set out in Article 28 of the GDPR.
9. Each Party shall agree to process the personal data and access such data only through the IT infrastructure located in the territory of the Republic of Poland or countries belonging to the

European Economic Area¹ (EEA), except where the Customer contracts freight forwarding or transport services outside the EEA to JAS-FBG S.A. Personal data shall be transferred to third countries when one of the following conditions has been met:

- 1) the processing is performed by the Subprocessor in a third country in relation to which a decision has been issued stating the appropriate degree of protection referred to in Article 45 of the GDPR;
- 2) the processing is performed by the Subprocessor participating in the Privacy Shield Program²;
- 3) the processing is performed by the Subprocessor in line with the binding corporate rules, referred to in Article 4 sections 20 and 47 of the GDPR;
- 4) The processing is performed by the Subprocessor under Standard Contractual Clauses.

10. Each of the Parties, acting as the Controller, shall have the right to inspect the performance of this Agreement by the Processor in terms of the obligations referred to in this Agreement. The condition for carrying out an inspection is to notify the Processor at least 7 days before the planned date. As part of the inspection, the Controller shall have the right to send inquiries to the Processor regarding the correctness of performing the obligations related to the security of personal data outsourced to it under this Agreement. The Processor shall agree to respond to the inquiry within 7 days from the date of receipt.
11. Each of the Parties, acting as the Processor, shall agree to promptly inform the Controller of any proceedings, in particular administrative or judicial, regarding personal data outsourced for processing, and any planned or performed inspections and audits regarding such data.
12. Having regard to the nature of the processing, the Processor shall assist the Controller in fulfilling the obligations referred to in Articles 32-36 of the GDPR.
13. In the case of any change in personal data protection laws, the Processor shall agree to adapt the data processing rules to the new law.
14. The Controller and the Processor shall agree to support each other in the keeping of the documentation describing the processing of personal data and technical and organisational measures ensuring the protection of personal data outsourced for processing, which must be kept in line with applicable law, by providing relevant information at the request of one of the Parties.
15. The Processor shall also be obliged to notify the Controller promptly of any situations that may have allowed unauthorised persons to access the personal data outsourced.
16. In emergency situations (events that may result or has resulted in the loss of personal data or their disclosure to unauthorised persons), when it is impossible to obtain the consent from the Controller, the Processor may perform activities not covered by the scope and purpose indicated in these Regulations, only to the extent required to preserve data security.
17. After the termination or expiration of the Co-operation Agreement, the Processor shall agree to permanently remove all personal data outsourced to it and their copies from any media, and if it is not possible to damage the data media in a way that makes it impossible to read their content, except for personal data that the Processor is obliged to retain under applicable law.
18. JAS-FBG S.A., acting as the Controller, shall not agree to the outsourcing (Subprocessing) by the Processor of the personal data outsourced.
19. The Customers and Subcontractors, acting as the Controllers, shall agree to the outsourcing

¹ It means the European Economic Area as defined in the Agreement on the European Economic Area (EU OJ L of 3 January 1994, as amended)

² Privacy Shield Program – a program defined in the agreement between the European Union and the United States regarding the transfer of personal data from the European Union to entities based in the United States. Pursuant to the decision of the European Commission of 12 July 2016, the transfer of personal data to entities that have joined Privacy Shield ensures an adequate level of protection of personal data within the meaning of Article 45 of the GDPR.

(Subprocessing) of the personal data outsourced, to the extent required by the performance of services referred to in § 3 section 1.

20. The Processor acknowledges that in the field of compliance with the provisions of the Act and the GDPR, concerning the protection of personal data, it shall be held liable as the Controller of personal data, in accordance with the provisions of the Act and the GDPR.

§ 5 PERIOD OF APPLICATION OF THE REGULATION

1. These Regulations shall apply during the effective term of the Co-operation Agreement.
2. A gross violation by any of the Parties of the provisions of the Regulations or non-performance by the Processor of any obligations stipulated herein, despite a written request and setting out of an additional time limit for their performance by the Controller or in the case that such an additional time limit cannot be agreed, may result in termination of the Agreement by the Controller with immediate effect, which shall not exclude other rights of the Controller, including those specified in § 8 section 2.
3. Each of the Parties, acting as the Processor, shall agree to keep confidential all information related to the outsourcing of Personal Data and Personal Data outsourced during the period of application of these Regulations, and indefinitely after the expiration or termination of the Co-operation Agreement.

§ 6 CO-OPERATION BETWEEN THE PARTIES

1. The Parties shall be obliged to co-operate in the field of supervision of the implementation of these Regulations.
2. From 25 May 2018, the proper application of these Regulations and compliance of internal regulations with the generally applicable laws in matters related to the protection of personal data shall be supervised at JAS-FBG S.A. by the Data Protection Officer who must be contacted by e-mail at: odo@jasfbg.pl

§ 7 REMUNERATION

1. The Processors shall not be entitled to any remuneration or any other benefit from the Controller for fulfilment of their obligations under these Regulations.

§ 8 CONTRACTUAL PENALTY

1. In the case of any breach by the Processor, persons authorised by the Processor or the Subprocessor, of any provisions of the Act, the Regulation, the GDPR or any other instruments governing the rules for protection of personal data whose application will be required after the entry into effect of these Regulations, as a result of which the Controller or relevant Personal Data Controllers are required to pay a compensation or fine on the basis of a final and valid judgment or decision of the competent authority, the Processor shall agree to refund the equivalent of such compensation or fine and to pay other costs incurred in this respect.
2. In the case of any breach by the Processor, persons authorised by the Processor or the Subprocessor, of any provisions of these Regulations, the provisions of the Act, the Regulation, the GDPR or other any other instruments governing the rules for protection of personal data whose application will be required after the entry into effect of these Regulations, JAS-FBG S.A.

shall be entitled to charge the Processor or the Subprocessor with a contractual penalty in the amount of the average monthly remuneration owed to JAS-FBG S.A. in connection with the services provided to the Customer (in the cases referred to in §3 section 5) or services provided to the company by Subcontractors (in the cases referred to in §3 section 3), calculated as an average for the last six months, for each case of breach, subject to the right of JAS-FBG S.A. to claim supplementary compensation on general terms.

§ 9 FINAL PROVISIONS

1. All amendments to these regulations shall be in writing otherwise null and void.
2. In matters not covered by these Regulations, the mandatory provisions of law, in particular of the Act, the GDPR and the Civil Code, shall apply.
3. The Regulations shall enter into effect as of 25 May 2018.