



# beyond.pl

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## **IDW-06 INFRASTRUCTURE TERMS OF SERVICE**

Document indication:	IDW-06
Version:	03
Version date:	2021-04-30
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Approved by:	Board
Confidentiality level:	Internal Unclassified

**CHANGELOG**

<b>Date</b>	<b>Version</b>	<b>Created by</b>	<b>Change description</b>
2021-04-30	02	Dariusz Sobkowiak	Unified DC1 and DC2 infrastructure policy into one document.
2021-04-30	03	Dariusz Sobkowiak	Update of the content due to changes in the Agreement.

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**GENERAL PROVISIONS**

1. These Terms of Service are an integral part of the Agreement and the General Terms of Service.
2. An extension or limitation of the application of individual provisions of the ITS shall be included in the Agreement. The scope of the limitation of the application of individual provisions of the ITS must be clearly defined in the respective Agreement and shall apply to the scope of the respective Order.

**DEFINITIONS**

3. The following terms are used in these IRS:
  - 3.1 Kiosk – set of a specific number of server cabinets arranged in such a way that the "cold" area can be separated from the "hot" area in the IT Chamber with the use of additional elements;
  - 3.2 IT Chamber – room in a selected Data Center together with the Equipment, dedicated for the maintenance of Devices;
  - 3.3 Unloading Zone – a space delimited by Beyond.pl used to receive deliveries to the Data Center,
  - 3.4 Server Cabinet – standard 19 inch ICT rack cabinet intended for installation and operation of Devices;
  - 3.5 Continuous Mode – 24 hours a day, 7 days a week, 365 days a year;
  - 3.6 Devices – ICT devices in standard 19" casing used for processing, transmission or storage of digital data; the Client represents to have a legal title to such devices which is effective against third parties;
  - 3.7 Equipment – technological installations of Beyond.pl responsible for physical, fire, energy and environmental safety in the Data Center;

**SCOPE OF THE SERVICE**

4. The scope of the Service includes the following:
  - 4.1 making available by Beyond.pl to the Client the space specified in the Implementation Agreement for the purpose of installation of Devices in the Data Center by the Client;
  - 4.2 installation by the Client or Beyond.pl of Devices in the Data Center;
  - 4.3 enabling access in the Data Center to the Devices by persons indicated by the Client;
  - 4.4 connecting Devices to the electric power supply by the Client or Beyond.pl;
  - 4.5 physical security of the Devices in the dedicated space;
  - 4.6 specific environmental conditions for the operation of the Devices, i.e. air temperature in the so-called "cold zone" inside the Kiosk and relative air humidity, provided that the Client's Devices are installed in the direction of air flow.
5. Environmental conditions are monitored in the Continuous Mode. Measurements are made cyclically with the use of the Equipment for measuring temperature and relative humidity installed in the Data Center.
6. Conclusion of the Implementation Agreement shall not constitute a guarantee granted by Beyond.pl of operation of the Devices, Software installed on them or access to the Client's Data.

## METHOD OF INSTALLATION AND OPERATION

7. By placing its own Device and/or Software in a selected Data Center or by requesting their installation or configuration by Beyond.pl, the Client represents that the Device and/or Software:
  - 7.1 are fully operational,
  - 7.2 are compliant with the manufacturer's specifications,
  - 7.3 do not pose any danger to the Equipment, other Devices and people,
  - 7.4 the Client represents to have a legal title to such devices which is effective against third parties.
8. The Devices in the shared space must not have any graphic or alphanumeric labels other than those of the manufacturer or distributor and bar codes. Moreover, the Client shall ensure that the Devices meet all the requirements specified in applicable regulations and relevant standards, including industry standards, and that they have the required permits, approvals and certificates of compliance with the essential requirements for this type of devices and the applicable provisions of law.
9. The Devices and/or Software shall be installed and configured by the Client in accordance with safety standards, instructions and documentation. The Client shall bear any and all costs related to the installation and configuration of the Devices and/or Software, including packaging (and its disposal), transport and insurance.
10. After handing over the Devices and/or Software, the Parties shall draw up a handover protocol. Signing the protocol shall only constitute a confirmation of the handover of the Device and/or Software to Beyond.pl and shall not constitute any implied confirmation by Beyond.pl of the truthfulness of the statements or proper installation and configuration referred to in sections 7 – 9 above.
11. During the Commitment Period, the Client may from time to time withdraw or replace components of Devices subject to drawing up a handover protocol. If replacement of the components of the Devices requires switching off a Device, at the request of a Beyond.pl representative, the operation shall be carried out in a place designated by him/her in the Data Center. During the performance of the above mentioned activities there shall be no interruption in calculating the Remuneration payable to Beyond.pl.

## ACCESS TO DEVICES

12. Unless the Agreement specifies the time of access to the Devices, the Client has physical access to the Devices on Business Days, subject to the provisions of these Terms of Service.
13. Access to the Devices is possible only in the presence of a designated employee of Beyond.pl, after informing Beyond.pl about the necessity to visit the Data Center and provided that the Client has no overdue obligations towards Beyond.pl.
14. The Client undertakes to provide necessary information to communicate their or their Authorised Person's intention to visit the Data Center to help.desk@beyond.pl. Each notification shall include the following information:
  - 14.1 name and surname of the visiting person,
  - 14.2 identity document number,
  - 14.3 name of the Client's company, however, if the Authorized Person is not the Client's employee, the notification shall additionally include the name of the company entrusted with the performance of specific tasks in the Data Center,

- 14.4 car registration number (if this does not apply – provide information that there is no car) – does not apply to DC1,
  - 14.5 planned date and time of visit,
  - 14.6 aim of the visit.
15. Submitting a visit notification does not void the obligation to update the data provided in the Contact Data Form.
16. In justified cases the Client has the right to use the Unloading Zone.
17. Delivery and receipt of Devices or other large items should be reported at least 24 hours in advance to [help.desk@beyond.pl](mailto:help.desk@beyond.pl). The message should contain the following information:
- 17.1 name of the Client/sender's company,
  - 17.2 information whether delivery or collection of Devices is planned,
  - 17.3 delivery/collection date,
  - 17.4 (i) name of the transport company and the number of the consignment note, or (ii) name and surname of the driver, series and number of their identity card, vehicle registration number if the transport is carried out without the assistance of a transport company).

The detailed rules for DC1 are specified in the **P-33 - Collection and Supply Handling (Delivery Zone) - Customers and Maintenance Services**.

The detailed rules for DC2 are specified in the **P-21 - Collection and Supply Handling (Logistics) - Customers and Maintenance Services**.

18. The transport (together with the transport of devices) of hazardous materials such as infectious agents, explosives, radioactive material, acid, self-flammable material, compressed gas, flammable material, combustible material, poisonous substance, refrigerant, toxic substance, volatile substance is categorically prohibited.

## **ACCESS TO DATA AND SOFTWARE**

- 19. The Client is the sole administrator of Client Data and Software in the Device.
- 20. Beyond.pl, without the Client's express authorization, shall not have access to the Data and Software in the Device.
- 21. The rules of access to Data by authorized authorities are defined in the applicable regulations.
- 22. Beyond.pl shall not be liable for information collected in the Device, including loss or damage of Data.

## **DEVICE REMOVAL**

- 23. The Client undertakes to remove the Devices from the Data Center within 7 days following the expiry or termination of the Agreement at their own expense and risk.
- 24. Release of the Devices shall be confirmed by a protocol drawn up by an authorised Beyond.pl representative.
- 25. Release of a Device to an Authorized Person shall exclude the liability of Beyond.pl for its loss or damage.
- 26. In case of failure to remove a Device by the Client within the deadline, Beyond.pl will call the Customer to remove them after appointing a 7-day deadline for this purpose, and in the event of

its ineffective expiry, Beyond.pl shall be entitled, on the basis of the Agreement and these ITS – as if acting under a power of attorney within the meaning of Article 101 of the Civil Code – to:

- 26.1 disassemble and store the Device at the expense and risk of the Client,
- 26.2 sell the equipment via public auction,
- 26.3 credit the amount obtained from the sale of the Device towards receivables due to Beyond.pl.

## ORGANISATIONAL PROVISIONS

27. When in the Data Center, each individual is obliged to attach and wear the badge they are given on entry so that it is visible.
28. Entry to DC1 is preceded by identity verification by a Beyond.pl employee on duty.
29. Entry to DC2 is preceded by identity verification by a security guard on duty, control at the metal detection gate and x-ray scan of baggage, in accordance with the Personal Inspection Procedure – Metal Detector and Baggage X-ray. Moreover, a DC2 security employee is entitled, throughout the entire stay in DC2, to: (i) make visual assessment of the contents of the interior of the vehicle in accordance with the Vehicle Control Procedure, (ii) perform personal inspection, hand luggage inspection, (iii) verify an identity document.
30. In the Data Center it is strictly forbidden to:
  - 30.1 bring in all kinds of pyrotechnics and explosives and weapons, including firearms, white weapons, tasers, stun guns, tear gas and other related tools (does not apply to uniformed services),
  - 30.2 bring in and use narcotic drugs and psychotropic substances,
  - 30.3 smoke and use electronic inhalers (so-called e-cigarette) outside designated areas,
  - 30.4 make video recordings and photographs without permission from Beyond.pl,
  - 30.5 leave unattended luggage and other items which could disturb the operation of the Data Center;
  - 30.6 leave litter or trash on the premises of the Data Center,
  - 30.7 use open fire and spray fragrances and release smoke,
  - 30.8 park vehicles in places which are not intended for this purpose,
  - 30.9 let unauthorized persons in,
  - 30.10 bring drinks and other liquids into server chambers,
  - 30.11 leave flammable materials inside and outside Server Cabinets in server chambers.
31. In case of violation of ITS provisions – regardless of the provisions of the General Terms of Service – Beyond.pl may apply the following measures:
  - 31.1 warning,
  - 31.2 warning and notifying the contact persons of the Client,
  - 31.3 removal of an authorized person from the Data Center and deactivation of the access card,
  - 31.4 in DC2 security employees are authorised to apply means of direct coercion within the scope provided for in the Persons and Property Protection Act of 22 August 1997 (consolidated text: Journal of Laws of 2014, Item 1099, as amended).

## INSURANCE

32. The Client undertakes to take out an insurance at least for the duration of the Commitment Period to cover the following:
- 32.1 Devices and Software or Data installed in a Device, in particular in the event of damage, destruction or loss as a result of various events;
  - 32.2 damages which may be caused (i) by the Client's employee or a subcontractor, a Person Authorized to access the Devices by the Client, in connection with or during work or performance of entrusted tasks in the Data Center, (ii) by Device and/or Software.
33. In order to prove the fulfilment of the above obligation, the Client shall provide Beyond.pl upon request with a copy of the insurance policy indicating its scope, term of insurance cover, insurance amount and cases of limitation and/or exclusion of the insurer's liability.
34. Beyond.pl shall not be obliged to insure the Client's Devices, Data or Software.

## VARIABLE FEES

35. Variable fees for the consumption of utilities shall be payable in arrears after the end of the Billing Period at the latest within 14 days of the delivery of the VAT invoice by the Service Provider and shall be calculated as a product of:
- (i) rates for electricity,
  - (ii) actual electricity consumption (if the actual consumption is below 50% of the declared limit of contracted capacity in the Billing Period, then instead of the actual electricity consumption, the Parties shall assume the following value: average contracted capacity x  $732 / 2$ );
  - (iii) energy efficiency index, where:
    - each started percent >10% deviation of the actual electricity consumption **below** the declared average contracted capacity results in an increase of the energy efficiency index by 1%, however not more than by 40%;
    - any started percent of the deviation of actual electricity consumption **above** the declared average contracted capacity increases the energy efficiency ratio by 1 %.

## LIABILITY

36. Beyond.pl and the Client undertake to inform one another of any observed irregularities in Device operation.
37. The Client undertakes to immediately inform Beyond.pl about any observed Software irregularities.
38. Beyond.pl may disconnect the Client's Device without notice in case of a threat of interruption or disruption of operation of other Devices located in the Data Center or Equipment by the Client's Device. Disconnecting the Client's Device for reasons referred to herein does not constitute a reason for making any claims against Beyond.pl.
39. The Client shall be solely liable for damages, including indirect and consequential damages, caused by the Device itself, as well as the Data and/or Software installed in the Device.
40. The Client's liability includes liability for any entity performing – regardless of the legal basis – the Client's rights under the Framework Agreement and/or the Implementation Agreement. The Client



shall bear all responsibility for acts and omissions of persons other than Beyond.pl employees to whom it has granted access to the Devices.

41. Beyond.pl shall not be liable towards the Client or other entities not being a party to the Framework Agreement or the Implementation Agreement for damages caused by the Client's Data, Software or Device, or for damages to the Client's Data, Software or Device and their use.

#### **ADDITIONAL PROVISIONS**

42. The titles in this ITS are used for convenience only and do not create legal obligations.
43. The following constitute an integral part of these ITS:
- 43.1 IDW-04 - Data Center 1 Policy;
  - 43.2 IDW-05 - Data Center 2 Policy;
  - 43.3 *P-31 - Vehicle Security Check Procedure;*
  - 43.4 *P-30 - Personal Security Check Procedure;*
  - 43.5 *P-33 - Collection and Supply Handling (Delivery Zone) - Customers and Maintenance Services;*
  - 43.6 *P-21 - Collection and Supply Handling (Logistics) - Customers and Maintenance Services;*
44. The Terms of Service become effective on May 1<sup>st</sup> 2021.