Terms and Conditions of the Thulium Communication Application Service

Chapter I General Provisions

§ 1 General Provisions

1. These Terms and Conditions set out the terms and conditions for electronic provision of the Thulium Communication Application Service (hereinafter referred to as the "Service") by Thulium sp. z o.o. with the registered seat in Krakow 30-705, ul. Stanisława Klimeckiego 4, entered in the Register of Entrepreneurs of the National Court Register by the 11th Commercial Division of the National Court Register of the District Court for Krakow-Śródmieście in Krakow under number 0000409650, with a share capital of 83,600 PLN paid in full. NIP [Tax Identification Number:] 6783144527, REGON [Central Registry Business Number:] 122496015, hereinafter referred to as "**the Service Provider**".

2. Copyrights related to the Thulium System are protected pursuant to the Act on Copyright and Related Rights of 4 February 1994 (Journal of Laws of 1994, no 24, item 83, as amended) – hereinafter referred to as "**the Act**".

3. The Service shall be provided exclusively for the benefit entrepreneurs, including sole traders, but only if the use of the application is directly related to their business activities and is of professional nature.

Chapter II Definitions

§ 2 Definitions

The terms used in these Terms and Conditions shall have the following meanings:

1. **Subscriber** – a natural person conducting business activity, only if the use of the services is directly related to natural person's business activity and is of professional nature, a legal person, an organizational unit without legal personality, or another entity that uses the Thulium Communication Application Service provided electronically in any way.

2. **API** – an application programming interface enabling the subscriber to use the service to the extent permitted by the service provider, with the use of external tools.
3. **Customer Service Office (CSO)** – a department of the Service Provider providing support to the Subscriber within the scope of concluding and terminating the Agreement, payments and reporting technical irregularities in the operation of the Thulium System.
4. **Price List** – a document specifying the Subscription Fee for the available Packages. The Price List is an integral part of these Terms and Conditions and may be updated in accordance with the rules specified therein. The current Price List is available at the address: http://thulium.pl/cennik.
5. **Personal Data** – Data referred to in art. 4 item 1 of the Regulation.
6. **Thulium System Documentation** – this should be understood as the Thulium System documentation available online at the address: support.thulium.pl.
7. **Service hours** - working days from Monday to Friday between 8:00 a.m. and 4:00 p.m., during which the Customer Service Office provides support to Subscribers, unless the Parties have expressly agreed on other time slots for providing support.
8. -- repealed --
9. **Number of Simultaneous Connections** – the maximum number of simultaneous telephone calls (incoming and outgoing) available to the Subscriber's Users, as specified in the SLA or individual agreement.
10. **Number of Licenses** – the maximum number of Users on the Subscriber's side who can simultaneously use the Thulium System, as agreed between the Subscriber and the Service Provider.
11. **Server Name –** the initial part of the address at which the Thulium System is available to the Subscriber, as selected by the Subscriber.
12. **Subscription Period** - the period for which the Subscription is billed, beginning on the first and ending on the last day of the calendar month. The first Subscription Period begins on the first day after the end of the Trial Period or on the first day of the Agreement if there is no Trial Period.
13. **Trial Period** – a trial period during which the Subscriber may use the Thulium System without incurring Subscription Fees. The purpose of allowing the Subscriber to use the Thulium System during the Trial Period is solely to familiarize with the System's functionalities; the Trial Period is not intended for commercial use of the System.
14. **Payment Operator -** PayU Spółka Akcyjna with the registered seat in Poznań 60-166, ul. Grunwaldzka 182, KRS [National Court Register:] 0000274399.
15. **Speech Generation Service Provider** - Amazon Web Services, Inc., P.O. Box 81226, Seattle, WA 98108-1226.
16. **Subscription Fee (Subscription)** - a cyclical fee charged to the Subscriber in accordance with the applicable Price List or individual agreement for providing access to the Service provided by the Service Provider.
17. **Software**, **Thulium Software** - this should be understood as computer software - an interface enabling the Subscriber to use the Service under the terms and conditions specified in the Agreement. The Software includes binary programs, scripts and voice recordings delivered with the Thulium System.
18. **Package** – a set of available modules, functions and other parameters of the Service specified in the Price List that can be selected by the Subscriber.
19. **Paid Additions** - additional paid features and services specified in the Price List.
20. **Terms and Conditions** - this document specifying the rights and obligations of the Parties related to the provision of the Service by the Service Provider.
21. **Regulation** - Regulation (EU) 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 95/476/EC (OJ EU. L. No. 119, p. 1).
22. **SLA** - Standard Service Level Agreement for businesses, including the Service Provider's declarations regarding the guaranteed quality level of the Service. The SLA constitutes Appendix 3 to these Terms and Conditions.
23. **Parties** - the Service Provider and the Subscriber.
24. **Thulium System** - the Service Provider's ICT system used for electronic communication between the Subscriber and Subscriber's customers, through which it provides the Service. The Thulium System consists of Software and IT infrastructure used by the Service Provider. The Thulium System is available to the Subscriber electronically (via the Internet) at the address: https://[Server Name].thulium.com/
25. **Thulium Agent, Thulium Agent software** – computer software made available for downloading by the Service Provider; installation of the computer software on the Subscriber's devices enables the use of specific functions of the Thulium system.
26. **Token** – a virtual payment card identifier generated by the Payment Operator and transferred to the Service Provider.
27. **Content** – any information, regardless of its form (correspondence, graphics, recordings, etc.), which is sent to the Cloud Service in connection with the Subscriber's use of the Thulium System.
28. **Agreement** – a document defining the rights and obligations of the Parties in a comprehensive manner; the Agreement shall be understood as the Terms and Conditions or an individually agreed agreement if such an agreement has been concluded by the Parties, with the Terms and Conditions.
29. **Cloud Service** – a service providing computing power or data storage space, implemented, for example, in the form of database systems, virtual servers and virtual disks used for data storage and processing.
30. **User** – a natural person with full legal capacity who the Subscriber has granted access to the Thulium System to in connection with the Number of Licenses granted by the Service Provider.
31. **Owner** – a natural person with full legal capacity, having the status of a User with the rights specified in the Terms and Conditions, including the right to make and accept declarations of will on behalf of the Subscriber regarding the Services provided by the Service Provider.

Chapter III Essential terms and conditions of service provision

§ 3 Types and scope of provided services

1. Pursuant to the concluded Agreement and the Subscriber's acceptance of the Terms and Conditions, the Service Provider shall undertake to provide the Subscriber with the following services:

   a. access to the Thulium System within the scope specified in the selected Package or individual agreement,

   b. services providing space for storing data related to the Thulium System to the extent specified in the selected Package or Agreement on the terms specified in § 14,

c. service of Customer Service Offic provided during Service Hours,

d. access to the Thulium System using the API.

2. The Service Provider shall undertake to grant the Subscriber, solely for the purposes of operating the Thulium System and using the Service, a license to use the software described in §10 to the extent and in the fields of use specified in the Terms and Conditions.

3. The detailed scope of Services provided by the Service Provider to the Subscriber results from the Package selected by the Subscriber or an individual agreement.

   a. If the Service Provider publishes new Packages in the Price List, the Subscriber may continue to use the current Package on the existing terms and conditions.

   b. The Service Provider shall have the option to change the Subscriber's Package, which may involve a change in the price of the provided Service, in order to adapt the Package to the current one. This change must be communicated to the Subscriber 30 days in advance and is treated as a change to the Terms and Conditions described in §17.

   c. In the event of a change to the Package, the Subscriber shall have the right to terminate the Agreement within 30 days of receiving the information about this change. In this case, the Agreement shall be terminated at the end of the Subscription Period in which the Service Provider received the objection.

   d. If the Subscriber does not terminate the Agreement pursuant to the procedure specified in item "c", it shall be deemed that the Subscribed has agreed to the change of the Package.

   e. Customers who concluded the Agreement before 1 March 2021, use the "Legacy" Package whose description can be found at the website: https://thulium.com/pl/legacy.

4. The Service Provider shall reserve the right to change functionality of the Thulium System by expanding it with new features and amenities for Subscribers as well as - in cases justified by legal, technological or business requirements - by removing specific features.

5. The Services may not be used in solutions or devices (including logistics or distribution) on which human life, health or safety depend - as a critical element whose failure, malfunction or decrease in efficiency poses a potential risk of death, bodily injury, health impairment or any other personal injury.

6. The Thulium System may contain a mechanism that detects use of the Thulium System in violation of the Terms and Conditions.

7. The Service Provider shall declare that the Service Provider has all property rights or licenses to the Software necessary to provide the Service.

8. The Agreement shall not transfer any copyrights to the Software and other documents provided or made available to the Subscriber in connection with performance of the Agreement to the Subscriber and it shall not oblige the Service Provider to make such dispositions in the future.

9. While providing the Services under the Agreement, the Service Provider may cooperate with third parties, in particular entrust performance of the Services or some of the Services to third parties, to which the Subscriber agrees.

10. As part of the Service, the Service Provider shall undertake to ensure, with professional diligence:

    a. uninterrupted access for the Subscriber to the Service and all its functionalities throughout the term of the Agreement (subject to the provisions of the SLA regarding Service Failures and the rules for their removal),

    b. proper recording, storage and security of data collected and processed through the Service, in particular their completeness, integrity and minimization of the risk of third-party interference with the stored data,

    c. securing the data collected and processed through the Service against unauthorized disclosure by the Subscriber,

    d. the Subscriber's access to the data collected and stored through the Service and possibility of its effective transfer by the Subscriber to another server or medium up to 14 days after the end of the Service provision,

    e. In the event of processing personal data in connection with the use of the Service, the application of procedures for processing and protection of personal data provided for by the relevant regulations regarding the entity processing data entrusted by the controller.

11. The Services provided by the Service Provider shall include Non-Number-Based Interpersonal Communication Services, within the meaning of the provisions of the Electronic Communications Law, in the scope of using the chat functionality available in the Thulium System. The terms and conditions for the provision of the above-mentioned Electronic Communication Services are set out in these Terms and Conditions.

§ 4 Conclusion of the Agreement

1. The Agreement between the Service Provider and the Subscriber shall be concluded upon registration by the Subscriber, on behalf of whom the Owner acts, on the website: thulium.com.

2. By registering, the Subscriber shall declare that:

- the data entered in the form is true,

- the Subscriber is an entrepreneur and the registration and use of the Services are directly related to the Subscriber's business activity and are of professional nature as well as the Subscriber accepts the terms and conditions of the Service specified in the Regulations,

- the Subscriber has read the information about the specific risks associated with the use of the service provided electronically as well as the functions and purpose of the software contained in the Thulium System Documentation.

3. The Parties shall agree that the provisions of art. 66[1] §1-3 of the Civil Code shall not apply.

4. In order to register, the Subscriber shall fill in the form on the Service Provider's website, entering the following information in the appropriate fields:

   a. the Subscriber's full name,

   b. the Subscriber's accurate address,

   c. the Subscriber's tax identification number,

   d. d. the Owner's forename and surname,

   e. the Owner's telephone number,

   f. the Owner's e-mail address.

5. The Service Provider shall reserve the right to verify the data referred to in sect. 4, in particular by contacting a representative of the Service Provider with a person authorized to represent the Subscriber and by checking the information in publicly available registers. In the event of a negative verification result, the Service Provider may terminate the Agreement with immediate effect by sending an appropriate statement to the e-mail address provided during registration. In such a case, the Subscriber shall be obliged to settle the payment for the period in which the Subscriber used the Services provided by the Service Provider, in proportion to the time when the Agreement was in force if the termination took place after the end of the Trial Period.

6. While registering a Subscriber, the person performing the registration shall declare that he/she is authorized to represent the Subscriber to the extent necessary to conclude the Agreement and that he/she has the Owner's rights referred to in the Terms and Conditions, including the right to grant the Owner's rights to other Users.

7. The first day of providing the Service to the Subscriber shall be the date on which the Agreement was concluded.

8. On the date of conclusion of the Agreement, subject to sect. 9, the Trial Period shall commence and it shall last for 14 days, whereby the Service Provider may agree to extend it at the Subscriber's request. In such a case, the Parties shall agree on a new end date for the Trial Period.

9. Granting the Subscriber access to the Thulium System for the Trial Period shall be optional and remains at the sole discretion of the Service Provider. The above means that:

   a. as a rule, the Trial Period may be granted to a given Subscriber only once;

   b. the Service Provider shall decide independently, without the need to justify the decision whether the Trial Period is granted and when it ends;

   c. the use of the Thulium System during the Trial Period may only be for the purpose of familiarizing with the functionalities of the System and not for its commercial use.

10. The Subscriber shall be obliged to use the Thulium System in the manner consistent with the Terms and Conditions, generally applicable laws and rules of social coexistence as well as in the manner that does not infringe on the interests of the Service Provider, including not abusing the granted rights.

§ 4a Owner's rights

1. The Owner shall be authorized to represent the Subscriber in the following matters:

   a. concluding the Agreement (§ 4 of the Terms and Conditions),

   b. extending the Trial Period (§ 4 sect. 8 of the Terms and Conditions),

   c. changing the Package or Number of Licenses (§ 6 sect. 5 of the Terms and Conditions),

   d. terminating the Agreement and accepting the termination notice submitted by the Service Provider (§ 7 sect. 2 of the Terms and Conditions),

   e. assigning the rights and obligations under the Agreement (§ 16 sect. 6 of the Terms and Conditions),

f.   changes to the scope of Services, including Paid Additions (§11 sect. 2, § 14 sect. 3 of the Terms and Conditions),

g.   communicating with the Owner regarding changes to the Terms and Conditions (§ 17 of the Terms and Conditions),

h.   the obligation to notify the Subscriber of changes to the Subscriber's data (§ 19 of the Terms and Conditions),

i.   data processing agreement (item 5.7 of Appendix no 1 to the Terms and Conditions),

j.   relating to the exercise of rights under the Data Act (Appendix no 5 to the Terms and Conditions).

2.   The Owner shall also be entitled to:

a.   obtain the information about Subscription Fees and their settlements, including requesting changes in the invoicing of Services, but also connecting or disconnecting a card in order to set up Recurring Payments,

b.   obtaining detailed information about the Services (statistics, reports),

c.   granting and revoking access to the Thulium System to Users, in accordance with the Number of Licenses available in the Package,

d.   performing integrations available in the Software.

3.   The Owner shall be entitled to order or confirm actions in the System that are destructive to its functioning, i.e.:

a.   restarting the System,

b.   creating backups of the System,

c.   updating the System version during the day,

d.   shutting down the System (deleting data in the System).

4.   The Owner shall be entitled to grant and revoke the status of Owner to other Users, whereby if several Users are granted Owner rights, each of them may act independently; in such a case, actions and statements made by the Service Provider towards the selected Owner shall have an effect on the Subscriber.

5.   The Service Provider shall be entitled to deprive the User of the Owner's rights ex officio if, as a result of verification activities, it turns out that the User is not authorized to represent the Subscriber. This does not affect validity of actions previously taken by this User.

6.   The Owner shall be entitled to take other actions not expressly mentioned in sect. 1–3, to the extent that they are of significant importance for cooperation between the Service Provider and the Subscriber or for the Subscriber's use of the Thulium System.

§ 5 Term of the Agreement

1.   The Subscriber may choose to conclude the Agreement:

a.   for an indefinite period with a monthly notice period effective at the end of the month.

b.   for a period of 12 months, with the proviso that the Agreement concluded in this manner shall be automatically extended for another 12 months after the expiry of the period for which it was concluded unless the Subscriber informs of its non-extension within 30 days before the end of the 12-month period.

2.   The term of the Agreement shall affect the price of the service, pursuant to the applicable Price List.

§ 6 Rules for calculating fees

1.   The Subscription Fee shall be calculated based on the price of the Package specified in the Price List or included in an individual agreement, multiplied by the Number of Licenses.

2.   The Subscription Fee shall be charged in advance for individual Subscription Periods.

3.   The Subscriber shall pay the Subscription Fee exclusively through the Payment Operator using a payment card in the manner specified in § 9 of the Terms and Conditions, unless the Parties expressly agree otherwise, whereby the use of this payment system may require the Subscriber to conclude separate agreements, including with entities other than the Service Provider.

a.   Subscribers who started using the Software before 1 March 2021, may use the existing payment methods, however, the Service Provider reserves the right to change the existing payment method described in item 3 in the future, with prior notice, in particular by introducing the obligation to pay via the Payment Operator, which shall not constitute an amendment to the Agreement.

4. The Subscription Fee shall be charged for Subscription Periods starting from the end of the Trial Period in the full agreed amount, regardless of which day of the month is the first day of the Service provision after the end of the Trial Period.

5. Fees for the Package and Paid Additions shall be settled in full monthly cycles.

    a. Increasing the Number of Licenses or ordering the Paid Addition on any day of the month results in the Subscription Fee being charged from the month following the month in which the Number of Licenses was increased or the Paid Addition was ordered, regardless of the date of license activation. Example: If the Number of Licenses is increased on November 2, the fee shall be charged for December.

    b. Reduction in the Number of Licenses or cancellation of the Paid Addition always takes effect from the month following the next full month from the date on which the reduction in the Number of Licenses or cancellation of the Paid Addition was reported. Example: If the notification of reduction in the Number of Licenses is made on September 26, the Subscriber is required to pay the full fee for October and the fee is reduced from November.

6. The Subscriber shall pay the first Subscription Fee on the first day following the end of the Trial Period and if the Trial Period has not been assigned, on the first day of the Agreement.

7. Subject to sect. 3 letter a, the Subscription Fee shall be charged after the 21st day of the month preceding the Subscription Period to which the Fee relates, but no later than 3 days before the end of that month. Example: The Subscription Fee for December shall be charged between November 22 and 27.

8. Access to the Service shall be automatically blocked, along with the data if the Subscriber fails to pay the Subscription Fee in full for the first or subsequent Subscription Period. The block shall take effect on the start date of the Subscription Period for which the fee has not been paid.

9. Access to the Service shall be unblocked if, within 14 days from the end date of the last paid Subscription Period, the Service Provider records a payment for the Subscription for the current Subscription Period. After this time, the system and the Subscriber's data shall be permanently deleted pursuant to §14.

10. If the Service is not used after the Trial Period, the Subscriber is not obliged to pay any fees for the Service provided during the Trial Period. In this case, § 7 sect. 3 and § 14 sect. 7 of the Terms and Conditions shall apply.

§ 7 Termination of the Agreement

1. Each Party shall be entitled to terminate the Agreement with one month's notice, effective at the end of a full Subscription Period.

2. The Service Provider shall submit the termination notice, under pain of nullity, by e-mail sent to the Owner's address or in writing. The Owner shall submit the termination notice, under pain of nullity, by e-mail sent to the address indicated in § 19 sect. 1 of the Terms and Conditions or in writing to the Service Provider's address indicated therein.

3. Due to the nature of the Service, the Subscriber and the Service Provider shall agree that if the Subscription Fee is not paid by the 14th day of the Subscription Period, the Agreement shall be terminated on that day without the need to notify each other of its termination.

4. The Service Provider shall have the right to immediately cease providing the Service or terminate the Agreement with a given Subscriber with immediate effect, while retaining the right to the Subscription Fee received, if:

    a. the Subscriber violates the provisions of the Terms and Conditions or the law,

    b. the Subscriber uses the Service in a manner inconsistent with the specified parameters or applicable law,

    c. the Subscriber acts to the detriment of other Subscribers, the Service Provider, or Internet users,

    d. the Subscriber, contrary to the Terms and Conditions, made the Service available to third parties,

    e. if verification of the data provided by the Subscriber was negative,

    f. at any time during the use of the Thulium System during the Trial Period.

§ 8 Invoices for the Service

1. The invoice for the Service shall be issued automatically within 3 business days after payment of the Subscription Fee and sent to the Subscriber's email address.

2. The Parties shall agree that invoices shall be issued in electronic form, to which the Subscriber hereby agrees.

§ 9 Payment via the Payment Operator

1. The Subscriber should instruct the Service Provider to periodically collect the Subscription Fee from the Subscriber's payment card (Recurring Payment). This service is provided through the Payment Operator.

2. In order to make a Recurring Payment, the Subscriber shall provide the Subscriber's payment card details to the Payment Operator using the appropriate functionality available in the Thulium System and agrees to the Payment Operator debiting the Subscriber's payment card each month with the amount corresponding to the charged Subscription Fee.

3. The Subscriber shall acknowledge that the Subscriber's payment card details are stored exclusively by the Payment Operator and are not made available to the Service Provider. The Service Provider shall only have a Token identifying the Subscriber and allowing the Payment Operator to make a charge.

4. The fee calculated in accordance with § 6 shall be charged before the start of the next Subscription Period on the date specified in § 6 sect. 7 of the Terms and Conditions.

5. In order to cancel a Recurring Payment, the Owner should use the functionality available in the Thulium System to delete the stored payment card details no later than 2 days before the card is charged as specified in § 6 sect. 7 of the Terms and Conditions. Cancellation of the Recurring Payment is tantamount to termination of the Agreement without the need to submit separate declarations of will; in such a case, the Agreement shall be terminated in accordance with § 7 sect. 2 sentence 2 of the Terms and Conditions, and the Services shall not be provided during the Subscription Period for which the Fee has not been paid.

§ 9a Speech Generation Service

1. The Subscriber may use the text-to-speech mechanism available as part of specific packages.

2. The speech generation service shall be provided via the Amazon Polly application and on the terms specified by the provider of this service https://aws.amazon.com/polly/faqs/ as well as via Google Ireland Limited and ElevenLabs Inc.

3. The Service Provider shall not charge additional fees for using the service. Use of the service shall require prior configuration.

4. The service is an experimental service, which means that the Service Provider does not guarantee its correct operation and that the Service Provider may restrict the use of this service or disable it completely at any time.

§ 9b AI (Artificial Intelligence) Access Service

1. The Service Provider shall enable the Subscriber to use AI tools from external providers via the AI module available in the Thulium System.

2. The providers supporting the Service Provider in the delivery of AI tools shall be listed in Appendix no 2 to the Terms and Conditions.

3. The service shall be provided on the terms and conditions specified by external providers. Use of the service constitutes acceptance of these terms and conditions.

4. The service is experimental, which means that the Service Provider does not guarantee its correct operation and may restrict its use or disable it completely at any time.

5. The Subscriber shall bear full responsibility for the manner in which the Subscriber uses AI and the information obtained as a result of interaction, doing so at the Subscriber's own risk, bearing in mind in particular that:

    a. the Subscriber is obliged to verify the information obtained using AI each time from the perspective of its correctness, usefulness, and truthfulness;

    b. – repealed –;

    c. – repealed –;

    d. the use of a particular AI functionality may involve the international transfer of personal data, to the extent specified in Appendix no 2 to the Terms and Conditions.

Chapter IV License

§ 10 Scope of the license

1. The Service Provider shall declare that the Service Provider holds the necessary copyrights or licenses for the following software:

    a. Thulium Agent,

    b. Application for integration with AutoTeam,

    c. Application for integration with BusyLight.

2. Pursuant to the Agreement, the Service Provider shall grant the Subscriber a non-exclusive license to use the software, as part of the Subscription, within the limits of the Service Provider's rights, exclusively to the extent necessary to use the Service and for the duration of the Agreement, in the following fields of exploitation:

a. within the scope of recording and reproduction – permanent or temporary, in whole or in part, using magnetic or optical recording techniques, including placing in computer memory for the purpose of running;

b. use within the scope of business activity.

3. Subject to the provisions of art. 75 sect. 2 and 3 of the Act on copyright and related rights, the Subscriber shall not be entitled, without the prior, written and express consent of the Service Provider, to:

a. decompile, modify, adapt, translate (including code), adapt or make any other modifications to the software,

b. create derivative software,

c. resell, rent, lease, lend, sublicense or make available in any form the software or the ability to use the software to third parties, either for a fee or free of charge,

d. distribute or market copies of the software,

e. removing or altering information about the authorship and trademarks contained in the software or its copies.

4. The license shall be non-exclusive and non-transferable, which means in particular that the Subscriber may not transfer their rights pursuant to the Agreement to another entity, nor may they expressly or implicitly allow another entity to use any part of the software, subject to the following sentence. The Subscriber shall have the right to grant sublicenses to entities related to the Subscriber by capital or personnel within the meaning of art. 11a of the Corporate Income Tax Act and art. 23m of the Personal Income Tax Act.

5. The Subscriber shall be obliged to inform the Service Provider immediately of any third party claims made against the Subscriber for infringement of copyright to the software or of events justifying the threat of these claims against the Service Provider or the Subscriber.

6. The Subscriber shall be obliged to notify third parties, including employees and entities that may gain access to the software as part of their cooperation with the Subscriber about the scope of the license granted and the Service Provider's rights to the software and to oblige these persons and entities, in the manner justified by the content of the legal relationship between the Subscriber and these persons, to comply with the Service Provider's rights to the software and to comply with the license terms before granting these persons access to the software.

7. Any violation by the Subscriber of any of the provisions of this paragraph shall entitle the Service Provider to terminate the Agreement immediately, while retaining the right to the received Subscription Fee.

8. The Service may require the use of downloaded software, and once installed on the User's devices, it may be automatically updated when the new version is released.

Chapter V Rules for the provision of the Service

§11 The scope of customer service

1. If a wider scope of service is not provided for in an individual agreement within the framework of the Service, the Subscriber may, during Service Hours:

a. contact the Customer Service Office by e-mail at: kontakt@thulium.pl

b. contact the Customer Service Office by phone at + 48 12 397 53 00,

c. contact the Customer Service Office through other channels made available by the Subscriber, indicated on the Thulium website.

Regardless of the above forms of communication, the Subscriber is entitled to contact the Service Provider by writing to the following mailing address: Thulium sp. z o.o., ul. Stanisława Klimeckiego 4, 30-705 Kraków.

2. The Owner may extend the scope of the Service whose new scope shall be agreed with the Subscriber's account manager. The Service Provider shall confirm the new terms and conditions of the Service immediately by sending a detailed description thereof to the Owner's contact e-mail address.

§ 12 Technical requirements

In order to use the Service, it is necessary to meet the technical requirements specified on the website: https://support.thulium.pl/show/262-rozpoczecie-pracy-z-systemem-wymagania.

§ 13 Restrictions on the provision of the Service

1. The Service Provider shall reserve the right to make technical breaks in the operation of the Service related to maintenance and servicing of the Thulium System as well as implementation of new functionalities, provided that the total length of technical breaks during the Subscription Period may not exceed 24 hours and planned technical breaks may only be made

between 8:00 p.m. and 6:00 a.m. The Service Provider shall notify the Owner of the planned technical break by e-mail 7 days in advance.

2. In order to ensure high quality of the Service, the Thulium System shall have an automatic update mechanism that runs overnight. The update may be performed between 11:00 p.m. and 4:00 a.m. The update may be performed without interrupting the use of the System or may result in the System being unavailable for less than 15 minutes. The updates described in this section shall not require the Subscriber to be notified of their implementation. In exceptional situations, when a critical System error is detected or an incident affecting security is diagnosed, the update may be performed at other times.

   a. In the case of an Update that involves system unavailability of less than 15 minutes, the Update hall only be performed if no User is logged into the Thulium application.

   b. If the Update is be performed without losing the ability to use the System, it may be performed regardless of the number of logged-in Users.

3. The System guarantees the technical parameters of the Service specified in the Price List. All packages of Subscribers who concluded an agreement before 1 March 2021 have the same parameters as in the Thulium Premium Package.

§ 14 Storage of Subscriber data

1. As part of the Subscription, the Subscriber shall receive data space in the amount specified in accordance with the selected Package and additional data space is sold in portions specified in the Package.

2. The data space shall be shared for all data stored by the Thulium System in connection with the Subscriber's use of the Service, in particular:

   a. call recordings,

   b. voicemail recordings,

   c. attachments to emails sent and received by the System,

   d. screenshots,

   e. files attached in the Thulium System,

   f. other data generated and stored by the Thulium System or transferred to the System by the Subscriber in connection with the use of the Thulium System.

3. If the available space is exceeded, the Owner, either independently or in consultation with Customer Service, shall decide within 7 days whether to delete data or purchase additional space in accordance with the Price List. If the Subscriber's data still exceeds the space purchased so far and the Subscriber does not decide to purchase additional space within 7 days, further possibility of saving data shall be blocked.

4. -- repealed --

5. During the term of the Agreement, the Subscriber shall manage the data in the Thulium System independently and the Service Provider shall not delete the Subscriber's data without the Subscriber's knowledge and express consent.

6. The Subscriber shall keep all intellectual property rights to the provided data. The Service Provider shall not claim any ownership rights to the materials referred to in sect. 2, with the exception of elements of the Software.

7. If the Subscriber fails to pay the Subscription Fee after the end of the Trial Period, the following data management conditions shall apply:

   a. after the end of the Trial Period, access to the Thulium System and all data stored therein shall be automatically blocked;

   b. the Subscriber's data (in particular, call recordings, databases, connection information and other information collected through the use of the Thulium System) shall be stored for 7 days from the end of the Trial Period;

   c. during the 7-day period referred to in letter b), the Subscriber has the option to pay the subscription Fee for the first Subscription Period and after payment, the Thulium System with the data collected so far shall be made available again;

   d. If the Subscription Fee for the first Subscription Period is not paid within the period referred to in letter b), all data shall be permanently deleted from the Thulium System.

8. If the Subscriber fails to pay the Subscription Fee for the next Subscription Period, the Subscriber's data (in particular call recordings, databases, call information and other information collected during the use of the Thulium System) shall be stored for 14 days from the beginning of the unpaid Subscription Period, and after that time, in the event of termination of the Agreement pursuant to § 7 sect. 3, all data shall be permanently deleted from the Thulium System.

Chapter VI Liability of the Parties

§ 15 Obligations and liability of the Service Provider

1. The Service Provider shall not be liable for the Subscriber's failure to use or improper configuration of the Service.

2. The Service Provider shall make every effort to ensure that the Services are provided correctly, without errors, and securely, however, the Subscriber uses the Services at their own risk. The Service Provider provides the System and Services in the condition "as it is". The Service Provider shall not make any direct or implied warranties or representations regarding suitability of the Services or the System for a particular purpose, either expressly or impliedly, or arising from custom, promotional materials, the circumstances of conclusion of the Agreement or the intended use of the Services. The Service Provider shall not guarantee that the Services shall be error-free or that they shall be provided without interruptions, delays or irregularities. In particular, the Service Provider shall not be liable for any damages resulting from, among others:

    a. discontinuity of the Service caused by the actions or omissions of third parties,

    b. -- repealed --

    c. -- repealed --

    d. discontinuity of the Service caused by failures of the equipment on which the Service was launched,

    e. -- repealed --

    f. force majeure (an event beyond the control of the Party, external, unforeseeable and unavoidable, in particular war, natural disasters, acts of God),

    g. incorrect use of the Service by the Subscriber,

    h. use of the information provided to the Subscriber authorizing access to the Service by third parties,

    i. violation of the provisions of the Terms and Conditions by the Subscriber,

    j. malfunction of the Internet network connections used for communication,

    k. -- repealed

3. The Service Provider shall not adapt the Software to the specific needs of the Subscriber and the process of developing and updating the Software depends on the Service Provider's policy that is shaped on an ongoing basis based on its decisions.

4. -- repealed --

5. The Service Provider shall not be liable for lost profits.

6. The Service Provider shall not be liable for any malfunction of the Service or for any problems or difficulties in using it if the Subscriber has not met the minimum technical requirements specified in § 12.

7. The Service Provider's liability arising from or in connection with the provision of the Service shall be limited to the net amount of one Subscription Fee paid by the Subscriber for the Subscription Period in which the event giving rise to such liability occurred.

8. Rules for dealing with Content that is or may be illegal, in the context of the application of Regulation (EU) 2022/2065 of the European Parliament and of the Council (EU) 2022/2065 of 19 October 2022, on the Digital Single Market and amending Directive 2000/31/EC (hereinafter referred to as the "Digital Services Act"), with the rights and obligations of the Parties, are set out in Appendix no 4 to the Terms and Conditions.

9. The Service Provider shall make a backup copy of the Subscriber's configuration containing a copy of the database pursuant to the terms and conditions set out in the SLA.

10. The Service Provider shall endeavor to ensure that the Services are provided at the level specified in the SLA.

11. The rules of liability of the Service Provider in the event of failure to maintain the level of Services specified in the SLA, for reasons other than those caused intentionally by the Service Provider, shall be governed exclusively and fully by the SLA.

§ 16 Obligations and liability of the Subscriber

1. The Subscriber shall undertake to use the Service in the manner that does not infringe the rights of third parties, good manners or legal regulations, including not providing illegal Content and is responsible for the manner in which third parties who the Subscriber has granted access to the Thulium System use the Services.

2. -- repealed --

3. Subject to sect. 4 and the cases specified in § 10 sect. 4 of the Terms and Conditions, the Subscriber shall not, without the prior written consent of the Service Provider, make the Services or the possibility of using the Services available to third parties in any form.

4. The Subscriber may allow Users to use the Services only for the purposes of the Subscriber's business activities and in accordance with the provisions of these Terms and Conditions, and is responsible (as for its own actions) for ensuring that Users comply with the terms and conditions of these Terms and Conditions.

5. It is prohibited to take any action aimed at bypassing or disabling the mechanisms used by the Service Provider to control access to the Services, in particular by setting empty passwords.

6. The Subscriber may not transfer the rights or obligations under the Agreement to third parties without the express written consent of the Service Provider.

7. The Subscriber shall be liable for all actions and omissions of third parties who the Subscriber has entrusted the performance of any activities related directly or indirectly to the subject matter of the Agreement.

8. Any irregularities in the provision of Services noticed by the Subscriber as well as any malfunctions of the Thulium System, should be reported immediately to the Customer Service Office.

9. The Subscriber shall be obliged, to the extent dependent on the Subscriber, to secure Users' access to the Thulium System adequately, including in particular creating the password consisting of at least 12 characters (including lowercase and uppercase letters and numbers or special characters) as well as securing passwords applied to access and use the Service and not disclosing them to unauthorized persons. The Service Provider additionally recommends establishing access to the Thulium System using two-factor authentication.

10. The Subscriber shall be liable for the actions of any person not authorized by the Subscriber who has gained access to the Subscriber's Service, except in cases where this person gained access through the sole fault of the Service Provider.

11. The Subscriber shall be liable for any damage caused by improper security of access to the Thulium System due to the Subscriber's fault.

12. The Subscriber shall be obliged to notify the Service Provider immediately, no later than within 3 days of the event, of any case of unauthorized access to the Thulium System, unauthorized disclosure or access to data enabling authentication in the Thulium System (e.g., passwords) or any other security breach that may affect performance of the Agreement.

13. In the event of excessive load resulting from the number and scope of requests executed by the API, the Thulium System resources allocated to the Subscriber may be insufficient. In such a case, the Subscriber is obliged to limit the scope of use of the API. Otherwise, in order to ensure continuity of service provision, the Service Provider may limit the number of requests processed by the API or disable access to the API.

Chapter VII Amendments to the Terms and Conditions

§ 17 Amendments to the Terms and Conditions

1. The Service Provider shall reserve the right to amend the Terms and Conditions or Appendices, in particular in the event of technological or organizational changes in the operation of the Thulium System, implementation of new or modified functionalities or the need to adapt the operation of the Thulium System and the provisions of the Terms and Conditions or Appendices to new generally applicable regulations.

2. Any changes to the Terms and Conditions or Appendices made by the Service Provider require prior notification to the Owner in order to be effective. The Service Provider shall notify the Owner of any planned changes to the Terms and Conditions in writing or by e-mail, providing the content of the new version of the Terms and Conditions or Appendices, no later than 14 days before the date of entry into force of the changes, subject to the exceptions specified in sect. 6.

3. In the event of the change to the Terms and Conditions or Appendices limiting the scope of services provided or increasing their price, the Subscriber shall have the right to terminate the Agreement within 14 days of the new version of the Terms and Conditions being made available. In such a case, the Agreement shall be terminated at the end of the Subscription Period in which the Service Provider received the objection.

4. If the Subscriber does not terminate the Agreement in accordance with the procedure specified in sect. 3, it shall be deemed that the Subscriber has agreed to the content of the Terms and Conditions and Appendices.

5. For the avoidance of doubt, in the event of changes to the Terms and Conditions, the numbering of individual provisions shall be retained and any deletion of individual provisions shall be marked.

6. A change in the Price List that is beneficial to the Subscriber, consisting of: reduction in the Subscription Fee, reduction in the price of the Paid Addition, the addition of a new item to the Price List – the Paid Addition, the use of which is optional, shall come into effect after it is made available on the website http://thulium.pl/cennik and does not constitute an independent basis for termination of the Agreement.

7. A change in the amount of share capital and the name of the company shall not constitute an amendment to the Terms and Conditions.

Chapter VIII Other provisions

§ 18 Confidential information

1. The Parties shall undertake to keep confidential information strictly secret for an unlimited period of time and not to use it (in whole or in part) for any purpose not directly related to performance of the Agreement. The Parties shall consider the following information to be confidential:

   a. legal, financial, technical, IT, technological, or organizational information concerning the Services,

   b. information of economic value concerning the Parties,

   c. information concerning third parties, including the Service Provider's associates, entities related by organization or capital, members of their bodies or partners, persons cooperating with them, customers, former customers and persons cooperating with customers or former customers.

2. The confidentiality obligation specified in this paragraph shall not apply to Confidential Information which:

   a. is or becomes publicly known, other than through a breach of the provisions of the agreement or applicable law,

   b. has been obtained by a Party in accordance with the law and its obligations prior to obtaining this information from the other Party,

   c. has been disclosed on the basis of the prior written consent of the other Party, under pain of nullity, to the extent and to the entities specified in this consent,

   d. must be disclosed to the competent public authorities on the basis of legal provisions,

   e. includes statistical data or derivatives of statistical data obtained by the Service Provider in connection with the provision of Services,

   f. includes only information provided by the Parties about the fact of cooperation.

3. The Parties shall ensure compliance with the above confidentiality obligation by all persons representing them and third parties associated with them in any way who, thanks to this Party, may have access to confidential information.

§ 19 Contact details

1. All notifications, letters, or correspondence addressed to the Service Provider should be sent by email to kontakt@thulium.pl, by registered mail, or by courier to the mailing address: Thulium sp. z o.o., ul. Stanisława Klimeckiego 4, 30-705 Kraków.

2. The Subscriber and the Service Provider shall be obliged to inform each other of any changes affecting performance of the Agreement, in particular, such as:

   - change of the Subscriber's registered seat,

   - change of the Subscriber's contact details.

3. All correspondence sent by the Parties to the last address indicated for delivery and not collected shall be deemed to have been effectively delivered.

§ 20 Personal data of the Subscriber and User

The rules for Personal Data processing are set out in the Privacy Policy available on the website: https://thulium.com/pl/terms-and-conditions/, whereby:

   a. information on processing of personal data of the person representing the Subscriber can be found in Parts I and IV of the Privacy Policy;

   b. information on processing of the User's personal data is provided in Parts I and V of the Privacy Policy.

§ 21 Processing of personal data entrusted by the Subscriber

1. In order to perform the Service, the Subscriber shall entrust the Service Provider with processing of the Subscriber's customers' personal data, which takes place on the basis of the personal data processing entrustment agreement, constituting Appendix no 1 to the Terms and Conditions.

2. As the Service may be provided using the Cloud Service or another similar service provided by another entity, the Subscriber shall agree to the Service Provider's use of the services of another processing entity that the Service Provider may entrust processing of personal data provided by the Subscriber - to the extent necessary - by external processing entities, listed in Appendix no 2 to the Terms and Conditions under the item "Personal data provided by the Subscriber – processing entrustment."

3. The Subscriber may choose to use optional features available in the Thulium System. The Subscriber is aware and accepts that starting to use these features may result in data processing entrustment to the providers of these features, which may involve international transfer of the data, which the Subscriber fully accepts and agrees to.

4. The Subscriber's use of the integrations available in the Thulium Software shall require prior conclusion of the agreement by the Subscriber directly with a specific provider, including, where applicable, a relevant entrustment agreement. In such a case, this provider is not a sub-processor in the data processing that takes place pursuant to this Agreement; notwithstanding the above, the Subscriber is aware that this integration may result in the transfer, storage or display of the Subscriber's data from this provider to the Thulium System, depending on functionality, which the Subscriber agrees to. The current list of providers that the Subscriber can integrate with is available in the Thulium System in the Owner's account panel. Adding, deletion or replacement of the integration possible for implementation shall not constitute an amendment to the Agreement.

5. The rules specified in sect. 4 shall apply accordingly in the event that the Subscriber connects a telecommunications operator, VoIP operator or SMS gateway to the Thulium System.

§ 22 Complaint procedure

1. A Subscriber may submit a complaint:

    a. in writing to the Service Provider's registered office address;
    b. electronically to the email address: kontakt@thulium.pl;
    c. by telephone to the Customer Service Office number (calls are recorded, of which the Subscriber is informed at the beginning of the call).

2. A complaint should contain:

    a. the Subscriber's contact details and identification as a Subscriber,

    b. the name of the Server the complaint relates to,

    c. functionality the complaint relates to,

    d. a brief description of the objections related to provision of the Service,

    e. circumstances justifying the complaint.

3. Confirmation of submission:

    a. In the case of a complaint submitted by telephone or email, the Service Provider shall immediately send confirmation of its receipt electronically, indicating the date of submission and the complaint number.
    b. In the case of a complaint submitted in person at the Service Provider's premises, the Subscriber shall receive confirmation in the form of a protocol.

4. Method of response:

    a. The Subscriber shall indicate in the complaint submission the method by which they wish to receive a response (traditional mail, email, or other available means of electronic communication).
    b. In the absence of indication of the method of response, the Service Provider shall provide a response in the same form in which the complaint was submitted (e.g., email to the address from which the submission was sent), and in the case of an oral complaint - to the Owner's email address, unless the Subscriber consents to another means of communication.The Service Provider shall undertake to use best efforts to consider and resolve the problem specified in the complaint as soon as possible.

5. The Service Provider shall be obliged to respond to the complaint within 14 days of its receipt, indicating whether the Service Provider accepts the complaint as well as the manner and time period the Service Provider may require to resolve it or informing the customer that there are no grounds for accepting the complaint, with the reasons for this position.

6. If a complaint does not contain the necessary data for its consideration, the Service Provider shall request the Subscriber to supplement it within a period of no less than 7 days, with instruction that failure to supplement may result in the complaint being left without consideration.

§ 23 Final provisions

1. In matters not covered by the Agreement, the provisions of the Civil Code, the Copyright and Related Rights Act and other relevant laws shall apply. The law applicable to this Agreement is Polish law.

2. The Terms and Conditions shall regulate the rules for provision of Services by the Service Provider fully and exclusively. The Terms and Conditions shall replace all other agreements, oral and written ones as well as any other exchange of information regarding the Services, with the exception of an individual agreement concluded in writing.

3. The following Appendices form an integral part of the Terms and Conditions:

   a) Appendix no 1 – Personal Data Processing Entrustment Agreement,

   b) Appendix no 2 – List of entities processing personal data entrusted by the Subscriber,

   c) Appendix no 3 – Standard Service Level Agreement (SLA),

   d) Appendix no 4 – Rules for dealing with the Content that is or may be illegal,

   e) Appendix no 5 – Rules for exercising rights and obligations under the Data Act.

4. If any part of these Terms and Conditions is deemed invalid or ineffective, the remaining parts of the Terms and Conditions shall remain in force.

5. The Parties shall undertake to use best efforts to resolve any disputes arising from performance of this Agreement through mediation.

6. If an amicable resolution of the dispute is not possible, the court competent to settle the dispute shall be the court competent for the seat of the Service Provider.

7. The Terms and Conditions shall be effective from 14 March 2026.

Appendix no 1 to the Terms and Conditions

Personal Data Processing Entrustment Agreement

1. Definitions

1.1. Where terms defined in the GDPR are used in this Entrustment Agreement, those terms shall have the same meaning as in the Regulation.

1.2. The terms used in this Entrustment Agreement shall have the following meanings:

(1) **Terms and Conditions** – the Agreement concluded between the Subscriber and the Service Provider, of which this Entrustment Agreement constitutes an integral part.

(2) **the Controller** – Subscriber as defined in the Terms and Conditions.

(3) **the Processor** – the Service Provider as defined in the Terms and Conditions

(4) **Entrustment Agreement** – this personal data processing entrustment agreement, which forms an integral part of the Terms and Conditions, governing the rules for the Subscriber's entrustment of the personal data of the Subscriber's customers to the Service Provider in connection with the Services provided by the Service Provider and described in the Terms and Conditions

1.3. Terms used in this Entrustment Agreement that are capitalized and not defined in item 1.2 shall be understood in accordance with the meaning given in the Terms and Conditions.

2. The scope of application

2.1. The Entrustment Agreement shall apply to personal data processing entrustment in connection with the Services provided by the Service Provides and agreed by the Parties,

in the event that performance of the Services requires personal data processing entrustment.

2.2. The Entrustment Agreement shall specify the conditions under which the Service Provider shall process personal data controlled by the Subscriber.

2.3. The provisions of the Entrustment Agreement shall be without prejudice to the obligations to which the Controller is subject under the Regulation.

2.4. The provisions of the Entrustment Agreement shall not ensure compliance with the obligations relating to international data transfers pursuant to Chapter V of the Regulation.

2.5. The provisions of the Entrustment Agreement shall be read and interpreted in the light of the provisions of the Regulation. The provisions of the Entrustment Agreement shall not be interpreted in the manner contrary to the rights and obligations provided for in the Regulation or in the manner that violates the fundamental rights or freedoms of data subjects.

2.6. In the event of any inconsistency between the Entrustment Agreement and provisions of the Terms and Conditions, provisions of the Entrustment Agreement shall prevail in relation to personal data processing.

2.7. The Entrustment Agreement shall replace all previous provisions and arrangements regarding data processing by the Service Provider on behalf of the Subscriber within the scope specified therein and its provisions shall apply to all entrustment processes that shall take place during its term.

3. The subject and scope of data processing

3.1. The Subscriber shall entrust the Service Provider with personal data processing pursuant to art. 28 of the GDPR on the terms specified in the Entrustment Agreement.

3.2. The Subscriber declares that the Subscriber is the Personal Data Controller within the meaning of the GDPR and that the Subscriber is authorized to entrust personal data processing to the Service Provider and guarantees that it is processed in accordance with the law, in particular that the data has been obtained in accordance with the provisions of the Regulation.

3.3. The subject and purpose of data processing entrustment shall be provision of Services agreed with the Subscriber by the Service Provider, customer service support and complaint handling.

3.4. The period of personal data processing entrustment shall correspond to the term of the Agreement concluded by the Parties whose subject is provision of the services.

3.5. Data processing entrustment shall include performance of the operations on personal data, such as: recording, organizing, arranging, storage, retrieval, backup, deletion, destruction and other operations necessary to provide the Services within the scope of the Thulium System functionality.

3.6. Data processing entrustment shall include the personal data of the Subscriber's customers. The Subscriber may also entrust the Service Provider with other categories of personal data by selecting the appropriate functionality of the Thulium System or by processing other categories of data subjects in the Thulium System.

3.7. The types of entrusted personal data shall be determined by functionality of the Thulium System and shall include the following data of the Subscriber's customer: forename, surname, contact details and identification data or voice if conversations are recorded as part of the provided Services. Furthermore, due to the purpose of the Thulium System as a support for customer service, other personal identification data (including NIP /Tax Identification Number/, PESEL /Central Registry Personal Number/, etc.) as well as data belonging to special categories (so-called "sensitive data"), such as health condition data, etc., may also be subject to processing in the Thulium System. However, it should be emphasized that in each case it is solely the Subscriber who decides on the scope and categories of personal data entered by the Subscriber into the System and thus covered by entrustment, subject to exceptions resulting from the Terms and Conditions and the Service Provider shall emphasize and reserve that this data:

(1) should be limited to a minimum in accordance with the principle of minimizing personal data processing specified in the GDPR and for this reason it should be selected by the Subscriber as far as possible;

(2) its entry into the Thulium System must not constitute an act violating mandatory provisions of law;

(3) may only be entered pursuant to the purpose and functionalities of the Thulium System.

3.8. The processing entrusted to the Service Provider shall be continuous and fully or partially automated with the application of the IT systems used by the Service Provider, unless otherwise agreed.

3.9. The Service Provider may process personal data entrusted to the Service Provider for processing by the Subscriber for the purpose of providing the Services on the terms specified in the Terms and Conditions and to the extent necessary for this purpose.

4. International transfer of the data

4.1. Processing of the Subscriber's personal data shall take place in the countries that are signatories to the European Economic Area (EEA) unless the Subscriber has made the integration referred to in item 4.2, which is tantamount to the Subscriber's consent to the international transfer of personal data. In such a situation, the international transfer is conducted directly by the Subscriber on the basis of the relevant agreement concluded by the Subscriber with the provider that the integration has taken place with, and it is the Subscriber who is responsible for making the transfer pursuant to the basis enabling this transfer.

4.2. Any transfer of data to a third country or international organization by the Service Provider, i.e. outside the EEA, may only take place on the documented instruction of the Subscriber or in order to comply with a specific requirement under Union law or the law of the Member State to which the Service Provider is subject and pursuant to Chapter V of the Regulation. Selection of the appropriate integration, in particular when it involves international transfer of the data, should be preceded by a risk analysis of the transfer by the Subscriber. The Subscriber shall bear sole responsibility for conducting a proper analysis and making own assessment of whether the entity providing the service with which the integration is to take place

applies adequate safeguards resulting from Chapter V of the Regulation. The Subscriber is aware of and accepts the risks involved in international transfers to a given third country.

4.3. If pursuant to section 4.3 of the Entrustment Agreement, the Service Provider intends to use the services of a sub-processor to perform specific processing activities (on behalf of the Subscriber) that involve the transfer of personal data within the meaning of Chapter V of the Regulation, the Subscriber agrees that these entities may ensure compliance with Chapter V of the Regulation by means of standard contractual clauses adopted by the Commission pursuant to art. 46 sect. 2 of the Regulation or that this transfer takes place to a country for which the European Commission has issued an adequacy decision pursuant to art. 45 of the Regulation.

4.4. For the avoidance of doubt, the Parties shall indicate that occasional work performed by the Service Provider's employees and services provided by persons permanently cooperating with the Service Provider on the basis other than an employment contract, remotely, from countries for which the European Commission has issued an adequacy decision pursuant to art. 45 of the Regulation shall not be not treated as a form of international transfer of the data in accordance with the EROD guidelines,

4.5. The Service Provider shall enable the Subscriber to use additional, optional functionalities of the Service that are provided by sub-processors. The use of some of these tools may result in personal data processing outside the EEA. These entities are listed in Appendix no 2; the Subscriber's optional use of their tools hall be tantamount to the consent to the international transfer of personal data.

5. Instructions

5.1. Within the meaning of the provisions on personal data protection, the Subscriber shall remain the sole personal data controller, deciding on the purposes and means of data processing. The Subscriber is responsible for ensuring lawfulness of processing of personal data being the subject of entrustment and for protecting the rights of data subjects.

5.2. The Service Provider shall process personal data solely for the purpose of providing the Service and pursuant to the provisions of the Terms and Conditions, the guidelines and instructions provided by the Subscriber as well as the provisions of the Entrustment Agreement.

5.3. The Service Provider shall process personal data only on the documented instructions of the Subscriber unless this obligation is imposed on the Service Provider by Union law or the law of a Member State to which the Service Provider is subject. In such a case, before starting processing, the Service Provider shall inform the Subscriber of this legal obligation unless the law prohibits provision of this information due to an important public interest. The Subscriber may issue further instructions throughout the entire period of personal data processing.

5.4. As a rule, the Subscriber's instructions must be in writing or in document form. The Subscriber may also issue instructions orally or by telephone, provided that they are immediately confirmed by the Subscriber in writing or in document form.

5.5. The Service Provider shall immediately notify the Subscriber if the order issued by the Subscriber violates the Regulation or applicable EU or Member State regulations in the opinion of the Service Provider and shall request the Subscriber to withdraw, amend, or confirm and explain the disputed order. Pending the Subscriber's decision, the Service Provider shall be entitled to suspend the execution of the disputed instruction. In the event that the execution of the Subscriber's instruction, despite the provision of explanations, would lead to a violation of generally applicable European Union or Member State law, the Service Provider shall be entitled to refrain from executing this instruction.

5.6. The order should not only comply with the regulations, but also correspond to the agreements between the Parties regarding the scope of the provided Services and the provisions of the Terms and Conditions. Any instructions that go beyond the instructions specified in the first sentence above, if their execution results in additional costs for the Service Provider, may only be conducted after the Subscriber has accepted the costs of executing the instruction presented by the Service Provider.

5.7. The persons authorized to issue and receive instructions and all other information referred to in the Entrustment Agreement are Owners,

6. Security of processing

6.1 The Service Provider shall undertake to process the entrusted personal data on behalf of the Service Provider pursuant to the Entrustment Agreement, the Regulation and other generally applicable laws that protect the rights of data subjects. In particular, the Service Provider shall declare that the Service Provider applies appropriate technical and organizational security measures to ensure that processing meets the requirements of the Regulation and protects the rights of data subjects.

6.2 The Service Provider shall undertake – while processing the personal data entrusted by the Subscriber - to secure it (in particular against accidental or unlawful destruction, loss, modification, unauthorized disclosure or unauthorized access to personal data transmitted, stored or otherwise processed) by taking technical and organizational security measures ensuring an appropriate level of security, i.e., corresponding to the risk pursuant to art. 32 of the Regulation.

6.3 The Subscriber shall confirm that the Subscriber has received information about the technical and organizational measures implemented by the Service Provider to ensure the security of personal data processing, in particular, the Subscriber is aware that the Service Provider holds a certificate of compliance with the ISO 27001 security standard and considers them appropriate and sufficient to protect the rights of data subjects.

6.4 The Service Provider shall grant the Service Provider's staff access to personal data being processed only to the extent strictly necessary for provision, management and monitoring of the Services. The Service Provider shall ensure that persons authorized to process the entrusted personal data undertake to maintain confidentiality or are subject to an appropriate statutory obligation of confidentiality.

6.5. All information obtained in connection with provision of the Services and implementation of the provisions of the Terms and Conditions, in particular information on the methods of data protection by the Parties, shall be kept confidential, even after the expiry of the Entrustment Agreement.

7. The right of inspection

7.1. The Service Provider shall provide the Subscriber with the information necessary to demonstrate compliance with the obligations specified in the Entrustment Agreement and resulting directly from the Regulation and shall respond to any questions in this regard without delay, i.e. within no more than 7 business days.

7.2. The Subscriber shall have the right to audit compliance of the Service Provider's processing of personal data with provisions of the Entrustment Agreement and the Regulation ("**Audit**"). The audit may also be conducted by an independent auditor authorized by the Subscriber. Before commencing the Audit, the Subscriber or an auditor authorized by the Subscriber shall be required to sign a confidentiality agreement concerning trade secrets and personal data as well as the methods of securing this data.

7.3. The Subscriber shall undertake that no entity conducting activities that are directly or indirectly competitive to those conducted by the Service Provider shall be appointed as an authorized auditor. Competitive activity is understood as any activity, whether paid or unpaid, in the country or abroad, regardless of its legal form, which is conducted in the same or similar scope and is directed at the same group of recipients, overlapping – even partially – within the scope of the core or ancillary activities of the Service Provider or entities from the Service Provider's group. In order to assess whether a given entity is competitive, not only the subject of the entity's activity resulting from the content of the agreement establishing it shall be taken into account, however, also the subject of the activity actually performed by this entity. In the event of the instruction to conduct an Audit by entities competitive to the Service Provider, the Service Provider shall be entitled to refuse to conduct the Audit until another entity conducting the Audit on behalf of the Subscriber is appointed or until further course of action between the Service Provider and the Subscriber is determined.

7.4. The audit shall be subject to the following conditions:

(1) it may only concern personal data entrusted to the Service Provider for processing pursuant to the Entrustment Agreement and shall be limited to the Service Provider's registered seat and equipment used for personal data processing as well as personnel involved in the processing activities covered by the Entrustment Agreement;

(2) it shall be conducted efficiently and as quickly as possible, not exceeding 2 business days;

(3) it shall take place no more than once a year unless the Audit is required by law or by a competent supervisory authority or takes place immediately after a significant violation of personal data processed under the Entrustment Agreement has been identified;

(4) may be performed during the Service Provider's normal business hours, in the manner that does not disrupt the Service Provider's business activities and pursuant to the Service Provider's security policies;

(5) The Subscriber shall notify the Service Provider of the Subscriber's intention to conduct an Audit by email or letter at least 14 business days prior to the planned date of the Audit, specifying the planned scope of the audit, its duration and the name of the auditor. In the event of circumstances beyond the Service Provider's control that prevent the Audit from being conducted on the planned date or other unexpected obstacles, the Service Provider shall notify the Subscriber of these circumstances and suggest a new date for the Audit, but no later than within 7 business days of the date specified by the Subscriber.

(6) The Subscriber shall bear all costs arising from or incurred in connection with the Audit without the right to claim reimbursement of such costs or payment of additional remuneration. The Service Provider shall have the right to charge the Subscriber 350 PLN net for each commenced working hour spent on work related to the Audit by the Service Provider's employees. Details regarding fees should be agreed in writing prior to the commencement of the Audit.

(7) The Audit may not aim at or lead to the disclosure of legally protected secrets (including the Service Provider's trade secrets);

(8) The Subscriber is obliged to prepare an Audit Report summarizing the findings of the Audit. The report shall be provided to the Service Provider and shall constitute confidential information about the Service Provider, which may not be disclosed to third parties without the consent of the Service Provider unless required by applicable law. The report shall contain the conclusions of the Audit and the scope of possible changes in the personal data processing by the Service Provider agreed upon by the Parties.

7.5. If the Service Provider has the certification referred to in art. 42 of the GDPR or applies the code of conduct referred to in art. 40 of the GDPR, the Subscriber's control rights may also be exercised by the Service Provider referring to the results of monitoring the certification rules or code of conduct. In such a case, the Audit shall only concern issues that cannot be sufficiently clarified by the Service Provider presenting these results.

8. The use of services of the sub-processors

8.1. The Subscriber shall give the general consent for the Service Provider to use the services of the sub-processors listed in Appendix no 2. The Service Provider shall inform the Subscriber of any intended changes to this list, consisting in the addition, deletion or replacement of sub-processors, in the form and with the use of rules applicable while amending the Terms and Conditions. Failure to terminate the agreement in connection with changes to the Terms and Conditions, including changes to Appendix no 2, shall be tantamount to acceptance of the updated list, including acceptance of international transfers of the data, if applicable. Failure to accept the changes shall result in the consequences described in § 17 sect. 3 of the Terms and Conditions.

8.2. If the Service Provider uses the services of the sub-processor to perform specific processing activities (on behalf of the Subscriber), it shall do this by means of the agreement that imposes essentially the same data protection obligations on the sub-processor as those imposed on the Service Provider under the Entrustment Agreement. The Service Provider shall ensure that the sub-processor fulfils the obligations to which the Service Provider is subject under the Entrustment Agreement and the Regulation.

8.3. At the Subscriber's request, the Service Provider shall provide the Subscriber with a copy of the agreement it has concluded with the sub-processor and, in the event of any changes, shall provide the Subscriber with an updated version thereof. To the extent necessary to protect trade secrets or other confidential information, including personal data, the Service Provider may redact the text of the agreement before making it available.

9. Assistance for the Controller

9.1 The Service Provider shall immediately notify the Subscriber of: any request to disclose personal data to a competent public authority unless the prohibition of notification results from legal provisions, any request received from the person whose data is being processed, while refraining from responding to the request unless the Subscriber has given their consent.

9.2 The Service Provider shall assist the Subscriber in fulfilling its obligations to respond to requests from data subjects to exercise their rights, taking into account the nature of the processing.

9.3 The Service Provider shall also assist the Subscriber in ensuring compliance with the following obligations, taking into account the nature of the processing and the information available to the Service Provider:

(1) the obligation to carry out an assessment of the impact of the planned processing operations on personal data protection ("data protection impact assessment") if the type of processing is likely to result in a high risk to the rights and freedoms of natural persons;

(2) the obligation to consult the competent supervisory authority/authorities prior to the start of processing if the data protection impact assessment indicates that the processing would result in a high risk if the Controller did not take measures to mitigate it;

(3) the obligation to ensure accuracy and validity of personal data by immediately informing the Subscriber if the Service Provider finds that the personal data subject to processing is inaccurate or out of date;

(4) the obligations set out in art. 32 of the Regulation.

10. Violations of personal data protection

10.1. In the event of violation of personal data protection, the Service Provider shall cooperate with the Subscriber and assist the Subscriber in fulfilling the obligations under art. 33 and 34 of the Regulation, taking into account the nature of the processing and the information available to the Service Provider.

10.2. Upon confirmation of violation of personal data protection, the Service Provider shall notify the Subscriber without undue delay, if possible no later than 36 hours after discovering the breach. The Processor shall attach an explanation of the reasons for the delay to the notification sent to the Subscriber after 36 hours. At the Subscriber's additional request, the Service Provider shall provide the Subscriber with the requested information, provided that, due to the nature of the services provided, it is possible to obtain it by reasonable means.

10.3. The Service Provider shall be obliged to take the necessary and appropriate measures without delay to remedy the violation and minimize its possible negative effects.

10.4. All information concerning the violation of personal data protection shall be communicated to the person indicated in item 5.7. of the Entrustment Agreement.

10.5. The Service Provider's obligation referred to in item 10.2. above is not and shall not be interpreted as confirmation by the Service Provider to data subjects that the violation of personal data protection has occurred.

10.6. In the event of violation of personal data protection concerning data processed by the Subscriber, the Service Provider shall assist the Subscriber:

(1) in reporting the violation of personal data protection to the competent supervisory authority/authorities immediately after the Subscriber becomes aware of the violation, where applicable (unless the violation is unlikely to result in a risk to the rights and freedoms of natural persons);

(2) in obtaining the information that should be included in the notification pursuant to art.

33 sect. 3 of the Regulation,;

(3) when fulfilling the obligation to notify the data subject without undue delay of the violation of personal data protection pursuant to art. 34 of the Regulation if the violation is likely to result in a high risk to the rights and freedom of natural persons.

11. Liability

11.1. The rules of liability of the Service Provider specified in § 15 of the Terms and Conditions also apply to the Service Provider's liability for proper processing of personal data within the scope of entrusted data processing, subject to exceptions resulting from mandatory provisions of law.

11.2. The Service Provider shall not be liable for any damage suffered by the Subscriber, including administrative fines imposed on the Subscriber or compensation paid to third parties, for damage caused by the Service Provider's actions or omissions, at the Subscriber's request, unless the Service Provider can be attributed with intentional fault. In the absence of intentional fault, the Subscriber is obliged to release the Service Provider unconditionally from liability for any claims made by entities whose personal data is processed by the Service Provider on the basis of the Entrustment Agreement. In the event of court or administrative proceedings being brought against the Service Provider, the Subscriber shall, at the request of the Service Provider, join the proceedings as a party and assume liability for the reported claim.

12. Term and termination of the Entrustment Agreement

12.1. The Entrustment Agreement shall be concluded for duration of the Terms and Conditions.

12.2. Automatic termination or cancellation of the Entrustment Agreement shall be excluded.

12.3. The storage and deletion of the Subscriber's data, even in the event of termination of cooperation between the Parties, shall be carried out in accordance with the rules set out in § 14 of the Terms and Conditions.

13. Final provisions

13.1. The Entrustment Agreement shall be governed by Polish law.

13.2. The Parties agree that the Service Provider's remuneration for activities performed under the Entrustment Agreement is included in the remuneration due for provision of Services to the Subscriber, subject to the exception specified in section 5.6 of the Entrustment Agreement,

13.3. Any amendments to the Entrustment Agreement shall be made in accordance with the rules applicable to amendments to the Terms and Conditions.

13.4. In matters not covered by the Entrustment Agreement, the provisions of the GDPR, the Civil Code and other generally applicable laws shall apply.

13.5. Ineffectiveness, invalidity or unenforceability of individual provisions of the Entrustment Agreement shall not affect effectiveness of the remaining provisions. The Parties undertake to replace the ineffective, invalid or unenforceable provision with an effective and enforceable provision that is as close as possible to the originally intended purpose.

13.6. Any disputes arising from the Entrustment Agreement shall be settled by the court having jurisdiction over the registered seat of the Service Provider.

Appendix 2 to the Terms and Conditions

List of entities processing personal data entrusted by the Subscriber (column "Personal data provided by the Subscriber – processing entrustment") and entities supporting the Service Provider's activities, processing data on the terms and in the cases specified in detail in the Privacy Policy.

Recipient of personal data, including the purpose of processing and entities supporting Thulium in providing Thulium AI	Personal data provided by the Subscriber – processing entrustment	Website user – Part II. Privacy Policy	Newsletter subscriber – Part III. Privacy policy	Persons authorized to represent the Subscriber (Owners)/Partner - Part IV. Privacy Policy	Users – Part V. Privacy Policy	Potential Customers - Part VI. Privacy Policy
Microsoft Ireland Operations Limited, One Microsoft Place, South County Business Park, Leopardstown, Dublin 18, Ireland (Azure cloud platform, used for data processing, including storage) Thulium AI: Assistant AI; AI Translations; AI Voice Analytics	YES	YES	YES	YES	YES	YES
Amazon Web Services EMEA SARL spółka z ograniczoną odpowiedzialnością, Branch in Polsce, Generation Park Z, 9th Floor ul. Towarowa 28 00-839 Warszawa, Polska, NIP: PL1080022032 (text-to-speech generation service, optional for use by the Subscriber, requires prior configuration)	YES	NO	NO	NO	NO	NO
Google Ireland Limited, Gordon House, Barrow Street, Dublin 4, Ireland, VAT no: IE 6388047V (business tools such as Gmail or Meets for communication and, optionally for use by the Subscriber, a text-to-speech generation service, requires prior configuration)	YES	YES	NO	YES	YES	YES
Intercom R&D Unlimited Company, an Irish company with offices at 2nd Floor, Stephen Court, 18-21 St.	NO	NO	NO	YES	YES	YES

Stephen's Green, Dublin 2, Republic of Ireland (tool for communication via email or in-app)						
MailerLite Limited, 38 Mount Street Upper, Dublin 2, DO2 PR 89 Irlandia (tool for communication via email)	NO	NO	YES	YES	YES	YES
Pipedrive OU, Mustamäe tee 3a, Tallinn, Harjumaa 10615, Estonia, VAT #: EE101382096, Registration #: 11958539 (CRM tool to support the sales process)	NO	NO	NO	YES	YES	YES
Fireflies.AI Corp., 5424 Sunol Blvd, Ste 10-531, Pleasanton, CA 94566, USA (a tool for transcription of online meetings)	NO	YES	NO	YES	YES	YES
Loom Inc., 140 2ND St FL 3 San Francisco, CA, 94105-3731, USA (a tool for recording video meetings)	NO	YES	NO	YES	YES	YES
ElevenLabs Inc. 169 Madison Ave #2484 New York City, NY 10016, USA (optional speech-to-text generation service for use by the Subscriber; data transfer to the USA based on SCC - occurs only after the Subscriber has previously configured "Actions on the IVR tree")	YES	NO	NO	NO	NO	NO
AssemblyAI Inc. 2261 Market STreet #4577 San Francisco, CA 94114, USA (optional speech-to-text service for use by the Subscriber, data processed using endpoints located within the EEA - region: Europe; data transfer to the US based on SCC may occur in exceptional circumstances when remote technical support is provided by employees from the US branch) Thulium AI: AI Voice Analytics	YES	NO	NO	NO	NO	NO
DeepL SE, Maarweg 165, 50825, Cologne, Germany (optional for use by the Subscriber: text translation service) Thulium AI: AI Translations	YES	NO	NO	NO	NO	NO
SideGuide Technologies, Inc. (d/b/a Firecrawl) 1111B S Governors Ave #6058, Dover, DE 19901, USA (A potential transfer of data to the USA based on SCCs, whereby the processing concerns exclusively publicly available data collected from external, publicly accessible websites. The purpose of using the Firecrawl tool is not to process any entrusted data; however, such operations cannot be excluded if the entrusted data were to appear on publicly accessible websites	YES	NO	NO	NO	NO	NO

Thulium AI: Assistant AI					
MixPanel Inc., 1 Front Street 28th Floor San Francisco, CA 94111 USA (tool for analyzing User behaviour)	NO	NO	NO	YES	YES	NO
Hotjar Ltd, Dragonara Business Centre,5th Floor, Dragonara Road, Paceville St Julian's STJ 3141, Malta (tool for analyzing User behaviour)	NO	NO	NO	YES	YES	NO
Web Innovative Software Sp. z o.o., ul. Bierutowska 57-59, 51-317 Wrocław (wfirma.pl system for issuing invoices)	NO	NO	NO	YES	NO	NO
Benhauer sp. z o. o. with the registered seat in Krakow (30-705), ul.Stanisława Klimeckiego 4 (support for HR and administrative processes, provider of a tool for automating marketing activities)	YES	YES	YES	YES	YES	YES

Appendix no 4 to the Terms and Conditions

Rules for dealing with the Content that is or may be illegal

1. Transfer of the Content

1.1. The Subscriber's use of the Services provided by the Service Provider shall enable the Subscriber to transfer the Content to the Service Provider for storage in the Cloud Service at the Subscriber's request.

1.2. It is prohibited to transfer the Content that

      a.   constitutes illegal content within the meaning of the Digital Services Act or

        b.   is inconsistent with the Terms and Conditions.

1.3. The Content that is inconsistent with the Terms and Conditions shall be understood as Content that:

        a.   contains spam;

      b.   is used to conduct activities prohibited by law, such as: attempts at fraud and extortion;

      c.   incites violence against any living beings, including animals or condones such violence;

        d.   promotes any fascist or other totalitarian state system;

      e.   incites hatred on the grounds of gender, sexual orientation, nationality, ethnicity, race, religion or lack of religion or condones such hatred;

      f.   insults a group of people or individuals on the basis of their gender, sexuality, nationality, ethnicity, race, religion or lack thereof;

      g.   contains the content of chauvinistic or misogynistic nature as well as the content that bears the hallmarks of gender discrimination;

        h.   violates personal rights;

        i.   violates the copyright;

        j.   incites dangerous behaviour or condone such behaviour;

      k.   violates the applicable legal order or good manners in the manner other than that specified in items a - j.

1.4. If the Service Provider obtains reliable information about the possibility of the crime or offense committed in connection with the transmitted Content, the Service Provider shall be entitled and obliged to notify the relevant services or public authorities. The same shall apply if the authorities or public authorities request the Service Provider to disclose data, in particular for the purposes of civil or criminal proceedings.

2. Reporting the illegal Content

2.1. The Service Provider shall not be obliged to check the Content in advance, in particular through preventive control or other forms of the Content verification. The Service Provider shall conduct the verification after receiving the reporting.

2.2. Any person or entity may report the presence of the Content in the Cloud Service to the Service Provider that the person or entity considers to be illegal within the meaning of the Terms and Conditions.

2.3. The reporting may be made:

    a.   by email to: kontakt@thulium.pl

    b.   via the contact form available at the address: https://thulium.com/

2.4. The reporting must contain all the elements required under the Digital Services Act, such as:

    a.   sufficiently justified explanation of the reasons why the person or entity

    alleges that the Content is illegal;

    b.   clear indication of the exact electronic location of the information, such as: the exact URL or exact URLs, and, where applicable, additional information enabling the identification of the Content, depending on the type of Content;

    c.   the name and e-mail address of the person or entity making the notification, except for notifications concerning the information considered to be related to one of the crimes referred to in art. 3 to 7 of Directive 2011/93/EU;

    d.   a statement confirming the assumption of the person or entity making the notification in good faith that the information and allegations contained therein are accurate and complete.

2.5. Upon receipt of the notification referred to in item 2.3, the Service Provider shall immediately confirm receipt of the notification to the reporting party by email to the provided email address. If the notification is incomplete or contains other errors, the Service Provider may ask the reporting person to supplement or correct the notification. If the reporting person does not supplement or correct the notification within 14 days of the Service Provider's request, the notification shall be left unexamined.

2.6. The Service Provider shall verify the Content within 14 days following the reception of the complete and correct notification The Service Provider shall conduction the verification in the non-arbitrary, objective manner and with due diligence. In order to verify the Content, the Service Provider may request additional information or documents from the reporting party, e.g., confirming the ownership of rights that the verified Content potentially violates.

2.7. During the verification process, the Service Provider shall be entitled to block the Content in the manner that becomes invisible to the Subscriber and/or the Users.

2.8. After verification, the Service Provider may:

    a.   block or remove Content that violates the Terms of Service permanently,

    b.   block the User or Subscriber's access to one or more features or Services temporarily (time-out),

    c.   block the User or Subscriber's access to at least one function or Service permanently (ban), or

    d.   decide that the Content does not violate the Terms and Conditions.

2.9. If the Content has been previously blocked and, after verification, it turns out that the Content does not violate the Terms and Conditions, the Service Provider shall immediately restore the Content and notify the reporting party, providing justification for the decision.

2.10. The actions taken by the Service Provider in relation to illegal Content shall depend primarily on its nature (e.g., crime), severity (e.g., death threats or violence), frequency (in relation to the total number of individual pieces of information and in relation to a given time interval), its consequences (e.g., whether anyone has been harmed) and the intentions of the person responsible for the illegal Content if this can be identified. The Service Provider shall act in an objective, non-discriminatory, and proportionate manner, with due regard for the rights and legitimate interests of all involved persons and entities.

2.11. If the Service Provider identifies Illegal Content, it shall be removed in all cases, as this is the only way the Service Provider can ensure that other persons shall not be able to view the Illegal Content.

2.12. In the event of the serious or repeated violation of applicable law or the Terms and Conditions, the Service Provider may impose a time-out (a temporary penalty, usually for several days) after prior warning whose duration shall depend on severity and frequency of the violations. Depending on the above-mentioned criteria, the time-out may apply to only one or several functions or to the entire Service.

2.13. A permanent ban is an exceptional case and is only considered after a prior warning and in the event of particularly serious or frequent violations. Depending on the above-mentioned criteria, the ban may apply to only one or several functions or to the entire Service.

2.14. If the Service Provider takes the above measures, the Service Provider shall always explain the decision if the Service Provider has the relevant electronic contact details. The Service Provider shall explain which restrictions are imposed, the

facts and circumstances on which the decision has been based and shall also inform of the possibilities for appealing against the decision.

3. Appeals

3.1. In the event that:

    a.   the Service Provider has not taken adequate action with regard to the Content, despite the notification;

    b.   action has been taken with regard to the Content that is inconsistent with the provisions of the Terms and Conditions;

    c. the Service Provider has applied any sanctions related to the Content;

    - the person or entity that has submitted the Content or the person or entity that has reported the Content for verification, may file an appeal.

3.2. Any decision by the Service Provider related to the Content must include a justification that allows for an appeal to be lodged, except in situations where the Service Provider receives an order related to the Content from the relevant public service or authority. The justification must meet the requirements set out in the Digital Services Act.

3.3. An appeal may be lodged by sending it:

    a.   to the email address kontakt@thulium.pl;

    b.   in writing, by registered mail - to the address of the Service Provider's registered seat

3.4. The appeal should include:

    a.   forename and surname (or company name) of the Appealing Party;

    b.   contact details;

    c.   a detailed justification of the reason why - in the Appearing Party's opinion - the Service Provider's decision was wrong and should be changed.

3.5. Upon receipt of the appeal, the Service Provider shall immediately confirm its receipt - by email - to the provided email address.

3.6. Appeals shall be considered within 14 days of the date of submission of the appeal.

4. Contact point

4.1. Member State authorities, the European Commission and the Digital Services Council may contact the Service Provider via the contact point in matters specified in art. 11 of the Digital Services Act by writing to the following email address: kontakt@thulium.pl.

4.2. Contact is possible in Polish or English.

4.3. Any person or entity using the Services may contact the Service Recipient in matters related to implementation of the provisions of this Appendix by writing to the address: kontakt@thulium.pl.

Appendix no 5 to the Terms and Conditions

Rules for exercising the rights under the Data Act

1. General provisions

1.1. The Service Provider shall enable the Subscriber to exercise the rights arising from Regulation (EU) 2023/2854 of the European Parliament and of the Council of December 13, 2023, on harmonized rules concerning fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828, hereinafter referred to as the "Data Act," on the terms set out below.

1.2. Access to personal and non-personal data as well as digital assets within the meaning of the Data Act, such as metadata, configuration data, security settings, and access management, shall be governed by the rules set out in the Terms and Conditions, Appendix no 5 and shall be conducted pursuant to the Data Act and the Regulation.

1.3. The provisions of Appendix no 5 shall be interpreted in the manner ensuring compliance with generally applicable laws and the possibility of exercising the rights and obligations arising from the Data Act.

1.4. In matters not expressly regulated in Appendix no 5, the relevant provisions of the Data Act shall apply.

2. The right of access to and export of data

2.1. The Subscriber shall have the right to access personal and non-personal data and digital assets (hereinafter collectively referred to as: exportable data) that have been generated or collected as a result of using the Service, including the Subscriber's own data and data related to the use of the Thulium System, in the machine-readable format and to export it.

2.2. The Service Provider shall provide legal and technical information required by the Data Act, in particular regarding the categories of exportable data, the type of data, the export format, the time of export, the method of export and the jurisdiction, on the website https://thulium.com/pl/terms-and-conditions. This information forms an integral part of the Terms and Conditions. Modification of the above information does not constitute an amendment to the Terms and Conditions.

2.3. Data excluded from export shall include any data of the Service Provider or third parties that is protected by intellectual property rights or constitutes a trade secret of the Service Provider or these third parties as well as data related to the integrity and security of the Service whose export would make the Service Provider vulnerable to cyber threats.

2.4. The right to access and export exportable data may be exercised throughout the term of the Agreement, subject to the exceptions specified in this Appendix.

3. The right to change a provider

3.1. The Owner shall have the right to submit a request regarding: changing the provider to another provider, providing the necessary details of the other provider, transferring exportable data to local ICT infrastructure or deleting exportable data. The request shall be submitted to kontakt@thulium.pl during the notice period of the Agreement, however, no later than the last day of the Agreement. The request shall include the note "Request regarding rights - Data Act" in the subject line of the message, which shall enable the Service Provider to process it quickly.

3.2. The request shall be fulfilled through the Subscriber's independent ability to export data in the manner described in item 2.2 of Appendix 5, and with adequate support from the Service Provider as specified in item 3.4 of Appendix 5.

3.3. The effect of submitting the request shall be the commencement of a so-called transition period, initially lasting 30 calendar days, following immediately after the expiry of the Agreement termination period. During the transition period, the Service Provider shall act with due diligence to maintain business continuity and continue to provide the functions or services provided for in the existing Agreement unless the Service Provider submits a request to limit the provision of Services during the transition period to 1 License only.

3.4. The Subscriber shall be responsible for collecting data and importing it into the new environment, while the Service Provider shall support the Subscriber in the process of changing the provider by providing relevant information about the process of changing the provider, including the information about known technical limitations or tools for exporting data. Assistance beyond what is strictly necessary may be provided for a fee on terms separately agreed by the Parties.

3.5. The Service Provider shall ensure that a high level of security shall be maintained throughout the entire process of changing providers, in particular the security of data during its transfer and further security of data during the transition period.

3.6. The Subscriber shall have the right to extend the original transition period once by a period that the Subscriber considers more appropriate to their own objectives, however, not longer than that provided for by law. A request to extend the original transition period must be submitted no later than the end of the original transition period.

3.7. The Agreement shall be terminated and the Subscriber shall be notified of its final termination in the event of:

      a)   after successful completion of the supplier change process;

      b)   at the end of the notice period if the Subscriber does not wish to change suppliers but wants to delete all the exportable data after the Service has ended.

3.8. Failure to submit a request in the manner and within the time limit specified in section 3.1 shall result in the permanent deletion of the Subscriber's data in accordance with the rules set out in sect. 12.3 of the Entrustment Agreement constituting Appendix no 1.

3.9. Submitting a request in the manner and within the time limit specified in section 3.1 or submitting a request to extend the original transition period in accordance with the rules specified in sect. 3.6 shall result in the further processing of the Subscriber's data for the time necessary to process the request, however, no longer than the time specified by law.

4. Interoperability and technical compatibility

4.1. The Service Provider shall take appropriate measures to ensure that data can be effectively and securely transferred to another system, while maintaining its integrity and usability.

4.2. The Service Provider shall not guarantee functional equivalence within the meaning of the Data Act in an environment other than the Service Provider's own systems; the Service Provider shall provide the relevant technical documentation necessary for the proper processing of data by third parties on the website https://api.thulium.com/docs/api.

5. The Subscriber's obligations in the event of the request for access to data by public entities

5.1. In the event of the request for access to data by a public authority, the Service Provider shall immediately inform the Subscriber, unless prohibited by law, and shall take all measures to protect the Subscriber's interests.

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