

Terms and Conditions of Thulium Communication Application Service

Chapter 1 General provisions	2
§ 1 General provisions	2
Chapter 2 Definitions	2
§ 2 Definitions	2
Chapter 3 Important terms of service providing	3
§ 3 Types and scope of the provided services	3
§ 4 Agreement conclusion	3
§ 5 Duration of the agreement	4
§ 6 Charging	4
§ 7 Termination of the agreement	4
§ 8 Invoices for the service	5
§ 9 Payment through Payment Provider	5
§ 9a Speech generating service	5
Chapter 4 License	5
§ 10 Scope of the license	5
Chapter 5 Terms of service providing	6
§ 11 Scope of service	6
§ 12 Technical requirements	6
§ 13 Limitations in providing services	6
§ 14 Storage of the Subscriber's data	6
Chapter 6 Responsibilities of the parties	7
§ 15 Responsibilities of the Provider	7
§ 16 Responsibilities of the Subscriber	8
Chapter 7 Changes in Terms and Conditions	8
§ 17 Changes in Terms and Conditions	8
Chapter 8 Other provisions	9
§ 18 Confidential information	9
§ 19 Contact information	9
§ 20 Personal data of the Subscriber	9
§ 21 Processing of personal data provided by the Subscriber	10
§ 22 Complaint procedure	10
§ 23 Final provisions	10

Chapter 1 General provisions

§ 1 General provisions

1. These Terms and Conditions determine the terms of providing, by electronic means, Thulium Communication Application Service (hereinafter referred to as '**Service**') by Thulium sp. z o.o. with its registered seat in Kraków 31-827, os. Złotej Jesieni 7, entered into the register of entrepreneurs of the National Court Register by 11th Commercial Division of the National Court Register of District Court for Kraków – Śródmieście in Kraków under No 0000409650, with initial capital in the amount of PLN 64,500 paid in full. NIP: 6783144527, REGON: 122496015, hereinafter referred to as '**the Provider**'.
2. Copyrights related to Thulium are subject to protection pursuant to Copyrights and Related Rights Act of 4th February 1994 (Dz. U. from 1994 No 24, item 83 as amended) – hereinafter referred to as '**Act**'.
3. The Service is provided solely for the benefit of entrepreneurs within the meaning of Protection of Competition and Consumers Act of 16th February 2007 (Dz. U. from 2007, No 50, item 331 as amended).

Chapter 2 Definitions

§ 2 Definitions

The terms used in the Terms and Conditions mean:

1. **Subscriber** – natural person conducting business activity, organizational unit without legal personality or another entity, that in any way uses the Thulium Communication Application Service provided by electronic means.
2. **API** – interface of the application's software, which allows the Subscriber to use the Service within the scope allowed by the Provider with the use of external tools
3. **Helpdesk** – the Provider's department that provides support to the Subscriber when it comes to concluding and terminating the agreement, payments and reporting technical malfunctions in the Thulium System. Helpdesk can be contacted by e-mail: serwis@thulium.pl and by phone 12 397 53 01. Mailing address: Thulium sp. z o.o. Os. Złotej Jesieni 7, 31-827 Kraków
4. **Price List** – a document determining the price of the Subscription for the available Packages. Price List is an integral part of the Terms and Conditions and it may be updated on terms determined therein. Current Price List is available at <http://thulium.pl/cennik>.
5. **Personal Data** - data, referred to in Art. 4 (1) of the Regulation.
6. **Thulium System Documentation** – it should be interpreted as Thulium System documentation available on-line at support.thulium.pl
7. **Service Hours** – days and hours, indicated in SLA or the agreement, when the service of Subscribers is carried out by the Helpdesk
8. **Consultant** – a person using the Service by the Subscriber's commission
9. **Number of Concurrent Calls** – indicated in SLA or individual agreement, maximum number of phone calls carried out at the same time (inbound and outbound) available to the Subscriber's Consultants
10. **Number of Licenses** – maximum number of the Subscriber's Consultants, that can use the Thulium System at the same time, established by the Subscriber and the Provider
11. **Name of the Server** – chosen by the Subscriber, initial component of the address, under which the Thulium System is available to him
12. **Subscription Period** – period for which the Subscription is calculated, that begins on the 1st and finishes on the last day of the calendar month. First Subscription Period begins on the first day after Test Period finishes
13. **Test Period** – trial period, when the Subscriber may use the Thulium System without charge
14. **Payment Provider** - PayU Spółka Akcyjna with its registered seat in Poznań 60-166, ul. Grunwaldzka 182, KRS number 0000274399.
15. **Speech Generating Service Supplier** - Amazon Web Services, Inc., P.O. Box 81226 ,Seattle, WA 98108-1226
16. **Subscription Charge (Subscription)** – regular payment charged on the Subscriber pursuant the Price List or an individual agreement for providing access to the Service provided by the Provider
17. **Software, Thulium Software** – should be interpreted as computer software – interface allowing the Subscriber to use the Service on terms determined by the agreement. The Software contains binary programs, scripts, voice recordings supplied along with the Thulium System
18. **Package** – a set of available modules, features and other parameters of the Service determined in the Price List, available for the Subscriber's choosing
19. **Regulation** – European Parliament and Council Regulation (EU) 2016/679 of 27th April 2016 on the protection of individuals regarding personal data processing and in the case of flows of such data and repeal of regulation 95/476/WE (DZ Urz. EU. L. No 119 page 1).

20. **SLA** – Standard agreement on the level of service for entrepreneurs including the Provider's declarations as to the guaranteed Service level. SLA constitutes an annex to these Terms and Conditions.
21. **Parties** – the Provider and the Subscriber
22. **Thulium System** – information and communication system of the Provider, based on which the Provider provides the Service. The Thulium System is composed of the Software and the information infrastructure used by the Provider. Thulium System is available to the subscriber by electronic means (Internet) at [https://\[Name of Server\].callcenter.pl/](https://[Name of Server].callcenter.pl/)
23. **Thulium Agent, Thulium Agent software** – computer software available by the Provider for download, that when installed on the Subscriber's devices, allows for the use of some of the Thulium System features
24. **Token** – virtual payment card ID generated by the Payment Provider and transferred to the Provider
25. **Cloud** – a service of computing power or space for data storage carried out, for example as database systems, virtual servers, virtual drives for storage and processing of data.

Chapter 3 Important terms of service providing

§ 3 Types and scope of the provided services

1. Pursuant to the concluded agreement and the Subscriber's acceptance of the Terms and Conditions, the Provider commits to provide, for the benefit of the Subscriber, the following services:
 - a. access to Thulium System to the extent specified by the chosen package or an individual agreement,
 - b. service of making space for the storage of data related to Thulium system available, to the extent specified in the chosen package or agreement, on terms determined in § 14,
 - c. Helpdesk support carried out during Service Hours,
 - d. access to Thulium System with the use of API.
2. The Provider commits to grant the Subscriber, solely for the purposes of keeping the Thulium System working and using the Service, license to use Thulium Agent software to the extent of operation indicated in the Terms and Conditions.
3. Detailed scope of Services provided by the Provider for the benefit of the Subscriber results from the Package chosen by the Subscriber or an individual agreement.
4. The Provider reserves the right to change the functionalities of the Thulium System by expanding it with new features and improvements for the Subscribers as well as – in justified by legal, technical and business requirements – delete some features.
5. Services cannot be used in solutions or devices (including logistic and distribution), that life, health or safety of people depends on – as a critical element, whose failure, malfunction or fall in the level of efficiency carries the risk of potential death, bodily injury, health impairment or any other injuries to persons.
6. Thulium System may include a mechanism that detects uses of Thulium System not compliant with the Terms and Conditions.
7. The Provider represents that he has all the property rights or licenses to the Software necessary for providing the Service.
8. The Agreement does not transfer onto the Subscriber the author's property rights to the Software and other documents given or shared with the Subscriber in relation to performing the agreement and it does not oblige the Provider to such resolutions in the future.
9. While providing the Services under the agreement, the Provider may cooperate with third parties, in particular, he may delegate the performance of Services or some of the Services to third parties and the Subscriber gives his consent to that.

§ 4 Agreement Conclusion

1. The Agreement between the Provider and the Subscriber is concluded upon the Subscriber's registration at callcenter.pl.
2. By registering, the Subscriber represents, that:
 - the data submitted in the form is real,
 - he is an entrepreneur pursuant to Protection of Competition and Consumers Act of 16th February 2007 (Dz. U. from 2007, No 50, item 331 as amended),
 - he accepts the conditions of providing the Service determined in these Terms and Conditions,
 - he is aware of the information about particular hazards related to the use of services provided by electronic means and the function and purpose of Thulium Agent software, included in Thulium System Documentation
3. Parties decide, that provisions Art. 66[1] §1-3 of the Act Civil Code shall not apply.
4. In order to register, the Subscriber fills out the form at the Provider's website, where, in appropriate gaps, he inserts:
 - a. the Subscriber's full name,
 - b. full address of the Subscriber's seat,
 - c. the Subscriber's VAT identification number,
 - d. full name of the person authorized to represent the Subscriber,
 - e. phone number of the person authorized to represent the Subscriber
 - f. e-mail of the person authorized to represent the Subscriber.

5. The Provider reserves the right to verify the data referred to in clause 4, in particular by a representative of the Provider contacting a person authorized to represent the Subscriber. In case of a negative result of the verification, the Provider may terminate the agreement with immediate effect by sending an appropriate declaration to the e-mail address submitted at registration.
6. A person registering on the Subscriber's behalf declares, that he or she is authorized to make declarations of will on behalf of the Subscriber to the extent necessary to conclude this agreement.
7. The first day of performing the Service to the Subscriber is the day, when the agreement has been concluded.
8. Upon the conclusion of the agreement, the Test Period, that lasts 14 days, starts, where at the request of the Subscriber, the Provider may give his consent to prolong it. In such case, Parties agree on a new day, when the Test Period shall end.

§ 5 Duration of the agreement

The agreement is concluded for an unlimited period of time.

§ 6 Charging

1. The amount of the Subscription Charge results from the price of the Package indicated in the Price List or included in the individual agreement multiplied by the Number of Licenses.
2. Subscription Charge is charged in advance for each Subscription Period.
3. The Subscriber may pay the Subscription Charge by transfer to the bank account of the Provider or by using another payment scheme accepted by the Provider, where using such a payment scheme may require the Subscriber to conclude other agreements, including with entities other than the Provider.
4. The Subscription Charge is charged for Subscription Periods starting from the day of the end of the Test Period, where the amount of the first Subscription Charge is reduced in proportion to the number of days left from the day after the end of the Test Period to the day of the end of the Subscription Period.
5. If the Number of License increases or the Package is changed during the Subscription Period, the Subscription Charge for that period shall be calculated by adding the following amounts:
 - the amount according to the parameters of the service on the day of the beginning of Subscription Period and reduced in proportion to the number of days in that Subscription Period before the days of the change and
 - the amount according to the changed parameters and reduced in proportion to the number of days in that Subscription Period from the day of the change to the last day of the Subscription Period.

In such case the Provider shall issue an appropriate adjustment invoice and the difference between the amount of the Subscription Charge due for that Subscription Period and the amount paid by the Subscriber shall be included while settling the next Subscription Period.

6. The Subscriber shall pay his first Subscription Charge within 7 days after the day of the end of Test Period.
7. The deadline for payment of each next Subscription Charge shall be 7 days before the end of the previous, paid Subscription Charge.
8. The Provider may block access to the Service, along with the data, in a situation where the Subscriber does not pay the Subscription Charge for the next Subscription Period, on the day of the beginning of the Subscription Period, that the payment concerns.
9. Access to Service shall be unblocked, if within 14 days from the end of the previous Subscription Period the Provider receives payment for the Subscription for the next Subscription Period.
10. In case of not using the Service after the Test Period, the Subscriber is obliged to cover any costs of the Service carried out during the Test Period.

§ 7 Termination of the Agreement

1. The Provider may terminate the agreement on the last day of the Subscription Period, subject to 1 month notice period.
2. Termination of the agreement should be made via e-mail message sent to the Subscriber's address or writing, otherwise null and void.
3. Due to the nature of the Service, the Subscriber and the Provider agree, that in case of lack of payment of Subscription Charge within 14 days from the beginning of Subscription Period, the agreement shall be terminated on that day, without the need to inform each other about the termination.
4. The Provider has the right to stop providing the Service immediately or terminate the agreement with the Subscriber with immediate effect, maintaining the right to receive the Subscription Charge, if:
 - a. Subscriber breaches the provisions of Terms and Conditions,
 - b. Subscriber shall use the Service contrary to the determined parameters or applicable laws,
 - c. Subscriber shall operate to the detriment of other Subscribers, the Provider or users of the Internet,
 - d. Subscriber, contrary to the Terms and Conditions, made the Service accessible to third parties.

§ 8 Invoices for the Service

1. Invoice for the Service shall be issued automatically within 3 working days after the payment of Subscription Charge is made and it shall be sent to the Subscriber's e-mail address.
2. The parties agree, that the invoices shall be issued in electronic form.

§ 9 Payment through Payment Provider

1. The Subscriber may have the Provider cyclically automatically charge the Subscription Charge to the Subscriber's payment card (Recurring Payment). Such service is carried out through Payment Provider.
2. In order to carry out Recurring Payment, the Subscriber provides his payment card data to the Payment Provider with the use of the appropriate feature available in the Thulium System and gives his consent to the Payment Provider charging an amount corresponding to the calculated Subscription Charge from the Subscriber's payment card each month.
3. Subscriber understands that the Subscriber's payment card data are stored solely by the Payment Provider and are not disclosed to the Provider. The Provider only has the Token that identifies the Subscriber and allows to commission the Payment Provider to charge the card.
4. The charge in the amount calculated pursuant to § 6 shall be made 7 days before the beginning of the next Subscription Period.
5. In order to cancel the Recurring Payment, the Subscriber should, with the use of a feature available in the Thulium System, delete the recorded data of the payment card not later than 2 days before the day of charging the card.

§ 9a Speech generating service

1. The Subscriber may use the mechanism of speech generating (text to speech) available in the indicated packages.
2. Speech generating service is carried out through Amazon Polly application and on terms determined by the service supplier <https://aws.amazon.com/polly/faqs/>
3. The Provider does not charge additional costs for using the service.
4. The service is experimental, which means, that the Provider does not guarantee that it shall work correctly as well as that the Provider may in any moment limit the use of this service or shut it down completely.

Chapter 4 License

§ 10 Scope of the license

1. The Provider represents that he has all the necessary copyrights or licenses for Thulium Agent software.
2. Pursuant to the agreement, the Provider grants the Subscriber, within the Subscription, within the limits of the powers of the Provider, solely to the extent necessary for using the Service and for the duration of the agreement, a non-exclusive license to use the Thulium Agent software, in particular in the following areas of usage:
 - a. copying and reproducing – permanently or temporarily, in full or in part, by magnetic or optical recording technique, including placing it in computer memory for the purpose of activating;
 - b. using it within the conducted business activity
3. Subject to provisions under Art. 75 (2 and 3) of the Act, the Subscriber does not have the right, without obtaining the prior written and direct consent of the Provider, to:
 - a. decompile, change, adjust, make translations (including the code), adapt or make any other modifications to the Thulium Agent software,
 - b. create derivative software,
 - c. resell, rent, lease, lent, grant license to or make the Thulium Agent software available in any form or give the possibility to use the Thulium Agent software to third parties, upon payment or not
 - d. distribute or put into circulation copies of Thulium Agent software,
 - e. delete or change the information about the author and trademarks placed in the Thulium Agent software and its copies.
4. The license is non-exclusive, not transferable, which, in particular, means that the Subscriber cannot transfer his rights under the agreement onto another entity and he cannot allow another entity, in an express or implicit manner, to use any part of the Thulium Agent software.
5. The Subscriber is obliged to inform the Provider immediately about any claims of third parties made Subscriber, for breaches of copyrights to the Thulium Agent software or about events justifying the threat of making such claims against the Provider or the Subscriber.
6. The Subscriber is obliged to inform third parties, including employees and entities, that while cooperating with the Subscriber may get access to Thulium Agent software, about the scope of the granted License and about the rights of the Provider to Thulium Agent software and to oblige these persons and entities, in a manner justified by the legal relationship between the Subscriber and these persons, before allowing these persons access to Thulium Agent software, to respect the Provider's rights to Thulium Agent software and to respect the rules of the license.

7. If the Subscriber breaches any of the provisions of this paragraph, the Provider is authorized to terminate the agreement with immediate effect, maintaining the right to the received Subscription Charge.
8. The Service may require using the downloaded Thulium Agent software and after having it installed on the user's devices, it may be automatically updated, when there is a new version available.

Chapter 5 Terms of Service providing

§ 11 Scope of service

1. If a wider scope of service does not result from an individual agreement under the Service, the Subscriber can, during Service Hours:
 - a. contact Helpdesk by e-mail at: serwis@thulium.pl
 - b. contact Helpdesk by telephone at 12 397 53 01.
2. The Subscriber may extend the scope of the Service, where the new scope should be established with the customer consultant. The Provider confirms new terms of carrying out the Service immediately, by sending the Subscriber, to the e-mail address provided for contact, their specification.

§ 12 Technical requirements

In order to use the Service, it is necessary to fulfill technical requirements indicated on the website „<http://support.thulium.pl/show/173-wymagania-techniczne-do-pracy-z-systemem-thulium>”.

§ 13 Limitations in providing services

1. The Provider reserves the right to make technical breaking in the functioning of the Service related to the service and maintenance of Thulium System and implementation of new features, where the sum of the lengths of technical breaks within a Subscription Period cannot be longer than 36 hours. The Provider shall inform the Subscriber about planned technical breaks by electronic mail with 7 days' notice.
2. In order to assure high level of service quality, Thulium System has a mechanism of automatic updates during night hours. The update can be done between 11 PM and 4 AM. The update shall be made only when no user is logged in the Thulium Agent application. The update leads to unavailability of the system that is shorter than 15 minutes. Updates described in this clause do not require the Subscriber to be informed about them being carried out.

§ 14 Storage of the Subscriber's data

1. The Subscriber receives, within the Subscription, space for data in an amount determined pursuant to the chosen Package and additional space for data is sold in portions established in the Package.
2. Space for data is shared for any data recorded by the Thulium System in relation to the Service being used by the Subscriber, in particular:
 - a. recordings of conversations,
 - b. voicemail recordings,
 - c. e-mail attachments sent and received by the system,
 - d. screenshots,
 - e. files attached in Thulium System,
 - f. other data generated and recorded by the Thulium System or transferred to the system by the Subscriber related to the use of Thulium System.
3. In case the available space is exceeded, the Subscriber received a proforma invoice with a 7-day long deadline for payment for the additional portion of space for data, pursuant to the Price List. The Subscriber's data is recorded during that time.
4. Upon the expiry of the payment for the proforma invoice referred to in clause 3:
 - a. if the Subscriber's data still exceed the already bought space and the proforma invoice is not paid, further possibility of recording data shall be blocked,
 - b. in case the proforma invoice is paid, the amount of space is increased by the amount of space indicated in the Package,
 - c. in case the Subscriber does not pay the proforma invoice, but he deleted some of the data, so that the occupied space is within the currently established space, Thulium System works on the existing terms.
5. During the validity of the agreement, the Subscriber manages the data in the Thulium System by himself and the Provider does not delete the Subscriber's data without his knowledge and direct consent.
6. The Subscriber maintains any intellectual property rights that he has to the transferred data. The Provider does not have claims towards any property rights to the materials referred to in clause 2, except elements of the Software.
7. In case the Subscription Charge is not paid by the Subscriber after the Test Period is finished, the following conditions of data management are set:
 - a. after the end of the Test Period, access to Thulium System and any data stored within it shall be automatically blocked;
 - b. the Subscriber's data (in particular phone call recordings, databases, information about calls and other information gathered while using Thulium System) shall be stored for 7 days from the last day of the Test Period;
 - c. within 7 days referred to in sec. b, the Subscriber has the possibility to pay the Subscription Charge for the first Subscription Period and having paid it, Thulium System, along with the already gathered data, shall be available again;
 - d. if the Subscription Charge for the first Subscription Period is not paid within the time referred to in sec. b, all the data shall be permanently deleted from the Thulium System.

8. If no payment has been made for the Subscriber's Subscription Charge for the next Subscription Period, the Subscriber's data (in particular conversation recordings, databases, information about calls and other information gathered 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 where the agreement is terminated pursuant to § 7 (3), any data shall be permanently deleted from the Thulium System.

Chapter 6 Responsibilities of the parties

§ 15 Responsibilities of the Provider

1. The Provider is not liable for the Service being unused or improperly set up by the Subscriber.
2. The Provider shall endeavor to provide the Service properly, flawlessly and safely, however the Subscriber uses the Services on his own responsibility. The Provider makes the System and Service available 'as it is'. The Provider does not give any direct nor implicit guarantees nor representations as to the utility of the Service or the System for a given purpose, not directly nor implicitly nor arising by custom, promotional materials, from the circumstances of concluding the agreement or the purpose of the Service. The Provider does not guarantee, that the Service shall be free of error nor that the services shall be provided without interruptions, delays or irregularities. In particular, the Provider is not liable for possible damages arising, among others, from:
 - a. lack of continuity in providing the Service due to actions or omissions of third parties,
 - b. lack of continuity in Service providing due to malicious and/or intentional acting of third parties (ddos attacks on the provider's infrastructure etc.)
 - c. lack of continuity in Service providing due to problems with the IT infrastructure supplier, that the system shall be installed in,
 - d. lack of continuity in Service providing due to equipment breakdowns, that the service is running on,
 - e. data loss from the servers,
 - f. cases of force majeure (event outside the control of the Party, external, impossible to foresee and prevent, in particular wars, natural disasters),
 - g. the Subscriber's incorrect use of the Service,
 - h. use of the information made available to the Subscriber authorizing his access to the Service by third parties,
 - i. breach of provisions of the Terms and Conditions by the Subscriber,
 - j. malfunctions of Internet connections used for communication,
 - k. using the Services contrary to their purpose.
3. The Provider shall not adjust the Software to the specific needs of the Subscriber and the Software development and update process depends on the Provider's policy arising on an ongoing basis, based in his decisions.
4. Liability determined in Art. Of the Act does not apply.
5. The Provider is not liable for lost profits, loss or damage of data, infringement of personal interests.
6. The Provider is not liable for the Service operating improperly nor for any other problems or difficulties with using it, in the case when the Subscriber has not fulfilled the minimal technical requirements indicated in § 12.
7. The Provider's liability due to failure to perform or improper performance of the Service, an unlawful act or other, arising or existing due to Service providing, is limited to the net amount of one Subscription Charge paid by the Subscriber pursuant to the terms applicable on the day of lodging the claim.
8. The Provider is not liable for the content transmitted by the Subscriber during calls due to the fact, that he does not initiate the transmission, he does not choose the recipient of such contents and he does not delete nor modify the content, which is the subject of the transmission. Exclusion of the Provider's liability referred to in the previous sentence includes also automatic and short indirect storage of contents transmitted by the Subscriber, if it is intended only to transmit and the data is not stored for longer, then it is necessary to carry out the transmission in normal conditions.
9. The Provider makes a backup copy of the Subscriber's configurations, including a data base copy, on the conditions determined in the SLA.
10. The Provider aims to carry out the Service at a level indicated in the SLA.
11. Principles of liability of the Provider, in case of failure to maintain the level of Services indicated in the SLA, for purposes other than intentionally committed by the Provider, are provided for exclusively and fully in the SLA, where the Parties represent, that failure to maintain the Service level indicated in the SLA does not constitute failure to perform the Service or improper/partial performance of Service.

§ 16 Responsibilities of the Subscriber

1. The Subscriber commits to use the Service in a way, that does not infringe the rights of third parties, good practices not provisions of the law and he is liable for the way of use of the services by third parties, that the Subscriber allows to use the Thulium System.
2. In case the Provider receives information about the Subscriber using the Service contrary to the Terms and Conditions or regulations being commonly in force, the Provider has the right to process the Subscriber's personal data in order to establish his liability and to transfer the data to proper public authorities.
3. Subject to clause, the Subscriber cannot, without prior, written consent of the Provider, make the Service available in any form or the possibility to use the Service to third parties.
4. The Subscriber may allow his representatives, business partners (including, without limitations, outsourcing companies) to use the Service solely for purposes of the business activity run by the Subscriber and pursuant to the provisions of

these Terms and Conditions and is liable (as it were his own actions) for these entities respecting the terms of these Terms and Conditions.

5. Any measures intended to omit or exclude mechanisms in order to control the access to the Service used by the Provider, in particular by setting up empty passwords, are forbidden.
6. The Subscriber cannot without direct, written consent of the Provider, transmit rights or responsibilities under the agreement to third parties.
7. The Subscriber is not liable for any actions and omissions of third parties, that he entrusted with performing any actions related directly or indirectly to the subject of the agreement.
8. Any irregularities notices by the Subscriber in the provision of the Service as well as incorrect working of the Thulium System should be reported immediately to the Helpdesk.
9. The Subscriber is obliged, to extent depending on the Subscriber, to properly secure the access to the Thulium System, including but not limited to creating a password of at least 8 characters (including lower case and capital letters and digits and special characters), changing it regularly and securing the passwords used for access and using the Service and not making them available to unauthorized persons.
10. The Subscriber is responsible for the actions of persons unauthorized by the Subscriber, that gained access to the Subscriber's Service subject to the case, where that person gained access solely for the fault of the Provider.
11. The Subscriber is responsible for damages made by securing the access to the Thulium System improperly.
12. The Subscriber is obliged to immediately, not later than 3 days from the event, inform the Provider about any case of detecting unauthorized access to the Thulium System, unauthorized disclosure or access to data allowing authentication in the Thulium System (ex. Passwords) or other infringement of security, that may have influence on the performance of the agreement.
13. In case of excessive load resulting from the number and extent of requests carried out by API, Thulium System power intended for the Subscriber may not be sufficient. In such case, the Subscriber is obliged to limit the extent of use of API. In opposite case, in order to ensure service continuity, the Provider may limit the number of request processed by API or disable access to API.

Chapter 7 Changes in Terms and Conditions

§ 17 Changes in Terms and Conditions

1. The Provider reserved the right to change the Terms and Conditions or Annexes, in particular in case of technical or organizational changes being made in the working of Thulium System, implementation of new or changes of features or the necessity to adjust the working of Thulium System and the provisions of the Terms and Conditions or Annexes to new universally applicable provisions.
2. Any changes to the Terms and Conditions or Annexes made by the Provider require, in order to be effective, giving prior notice to the Subscriber. The Provider shall make notices of planned changes to the Terms and Conditions in writing or via e-mail, sharing the content of the new version of the Terms and Conditions or Annexes, not later than 14 days before the changes entering into force.
3. In case changes to the Terms and Conditions or Annexes limit the extent of the provided services or increase the price, the Subscriber has the right to terminate the agreement within 14 days from the moment of making the new version of the Terms and Conditions available. In such case the termination of the Agreement happens at the end of the Subscription Period, in which the Provider received an objection.
4. If the Subscriber does not terminate the agreement pursuant to sec. 3, the Terms and Conditions shall be deemed accepted.

Chapter 8 Other provisions

§ 18 Confidential information

1. Parties undertake, for unlimited time, to keep confidential information in strict secrecy and not to use it (in full or in part) for any purpose, not related directly to the performance of the agreement.
The Parties shall consider as confidential information, among others:
 - a. legal, financial, technical, information, technological or organizational information regarding the Services,
 - b. information of economic value, regarding the Parties,
 - c. information regarding third parties, including the Provider's associates, entities related by organization or capital, members of their bodies or partners, persons collaborating with them, clients, ex clients and persons collaborating with the clients or ex clients
 - d. Personal Data entrusted by the Subscriber with the Provider, under conditions indicated in these Terms and Conditions
2. The obligation of maintaining the confidentiality determined in this paragraph does not concern Confidential Information, which:
 - a. are or will become commonly known, in a way other than by infringement of the provisions of the agreement or rules of the applicable law,
 - b. were obtained by the Party according to law and liabilities before obtaining the information from the other Party,

- c. were disclosed pursuant to a prior, written consent of the other Party, otherwise null and void, to extent and to entities indicated in the consent,
 - d. must be disclosed pursuant to provisions of the law to appropriate public authorities,
 - e. include statistical data or derivatives of statistical data obtained by the Provider in relation to providing the Services,
 - f. include solely informing the Party about the fact of cooperating.
3. Parties ensure compliance with the above obligation to maintain the confidentiality by all persons representing them and third parties connected to them in any way, that thanks to that Party could have familiarized themselves with the confidential information.

§ 19 Contact information

1. All notices, requests or correspondence addressed to the Provider should be made by e-mail at serwis@thulium.pl, by registered mail or by an express courier to mailing address: Thulium sp. z o.o. Os. Złotej Jesieni 7, 31-827 Kraków
2. The Subscriber is obliged to inform the Provider about any changes, that have influence on carrying out the agreement, in particular such as:
 - change of the Subscriber's registered seat,
 - change of the Subscriber's contact details,
 - change of data of persons authorized to representation.
3. All correspondence sent to the Subscriber to the last indicated mailing address, that remains unclaimed, shall be deemed effectively delivered.

§ 20 Subscriber's personal data

1. The Provider collects The Subscriber's or of the person to contact on behalf of the Subscriber Personal Data to the extent included in the registration form referred to in §4.
2. In order to carry out the agreement, the Provider may process Personal Data indicated in sec. 1 to the extent necessary to provide the Service or to settle it.
3. The Controller of the Personal Data referred to in sec. 1 is the Provider.
4. Natural persons, whose Personal Data referred to in sec. 1 is processed, have the right to access that data and correct it.
5. While using the Service, Thulium System automatically, by using various technologies, registers some information, such as:
 - a. successful/unsuccessful log in,
 - b. IP (if available),
 - c. application ID,
 - d. browser ID,
 - e. session time,
 - f. time of the last use of session (that is current time),
 - g. license ID and information about the number of available licenses,
 - h. ID and name of Consultant.
6. The Thulium System may also download information from the user's computer with 'cookies' or web beacons.
7. The Provider reserves the right to generate and download from the Subscriber's computer system files including information of technical nature related to the use of Thulium System.
8. Automatically gathered anonymous information may be used by the Provider in order to provide Thulium System users with better service, adjusting Thulium System to the Subscriber's preferences, statistical data and trend analysis, administrating the Thulium System and improving it.

§ 21 Processing of personal data provided by the Subscriber

1. In order to perform the Service, the Subscriber provides the Provider with personal data of his clients, that include in particular their full name, PESEL number, telephone number, e-mail address, home address.
2. The Subscriber represents, that he is authorized to process personal data provided to the Provider and the data set has been submitted pursuant to applicable provisions of law, if such submission results from the provisions of such law.
3. The Provider represents, that he applies security measures compliant with the Regulation and he commits to process the data entrusted in him pursuant to this agreement, the Regulation and other provisions of the applicable law, that protect the rights of persons, that they concern.
4. The Provider commits to grant authorizations to process personal data to all persons, who shall process the data entrusted in him in order to carry out this agreement.
5. The Provider commits to ensure confidentiality, referred to in Art. 23(3)(b) of the Regulation, of the data processed by persons, who he shall authorize to process personal data in order to carry out this agreement, during their employment with the Provider and afterwards.

6. After having finished providing the Service, the Provider shall delete all Personal Data entrusted in him under conditions and on terms indicated in § 14.
7. As far as possible, the Provider shall help the Subscriber, to the extent necessary, to fulfill his obligation to answer the requests of persons, that the data concerns and to fulfill his obligations under Art. 32-36 of the Regulation.
8. The Provider, having established a violation of personal data protection, shall report it to the Subscriber without delay.
9. The Provider represents, that because the Service can be carried out with the use of Cloud carried out by another entity, he may, to the necessary extent, entrust another entity with processing of personal data provided by the Subscriber. The extent of that processing shall include solely data storage and the use of data by Thulium System.

§ 22 Complaint procedure

1. Subscriber's complaint, due to failure or improper performance of Service, should be submitted to the Provider in writing or to e-mail address: serwis@thulium.pl and it should specify:
 - a. the Subscriber's data allowing to contact him and identify him as the Subscriber
 - b. name of the Server, that the complaint concerns
 - c. the feature, that the complaint concerns,
 - d. brief description of the objections related to the provided Service,
 - e. circumstances justifying the complaint.
2. The Provider commits to endeavor to consider and resolve the problem determined in the complaint in the shortest time possible.
3. The Provider is obliged to answer to the complaint within 14 working days from the date of receiving it, indicating whether he accepts the complaint and in what way and what time he intends to settle it or, does not see grounds to accept the complaint, along with justification of his position.

§ 23 Final provisions

1. For matter not covered by the agreement, civil code and Copyright and Related Rights Act provisions apply. The agreement shall be governed by Polish law.
2. Terms and Conditions fully and exclusively set the rules for the provisions of Services by the Provider. Terms and Conditions replace any other agreements, oral or in writing, as well as any other exchange of information related to the Services, except for individual agreement concluded in writing.
3. In case any part of these Terms and Conditions is considered inapplicable or ineffective, the remainder of the Terms and Conditions is applicable.
4. Parties undertake to endeavor to settle any disputes resulting from this agreement through mediation.
5. In the event, where there is no possibility of settling the dispute amicably, the court having jurisdiction shall be the court competent for the registered seat of the Provider.
6. Terms and Conditions are applicable from 31st January 2018 for new clients and from 14th February 2018 for clients, who set up the system before 1st February 2018.