Standard Terms and Conditions for the Use of Software

These standard terms and conditions apply to the use of software.

between

the respective buyer/user

(hereinafter referred to as "Customer")

and the

Thea Care GmbH, Winterfeldtstraβe 21 c/o Reaktor, 10781 Berlin

(hereinafter referred to as "Provider").

1. Subject matter of the contract

1.1 These standard terms and conditions apply in conjunction with the services and prices displayed on the website or on the checkout page at the time the contract is concluded and are binding for both parties to the contract. These terms and conditions are intended exclusively for entrepreneurs within the meaning of § 14 BGB (German Civil Code). Use by consumers (§ 13 BGB) is excluded.

1.2 The software is operated by the provider as a SaaS or cloud solution. The customer is permitted to use the software stored and operated on the servers of the provider or a service provider commissioned by the provider via an Internet connection for their own purposes during the term of this contract and to store and process their data with its help.

1.3 These contractual terms and conditions apply exclusively. The customer's contractual terms and conditions do not apply. Any counter-confirmations by the customer with reference to its own terms and conditions are expressly rejected.

2. Type and scope of service

The provider shall make the software available to the customer in the agreed version at the router output of the data center where the server with the software is located ("transfer point") for use. The software, the computing power required for its use, and the necessary storage and data processing space are provided by the provider. The provider is not responsible for establishing and maintaining the data connection between the customer's IT systems and the transfer point described.

3. Availability and system requirements of the software

3.1 The availability of the software is 99.5% per month, minus the time required for installing updates, upgrades, new releases, and/or other modifications and maintenance work. The aforementioned work will be carried out between 8 p.m. and 6 a.m. wherever possible and will not normally exceed 120 minutes per interruption.

3.2 The provider informs the customer that restrictions or impairments to the services provided may arise that are beyond the provider's control. These include, in particular, actions by third parties who are not acting on behalf of the provider, technical conditions of the Internet that cannot be influenced by the provider, and force majeure. The hardware, software, and technical infrastructure used by the customer may also influence the services provided by the provider. Insofar as such circumstances influence the availability or functionality of the services provided by the provider, this shall have no effect on the contractual conformity of the services provided.

3.3 The customer is obliged to report any malfunctions, disruptions, or impairments of the software to the provider immediately and as precisely as possible using the contact options provided in the customer account or on the website.

3.4 In order to use the Provider's software, in addition to a stable Internet connection, the Customer's end devices must meet the following minimum technical software and hardware requirements:

Software requirements:

- Android: 10.0+ or iOS: 12.0+
- Browser: Chrome, Firefox, Safari

Hardware requirements Mobile phone:

- Storage space: 10 GB
- Camera resolution: 12 MP
- internet connection

Tablet hardware requirements:

- CPU performance of at least 1.5 GHz, 4 GB RAM, one
- Adequate screen resolution of at least 1280 × 800 pixels, a
- Color depth of at least 24 bits, as well as
- 10 GB of free storage space.
- Camera resolution: 12 MP

Failure to meet these requirements may result in limited functionality or incompatibility of the software.

4. Rights to data processing, data backup

4.1 The provider complies with the statutory data protection regulations.

4.2 For the purposes of contract implementation, the customer grants the provider the right to reproduce the data to be stored by the provider for the customer, insofar as this is necessary for the provision of the services owed under this contract. The provider is also entitled to store the data in a backup system or separate backup data center. The provider is also entitled to make changes to the structure of the data or the data format in order to eliminate malfunctions.

4.3 The provider regularly backs up the customer's data on the server for which the provider is responsible to an external backup server. The customer may extract this data for backup purposes at any time, insofar as this is technically possible. If this is not possible, the provider shall make the data available to the customer once a month as a backup.

4.4 If and to the extent that the customer processes or has processed personal data on IT systems for which the provider is technically responsible, a data processing agreement must be concluded.

5. Rights of use

Since the software runs exclusively on the servers of the provider or service providers commissioned by the provider, the customer does not require any copyright usage rights to the software, and the provider does not grant any such rights. However, for the term of the contract, the provider grants the customer the non-exclusive, non-transferable right, limited to the term agreed upon at the time the contract was concluded, load the user interface of the software into the working memory of the end devices used for this purpose in accordance with the contract for display on the screen and to make the resulting reproductions of the user interface, as well as to use the software for the

contractual purposes in accordance with the product description. Unless otherwise agreed between the parties, it is not permitted to allow third parties to use the software. Third parties also include companies affiliated with the customer.

6. Support

5.1 A support case exists if the software does not fulfill the contractual functions as specified in the product description. The nature of the error message and the scope of support services are based on the current information on the website or in the customer account.

6.2 If the customer reports a support case, they must provide as detailed a description as possible of the respective malfunction in order to enable the most efficient troubleshooting possible.

6.3 The parties may enter into a separate agreement regarding the provision of support, maintenance, and servicing.

7. Remuneration

7.1 The payment period, amount of remuneration, and payment method are determined by the terms and conditions specified on the website or on the checkout page at the time the contract is concluded.

7.2 If the customer delays payment of a due fee by more than four weeks, the provider is entitled to block access to the software after issuing a prior warning with a deadline and expiry of the deadline. The provider's claim to remuneration remains unaffected by the block. Access to the software will be reactivated immediately after the arrears have been paid. The right to block access also exists as a less severe measure if the provider has a right to extraordinary termination in accordance with Section 12.2. For the period of delayed payment, the provider is entitled to charge default interest at a rate of 9 percentage points above the base rate. The customer shall also bear the costs of reminders and other costs incurred in connection with the collection of payment.

7.3 The provider reserves the right to adjust prices annually. Price increases will be communicated to the customer in writing at least one month before the new billing period and will not exceed 7% of the previous annual price.

7.4 Remuneration for other services shall be based on the provider's current price list.

7.5 Additional costs for services: Development services, training, customer support, and other additional services that exceed the contractually agreed scope will be charged separately. The following hourly rates apply to these services:
- Development services: $120 per hour
- Training and customer support: $80 per hour

These services will be billed according to the time and effort involved and invoiced to the customer. Invoicing will be based on the actual hours worked. The provider reserves the right to charge a minimum fee per service unit. If travel expenses are incurred in the provision of these services, the provider reserves the right to charge these to the customer in addition.

7.6 If the customer wishes to increase the monthly quota of analyses or receive features/services that go beyond the scope of the contract, this can be done on the first day of each month in exchange for a corresponding adjustment to the base price in a higher price category. A reduction in the monthly quota is possible once a year. This must be requested by the customer in writing from the provider and must be made no later than the third month before the start of the new contract year. The provider is not obliged to agree to the request for a reduction, but reserves the right to review the request and accept it if appropriate.

8. Customer's obligations to cooperate

8.1 The customer shall support the provider to a reasonable extent in the provision of the contractual services.

8.2 In order to use the software, the customer must meet the system requirements specified in the product description on the website or at checkout. The customer is responsible for ensuring that these requirements are met.

8.3 The customer must keep the access data provided to them confidential and ensure that any employees to whom access data is provided do the same. The provider's services may not be made available to third parties unless this has been expressly agreed by the parties.

9. Warranty

The statutory warranty provisions apply in principle. Sections 536b (tenant's knowledge of the defect at the time of conclusion of the contract or acceptance) and 536c (defects occurring during the rental period; notification of defects by the tenant) of the German Civil Code (BGB) apply. However, the application of Section 536a (2) (tenant's right to remedy the defect themselves) is excluded. The application of Section 536a (1) BGB (landlord's liability for damages) is also excluded insofar as the provision provides for no-fault liability.

10. Liability and compensation

10.1 The provider shall be liable for damages incurred by the customer that were caused intentionally or through gross negligence, are the result of the absence of a guaranteed quality, are based on a culpable breach of essential contractual obligations (so-called cardinal obligations), are the result of a culpable injury to health, body, or life, or for which liability is provided for under the Product Liability Act, in accordance with the statutory provisions.

10.2 Cardinal obligations are contractual obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner may regularly rely, and whose breach, on the other hand, jeopardizes the achievement of the purpose of the contract.

10.3 In the event of a breach of a cardinal obligation, liability shall be limited to such damages as are typically to be expected when using the software covered by the contract, provided that the damage is based solely on slight negligence.

10.4 Otherwise, liability—regardless of the legal basis—is excluded.

10.5 If the customer suffers damage as a result of data loss, the provider shall not be liable for this damage if it could have been avoided by the customer regularly and completely backing up all relevant data.

10.6 The provider's liability shall in any case be limited to the amount paid by the customer to the provider in the 12 months prior to the occurrence of the damaging event.

10.7 The software is intended solely for performing cosmetic analyses and does not constitute medical advice or diagnosis. The provider has informed the customer that they must check the regulatory requirements for medical use and that the product does not currently have medical certification. It may not currently be used for diagnostic or therapeutic purposes or advertised as such, does not replace a doctor's consultation, and does not support medical decisions.

11. Customer data and indemnification against third-party claims

11.1 As a technical service provider, the provider stores content and data for the customer that the customer enters and stores when using the software and makes available for retrieval. The customer undertakes to the provider not to post any content or data that is criminal or otherwise illegal in absolute terms or in relation to individual third parties, and not to use any programs containing viruses or other malware in connection with the software. The customer remains the responsible body with regard to personal data and must therefore always check whether the processing of such data via the use of the software is covered by the relevant permissions.

11.2 The customer is solely responsible for all content used and data processed, as well as any legal positions that may be required for this purpose. The provider takes no notice of the customer's content and does not check the content used by the customer with the software.

11.3 In this context, the customer undertakes to indemnify the provider against any liability and costs, including potential and actual costs of legal proceedings, if the provider is held liable by third parties, including the customer's employees personally, as a result of alleged actions or omissions on the part of the customer. The provider shall inform the customer of the claim and, to the extent legally possible, give the customer the opportunity to defend against the claim. At the same time, the customer shall immediately provide the provider with all available information about the facts of the case that are the subject of the claim.

11.4 Any further claims for damages by the provider remain unaffected.

12. Contract term and termination of the contract

12.1 The contract term is based on the terms and conditions specified on the website or on the checkout page at the time the contract is concluded.

12.2 Both parties reserve the right to terminate the contract for good cause if the legal requirements are met. Good cause for the provider shall be deemed to exist in particular if the customer is more than two months in arrears with the payment of a due remuneration despite a reminder. If the customer is responsible for the reason for termination, the customer shall be obliged to pay the provider the agreed remuneration less any expenses saved by the provider up to the date on which the contract would end at the earliest in the event of ordinary termination.

12.3 Notices of termination must be in writing to be effective. Compliance with this form is a prerequisite for the effectiveness of the termination.

12.4 Upon termination of the contract, the provider shall return to the customer all documents and data carriers provided by the customer and still in the provider's possession that are related to this contract and shall delete the data stored by the provider, unless there are any retention obligations or rights.

13. Confidentiality

13.1 The parties are obliged to keep all information about the other party that has become known to them in connection with this contract and that is marked as confidential or can be recognized as business and trade secrets based on other circumstances (hereinafter: "confidential information") shall be permanently kept secret, not disclosed to third parties, recorded or otherwise exploited, unless the other party has expressly agreed to the disclosure or use in writing or the information must be disclosed due to law, court decision or administrative decision.

13.2 The information shall not be considered confidential information within the meaning of this Section 13 if it

- already known to the other party without the information being subject to a confidentiality obligation,
- are generally known or become known without breach of the confidentiality obligations assumed,
- disclosed by a third party to the other party without breaching any confidentiality obligation.

13.3 The obligations under this Section 13 shall survive the termination of this Agreement.

14. Transfer of rights and obligations

The assignment of rights and obligations under this contract is only permitted with the prior written consent of the provider. The provider is entitled to entrust third parties with the fulfillment of the obligations under this contract.

15. Responsible contact person

15.1 The provider's responsible contact persons are: Nataniel Müller (business contact), Markus Hinsche (technical contact)

15.2 The customer's contact person is determined by the contact details provided during registration or purchase.

16. Fault reporting

16.1 Any malfunctions relating to the software should be reported by email to support@theacare.de.

16.2 Fault reports are accepted during the provider's normal business hours: Monday to Friday, 9 a.m. to 5 p.m.

16.3 Telephone support for software malfunctions is available during the aforementioned business hours.

17. Miscellaneous

17.1 This agreement and any amendments thereto, as well as all declarations, notification and documentation obligations relevant to the contract, must be made in writing (e.g., by email) unless another form has been agreed upon or is required by law.

17.2 The contract is subject to the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods. The place of jurisdiction is the registered office of the provider, provided that the customer is a merchant, a legal entity under public law, or a special fund under public law.

17.3 Should individual provisions of this agreement be invalid, this shall not affect the validity of the remaining provisions. In this case, the parties shall cooperate to replace invalid provisions with provisions that correspond as closely as possible to the invalid provisions.

17.4 After successful completion of the project (acceptance), the customer grants the provider the right to name the company as a reference customer in the context of its commercial activities, regardless of the transmission, carrier, and storage technologies used, using the company logo. In addition, the customer grants the provider the free, unlimited right, in terms of time, space, and content, to use the project and the services provided by the customer, with a description agreed upon between the customer and the provider, including any verbatim quotations contained therein, in whole or in part, also naming the customer, use of the company logo and photos, videos, or other materials for illustrative and advertising purposes in both print and electronic media. This consent

may be revoked for good cause; the legitimate interests of the provider shall be taken into account. Before naming the customer as a reference customer in a new context, an informal release must be obtained from the customer.