Terms and Conditions for SaaS Service of "Sparrow" Software

These terms and conditions, hereinafter referred to as the "Terms and Conditions", define the rules for the provision of SaaS service by the Service Provider electronically, through the website https://sparrow.xcellencelabs.com/, enabling access to Software functionality via web browsers, including technical conditions for providing this service, as well as the complaint procedure.

I. Definitions

Terms used in the Terms and Conditions mean:

1. **Service Provider** - Xcellence Labs Sp. z o.o. with its registered office at ul. Postępu 21 B, 02-676 Warsaw, VAT ID (NIP): 5213979559, REGON: 522775850, entered into the Register of Entrepreneurs of the National Court Register maintained by the District Court for the Capital City of Warsaw in Warsaw, XIII Commercial Division of the National Court Register under number 0000986301, share capital PLN 6,000.00;
2. **Subscriber** - an entrepreneur, i.e., a natural person, including partners in a civil partnership, legal person, organizational unit without legal personality granted legal capacity by law, conducting business activity on their own behalf, who has entered into an Agreement with the Service Provider as part of their business activity and for whom it has a professional character. A consumer cannot be a Subscriber;
3. **Software** - Sparrow software made remotely available to the Subscriber as part of the Service, to which rights belong to the Service Provider. The Software may be made available by the Service Provider in variants differing in functional scope and amount of fees due for the Service. The current offer of available Software variants is contained in the price list. Descriptions of the functional scope of individual Software variants are available on the Service Provider's website;
4. **Platform** - technical infrastructure (hardware, including servers, third-party software, including operating systems, other technical equipment, including connections on the Service Provider's side), on which the Software is installed, maintained and administered by the Service Provider as part of the Service;
5. **Service** - service provided by the Service Provider to the Subscriber, consisting of making the Software available to the Subscriber by the Service Provider for points specified in the Summary;
6. **Summary** - a form specifying the Subscriber's points for which the Service is to be provided, the amount of fees due for the provision of the Service, the scope of the Service; the form is made available to the Subscriber for approval via a link in an electronic message to the email address indicated by the Subscriber;
7. **Website** - website operated by the Service Provider, located at: https://xcellencelabs.com/, presenting information related to the Service, Platform and Software;
8. **Price List** - information about the current amount of fees due for the Service provided to the Subscriber;
9. **Settlement Period** - period counted in calendar months being the basis for settling remuneration for providing the Service;
10. **Agreement** - agreement for the provision of Services, concluded between the Service Provider and the Subscriber, under the conditions specified in the Summary approved by the Subscriber and these Terms and Conditions approved by the Subscriber;
11. **Account** - account maintained for the Subscriber by the Service Provider enabling access to Services.

II. Conclusion of Agreement and Commencement of Services

1. The Agreement is concluded through the Subscriber creating an Account, approving the Summary and Terms and Conditions provided by the Service Provider via a link sent to the email address indicated by the Subscriber. Failure to approve the Summary and Terms and Conditions prevents the conclusion of the Agreement. Simultaneously, the Service Provider sends an OTP (One Time Password) code to the email address provided by the Subscriber during Account creation.
2. The Subscriber is obligated to provide the Service Provider with true and current data that is not misleading and does not violate third party rights, including data necessary for issuing VAT invoices. The Service Provider is entitled to verify the correctness of data, in particular to request the Subscriber to present documents confirming the data provided by them. The Service Provider reserves the right to limit access to selected Services for Subscribers who do not meet the conditions specified by the Service Provider in the Terms and Conditions. Reservations regarding the possibility of using selected Services will be posted each time on the Website or in direct communication with the Subscriber.
3. The Agreement is concluded on the day of approval of the Summary and Terms and Conditions by the Subscriber.
4. The provision of the Service begins no later than within 7 days from the date of concluding the Agreement.

III. Subject of Agreement

1. The Service Provider, for remuneration specified in the Summary, undertakes to provide the Subscriber with access to the Software online, through which it is possible to optimize media budget based on market benchmarks.
2. The Service is provided in the SaaS (Software as a Service) model, which means that the Software (and third-party software used in it) is installed and maintained entirely within the Service Provider's infrastructure. The Subscriber does not acquire any rights, in particular licenses to the Software or other third-party software made available as part of the Service.

IV. Duration of Agreement

1. The Agreement is concluded for the subscription period. After the expiry of the first subscription period for which the Agreement was concluded, the Agreement is automatically extended for the next subscription period, with the possibility of its termination in the first month of the next subscription period effective on the last day of that month The Service Provider may terminate the Agreement with immediate effect without notice period in case of violation of essential provisions of the Agreement or Terms and Conditions by the Subscriber, in particular delay in payment of all or part of the subscription fee exceeding 30 days or failure to cease violation of other provisions of the Agreement or Terms and Conditions, and the Subscriber is not entitled to a refund of paid or due subscription fees.
2. The Service Provider deletes all personal data entered by the Subscriber into the Software after 6 months from the termination of the Agreement. After the expiry of the above period, the Service Provider liquidates the Agreement Account, however, after this period, it may use anonymized data entered by Subscribers using the Software (including, among others, number of products, transactions and customers) - for its own analyses aimed at ensuring the development of Software functionality.

V. Remuneration

1. As remuneration for the Service, the Subscriber is obligated to pay a subscription fee in accordance with the Price List.
2. The subscription fee is payable in advance by the fourteenth day of each Settlement Period. If the provision or change of service begins during the Settlement Period, the Service Provider will charge the Service Recipient with an invoice dated the service start date and the amount calculated for the number of calendar days until the end of that Settlement Period with a fourteen-day payment term.
3. The payment date is the date when the Service Provider's bank account is credited with the due subscription fee.
4. The Service Provider will issue an invoice by the 5th day of each month.
5. The amount of the subscription fee results from the Summary containing information that includes, among others, the selected Service package and the monthly fee amount.
6. The Service Provider is entitled to unilaterally change the Price List and/or fees due for the Service during the Agreement period. The Subscriber will be notified of all changes by email to the address provided by the Subscriber with at least 30 days' notice. In case of price increases, the Subscriber has the right to terminate the Agreement with immediate effect within 30 days from the date of sending the change notification. Termination is made through a written statement. Failure to terminate the Agreement by the Subscriber in the above manner is considered consent to the subscription fee change.
7. The Subscriber authorizes the Service Provider to issue and send electronic invoices (including corrective invoices and duplicates) to the Subscriber's email address, indicated by the Subscriber, without the issuer's signature, in a closed PDF file. The Service Provider will not issue paper invoices.

VI. Service Provision Conditions

1. To use the Service and Software, the Subscriber should have:

   a. a computer device with Windows, Linux, Mac OS or equivalent operating system installed,

   b. Internet access guaranteeing uninterrupted access to the Software,

   c. properly configured web browser (Google Chrome, Microsoft Edge, Brave, Safari, Firefox) up to two major versions back.

2. The Software is provided "as is" and together with all its functions and tools constitutes a technical and organizational whole, without the possibility of personalization and modification according to the Subscriber's expectations.
3. The Software may be continuously developed and modified. The Service Provider will inform the Subscriber about new versions of the Software via email to the address provided by the Subscriber or through messages displayed after the Subscriber logs into the Account.
4. The Service Provider will make every effort to ensure that the Service operates continuously and without disruption. However, the Service Provider reserves the right to make temporary interruptions in the Service operation for maintenance, repair purposes, and in particular for Software updates and expansion - if these tasks require such interruption. The Service Provider will exercise the utmost diligence to ensure that technical breaks take place during night hours and last as short as possible. In case of a

technical break lasting more than 24h, the User has the right to extend the validity of the Subscription Period during which the technical break occurred by as many days as the technical break lasted. The Service Provider will make every effort to inform the Subscriber about interruptions in Service operation with appropriate advance notice via email to the address provided by the Subscriber or through messages displayed after the Subscriber logs into the Service account. The Service Provider is not liable for any damages resulting from the occurrence of aforementioned interruptions in Service operation.

5. The Subscriber does not have the right to:

    a. make the Software (including documentation) available to third parties for use under any title (paid or free);

    b. use the Service jointly with third parties;

    c. use the Service beyond internal use. Services and related functions may not be reproduced, duplicated, copied, sold, or otherwise used for commercial purposes;

    d. modify the Software (or other third-party software made available as part of the Service), decompile, adapt, translate code, develop or make any other changes to the Software;

    e. decompile, disassemble, reverse engineer, translate, develop and modify the source code of the Software and Website, or take any other action that could lead to breaking the source code of the Software or Website;

    f. share login and password to the Account with third parties;

    g. remove or modify any markings in the Software, including trademarks.

6. In case of violation of the Terms and Conditions by the Subscriber or improper or illegal use of the Software, particularly threatening the use of services by other subscribers, or attempting such use of the Software, the Service Provider is entitled to immediately suspend further provision of the Service to the Subscriber or partially limit its functionality, or terminate the Agreement, as well as take other actions to prevent the effects of Terms and Conditions violation, without bearing any liability towards the Subscriber, in particular the Subscriber is not entitled to a refund of paid or due Subscription Fees.

7. In case of violation of Service usage rules by the Subscriber, particularly sharing the Account or information obtained through the Service with third parties, the Subscriber shall pay for each violation a contractual penalty to the Service Provider in the amount of three times the sum of subscriptions for the entire last year of the Agreement duration, which they paid or would have paid if the Agreement had lasted one year in situations where the Agreement was concluded for less than one year. Payment shall be made within 14 days from receiving written request for payment of this penalty. The Service Provider has the right to claim compensation exceeding the amount of the stipulated contractual penalty. Payment of the contractual penalty does not release the Subscriber from the obligation to comply with any obligations arising from these Terms and Conditions or Agreement.

8. The Subscriber is obligated to maintain confidentiality of information obtained in connection with the Agreement and Terms and Conditions and use of the Service and Software.

9. The Subscriber bears full responsibility for potential copyright infringement, industrial property rights, personal rights and any others for all materials (particularly graphics, photos, trademarks) introduced by them into the Software.

10. The Subscriber is obligated to compensate for damages incurred by the Service Provider due to non-performance or improper performance of obligations arising from the Terms and Conditions and Agreement.

11. For the purpose of conducting research and analyses aimed at developing and improving Software functionality, the Subscriber grants the Service Provider indefinite right to collect and use data gathered during Service provision.

VII. Protection of Data, Including Personal Data

1. Users' personal data is processed within the Service in accordance with GDPR provisions and other generally applicable law.

2. Detailed information regarding the processing of Users' personal data is contained in the "Privacy Policy".

IX. Liability

1. The Service Provider is not liable for damages resulting from:

   a. incorrect Service configuration by the Subscriber;

   b. actions and omissions of third parties for which it is not responsible;

   c. non-operation or malfunction of Software caused by computer viruses;

   d. disruptions in Service implementation caused by force majeure, hardware failures, power outages, Internet connection interruptions, unauthorized interference by Subscribers or third parties, faulty operation of telecommunication systems, software installed on the Service Recipient's computer equipment;

   e. sharing of password or login to the Account with unauthorized persons by the Subscriber;

   f. violation of third party rights and causing any damage to third parties as a result of and in connection with activities conducted by the Subscriber using data collected by the Subscriber in connection with provided Services;

   g. content obtained during Service provision to the Subscriber;

   h. use, inability to use or malfunction of Software or Service and improper use of Software by the Subscriber, as well as damages resulting from improper operation of the User's computer equipment.

2. The Service Provider's liability for damages related to improper Service performance may only concern actual damage. The Service Provider is not liable for loss of benefits in conducting the User's business, interruptions in business operations, or loss of business information and other property losses, as well as for any consequences of using information obtained through the software, loss of data, or indirect damages of the Service Recipient. Any compensation liability of the Service Provider arising in connection with this service is limited to the amount of Subscription Fee paid by the Service Recipient in the subscription period during which improper service performance occurred. This limitation of liability applies regardless of the legal basis of the claimed compensation.

X. Complaint Procedure

1. Complaints submitted by the Subscriber regarding non-performance or improper performance of the service must be made in writing and contain Subscriber's data and description of the subject of complaint and circumstances justifying its submission. Complaints are submitted via email to sparrow@xcellencelabs.com.
2. The Service Provider will consider the complaint within 14 days from the date of receipt and then send the Subscriber a response indicating the method of complaint resolution and justification. The Service Provider's decision is final.

XII. Final Provisions

1. These terms and conditions enter into force on the date of their publication on the Service Provider's websites. Subscribers can obtain free access to the Terms and Conditions at any time via a link posted on the Website or by contacting sparrow@xcellencelabs.com.
2. The Service Provider may introduce new terms of service or make changes to the content of the current Terms and Conditions during the agreement.
3. The Service Provider will notify the Subscriber of the introduced change or introduction of new terms with at least 14 days' notice via email to their indicated email address or through a message displayed after the Subscriber logs into the Service account. If the User does not agree to the new content of the Terms and Conditions by submitting a statement of Agreement termination, the Agreement shall be terminated on the last day of the fully paid Subscription Period.
4. The Service Provider reserves the right to transfer part or all rights and obligations arising from the Terms and Conditions or Agreement to a third party or conclude subcontracting agreements regarding them, to which the Subscriber has agreed by being bound by the Terms and Conditions and Agreement. The Subscriber cannot assign or waive rights and obligations arising from the Terms and Conditions and Agreement without written consent of the Service Provider.
5. The Service Provider reserves the right to send technical communications related to Service operation and information about current offers and promotions of the Service Provider to email accounts provided by the Subscriber.
6. If any provision of the Terms and Conditions proves or becomes invalid or unenforceable, this does not affect the validity of the remaining provisions, unless without these provisions the Parties would not have concluded the Agreement, and it is not possible to change or supplement the Terms and Conditions in a way that most faithfully reflects the Parties' intention expressed in the provision that was deemed invalid or unenforceable.
7. Polish law applies to Agreements concluded under these Terms and Conditions.
8. The court with jurisdiction for disputes arising from the Agreement is the common court of the Service Provider's registered office.