



# General Terms and Conditions for the “Engagy Designs” Service

## § 1. DEFINITIONS

- 1.1. These General Terms and Conditions (hereinafter: GTC) set forth the “Engagy Designs” Service (hereinafter: Service), rules of purchase, usage and cooperation between Engagy and the Client.
- 1.2. The terms used in these GTC shall have the following meaning
  - a) **Additional Services** – creating a Dedicated Theme or a Dedicated Theme Variant;
  - b) **Administration Panel** – service provided by Engagy, enabling a self-service management of the Theme Manager and Themes;
  - c) **Agreement** – arrangement between the Client and Engagy on providing the ‘Engagy Designs’ Service. The General Terms and Conditions of the Agreement are described in this document;
  - d) **Available Theme** – a Theme that has been installed by the Administration Panel and may be used on the SharePoint site. The maximum number of available themes depends on the given service Plan. Should a maximum number of themes be installed, please first uninstall one of the available themes in order to install a new one; changing the SharePoint Online site appearance covered by the Client’s Tenant. The theme is made available on sites using the Administration Panel and activated on the site using the Theme Manager;
  - e) **Client** – a party to the Agreement placing an order for the ‘Engagy Designs’ Service;
  - f) **Client’s Tenant** – Microsoft 365 environment, in which the Client configured the Theme Manager;
  - g) **Connected Site** – a SharePoint site connected to the Hub Site;
  - h) **Custom Action** – parametrized function assigned to the site, through which the Theme Manager applies a theme to the site using the *SharePoint Framework Extensions* technique (<https://docs.microsoft.com/en-us/sharepoint/dev/spfx/extensions/overview-extensions>);
  - i) **Dedicated Theme** – a Theme prepared at an individual order of the Client. Dedicated Themes are created as a result of an Issue submitted at the Service Desk;
  - j) **Dedicated Theme Variant** – is a Theme built by modifying an existing Theme. Dedicated Theme Variants are created as a result of an Issue submitted at the Service Desk. A Theme Variant may include adjustments in terms of decorating Web Parts, background image, site color palette. In particular, development of a dedicated theme variant **does not** cover changes in the content layout, which remains the same as in the Dedicated Theme on which the variant is based;
  - k) **Error** – malfunctioning of the Theme Manager, Administration Panel or particular Themes;
  - l) **Hub Site** – parent site promoted by the administrator that other sites can subscribe to (<https://support.microsoft.com/en-us/office/what-is-a-sharepoint-hub-site-fe26ae84-14b7-45b6-a6d1-948b3966427f>);
  - m) **Issue** – an issue related to the Theme Manager or the Administration Panel, or an order to develop a Dedicated Theme or Dedicated Theme Variant addressed by the Client to the Service Desk.
  - n) **Microsoft Organization Account** – account enabling access to Microsoft products and services connected to the Client’s organization;
  - o) **Non-connected Site** – a SharePoint site not connected to the Hub Site;
  - p) **Plan** – specifies the scope and parameters of the Service provided to the Client by Engagy;

- q) **Premium Theme** – a Theme marked in the catalog as premium, available in paid Plans. The catalog is available at: [https://getdesigns.engagy360.com/assets/docs/Theme\\_catalog.pdf](https://getdesigns.engagy360.com/assets/docs/Theme_catalog.pdf);
- r) **Repair Time** – the time needed for Engagy to consider a reported Error or remove an Error;
- s) **Service** – the “Engagy Designs” service covering the Administration Panel, Theme Manager, Themes and support Services;
- t) **Service Desk** – a dedicated service website used to send Error reports and Issues regarding the Theme Manager, Administration Panel and Themes and providing the Client with feedback about the reports’ status;
- u) **Simple Theme** – a Theme marked in the catalog as simple, available in all the Plans. The catalog is available at: [https://getdesigns.engagy360.com/assets/docs/Theme\\_catalog.pdf](https://getdesigns.engagy360.com/assets/docs/Theme_catalog.pdf);
- v) **Site (SharePoint site)** – a collection of pages, lists and libraries in SharePoint. As part of sites, themes are activated to change the default appearance;
- w) **Site color palette** – a set of colors that can be applied on the site, enabling a site color change;
- x) **SPFx App** – app built based on the SharePoint Framework (<https://docs.microsoft.com/en-us/sharepoint/dev/spfx/extensions/overview-extensions>);
- y) **Support Services** – technical support services consisting in handling Issues and resolving Errors;
- z) **Tenant App Catalog** – Client’s Tenant app catalog (<https://docs.microsoft.com/en-us/sharepoint/use-app-catalog>);
- aa) **Tenant id** – unique Client’s Tenant identifier (<https://docs.microsoft.com/pl-pl/onedrive/find-your-office-365-tenant-id>);
- bb) **Theme** – a set consisting of:
  - style sheets,
  - site color palette,
  - graphical resources,
 changing the SharePoint Online site appearance covered by the Client’s Tenant. The theme is made available on sites using the Administration Panel and activated on the site using the Theme Manager;
- cc) **Theme Manager** – software enabling self-service change of SharePoint Online sites appearance covered by the Client’s tenant by switching between the installed Themes;
- dd) **Web Parts** – elements used to build the SharePoint page (<https://support.microsoft.com/en-us/office/using-web-parts-on-sharepoint-pages-336e8e92-3e2d-4298-ae01-d404bbe751e0>);

## § 2. AGREEMENT EXECUTION. TYPES OF PLANS.

- 2.1. The Agreement is concluded by placing an order by the Client, provided that the client’s SharePoint Administrator confirmed its parameters through the Administration Panel. The moment of confirming the order parameters is at the same time the service commencement date.
- 2.2. The Service is available in the following Plans, differing in the scope of Services and number of users that can be covered by the Service.
  - 2.2.1. Free Plan with the following parameters:
    - 2.2.1.1. The Free Plan is free of charge,
    - 2.2.1.2. A possibility to install Simple Themes,
    - 2.2.1.3. Serving up to 1,000 users,
    - 2.2.1.4. One Available Theme,
    - 2.2.1.5. Without limiting the number of Sites,
    - 2.2.1.6. Impossible to order a Dedicated Theme and Dedicated Theme Variant,
    - 2.2.1.7. Lack of access to the Service Desk.
  - 2.2.2. Basic Plan with the following parameters:
    - 2.2.2.1. The Basic Plan is charged according to the price list,
    - 2.2.2.2. A possibility to install Simple Themes and Premium Themes,
    - 2.2.2.3. Serving up to 1,000 users,
    - 2.2.2.4. Three Available Themes,
    - 2.2.2.5. Without limiting the number of sites,

- 2.2.2.6. Impossible to order a Dedicated Theme and Dedicated Theme Variant,
- 2.2.2.7. Access to the Service Desk,
- 2.2.2.8. Technical Support for Errors and Issues,
- 2.2.2.9. Guaranteed time for repairing Errors within 5 business days.
- 2.2.3. Standard Plan with the following parameters:
  - 2.2.3.1. The Standard Plan is charged according to the price list,
  - 2.2.3.2. A possibility to install Simple Themes and Premium Themes,
  - 2.2.3.3. Serving up to 2,500 users,
  - 2.2.3.4. No limits for the number of sites,
  - 2.2.3.5. A possibility to purchase additional Dedicated Themes,
  - 2.2.3.6. A possibility to purchase additional Dedicated Theme Variants,
  - 2.2.3.7. No limits for Available Themes,
  - 2.2.3.8. Access to the Service Desk,
  - 2.2.3.9. Technical Support for Errors and Issues,
  - 2.2.3.10. Guaranteed time for repairing Errors within 5 business days,
  - 2.2.3.11. Maintaining up to 3 Dedicated Themes and Dedicated Theme Variants.
- 2.2.4. Enterprise Plan with the following parameters,
  - 2.2.4.1. The Enterprise Plan is charged according to the price list
  - 2.2.4.2. A possibility to install Simple Themes and Premium Themes,
  - 2.2.4.3. No limits of users,
  - 2.2.4.4. No limits for Available Themes
  - 2.2.4.5. No limits for the number of sites,
  - 2.2.4.6. A possibility to purchase additional Dedicated Themes,
  - 2.2.4.7. A possibility to purchase additional Dedicated Theme Variants,
  - 2.2.4.8. Access to the Service Desk,
  - 2.2.4.9. Technical Support for Errors and Issues.
  - 2.2.4.10. Guaranteed time for repairing Errors within 3 business days
  - 2.2.4.11. Maintaining up to 3 Dedicated Themes and Dedicated Theme Variants
- 2.3. Upgrading the plan version
  - 2.3.1. The plan version may be upgraded at any moment by ordering a higher version of the plan, provided that the higher plan is confirmed in the Administration Panel,
  - 2.3.2. The cost of the plan upgrade will be calculated according to the price list

### § 3. SERVICE DESCRIPTION

- 3.1. The Engagy Designs Service consists of:
  - 3.1.1. Administration Panel,
  - 3.1.2. Theme Manager with Themes,
  - 3.1.3. Support Services.
- 3.2. The Administration Panel is available through via a web browser for Clients with an active Service as part of the purchased Plan. The Administration Panel enables the Client to perform the following:
  - 3.2.1. Administration Panel Activation,**
    - 3.2.1.1. The Service is activated right after placing the order by confirming the purchase order data in the Administration Panel.
    - 3.2.1.2. Administration Panel Activation leads to:
      - Launch of Support Services,
        - Service Desk is made available to the Client,
        - Service Desk access data are sent to the e-mail address from the Order.
      - Enabling the Theme Manager installation.
    - 3.2.1.3. Engagy will provide the Client with information necessary to activate the service.
    - 3.2.1.4. To perform the Service Activation procedure, the Client needs to have the following authorizations:

- SharePoint Administrator for the purposes of adjustment in the SharePoint environment,
- Global Administrator for the purposes of app registration in Azure AD.

### **3.2.2. Theme Manager Installation,**

3.2.2.1. Theme Manager installation takes place in the Administration Panel.

3.2.2.2. The Theme Manager installation is possible under the condition that the Service is previously activated, according to section 3.2.1 above.

3.2.2.3. Engagy will provide the Client with information necessary to install the Theme Manager.

3.2.2.4. In order to perform the Theme Manager Installation procedure, the Client needs to have the following authorizations:

- SharePoint Administrator for the purposes of adjustment in the SharePoint environment.

3.2.2.5. As a result of the Theme Manager Installation as part of the Client's Tenant, the following modifications take place:

- The Theme Manager app is added to the Tenant App Catalog,
- The Theme Manager app is launched as part of the Client's Tenant by registering a dedicated custom action.

### **3.2.3. Theme Installation,**

3.2.3.1. Theme installation takes place in the Administration Panel.

3.2.3.2. Engagy will provide the Client with information necessary to complete the Theme installation.

3.2.3.3. In order to perform the Theme installation procedure, the Client needs to have the following authorizations:

- SharePoint Administrator for the purposes of adjustment in the SharePoint environment,
- Tenant App Catalog Administrator.

3.2.3.4. As a result of the Theme Installation as part of the Client's Tenant, the following modifications take place:

- The SPFx app corresponding to the Theme is added to the Tenant App Catalog,
- The theme is added to the Available Themes Catalog in the Administration Panel,
- The Theme is added to the Theme Manager as an Available Theme.

### **3.2.4. Theme Manager Update,**

3.2.4.1. Theme Manager update takes place in the Administration Panel.

3.2.4.2. The Client is informed about the possibility of updating the Theme Manager in the Manager and/or Administration Panel.

3.2.4.3. Engagy will provide the Client with information necessary to update the Theme Manager.

3.2.4.4. In order to perform the Theme Manager Update procedure, the Client needs to have the following authorizations:

- SharePoint Administrator for the purposes of adjustment in the SharePoint environment.

3.2.4.5. As a result of the Theme Manager Update as part of the Client's Tenant, the following modifications take place:

- The updated Theme Manager app is added to the Tenant App Catalog,
- The Theme Manager application is re-activated as part of the Client's Tenant by registering a dedicated custom action.

### **3.2.5. Theme Update,**

3.2.5.1. Theme update takes place in the Administration Panel.

3.2.5.2. The Client is informed about the possibility of updating the Theme in the Theme Manager and/or Administration Panel.

3.2.5.3. Engagy will provide the Client with information necessary to update the Theme.

3.2.5.4. As a result of the Theme Update as part of the Client's Tenant, the following modifications take place:

- The newest version of the SPFx app corresponding to the Theme is added to the Tenant App Catalog,
- The Theme is activated again in the sites where it was previously activated.

### **3.2.6. Theme Uninstallation,**

3.2.6.1. Theme uninstallation takes place in the Administration Panel.

3.2.6.2. For the Theme to deinstall, it must be deactivated in all the Sites.

3.2.6.3. Engagy will provide the Client with information necessary to complete the Theme uninstallation.

- 3.2.6.4. In order to perform the Theme uninstallation procedure, the following authorizations are required:
- SharePoint Administrator for the purposes of adjustment in the SharePoint environment,
  - Owner of the site on which the Theme is activated (if the theme has not been deactivated before the uninstallation),
  - Site collection administrator of the site on which the Theme is activated (if the theme has not been deactivated before the uninstallation).

3.2.6.5. As a result of the Theme uninstallation as part of the Client's Tenant, the following modifications take place:

- The Theme is deactivated on the sites on which it was activated and for which the user who is deinstalling the theme has administrative authorizations
- The deinstalled Theme is deleted from the Available Themes Catalog in the Administration Panel,
- The Theme is no longer available in the Theme Manager,
- The theme SPFx app corresponding to the Theme is deleted from the Tenant App Catalog.

### **3.2.7. Theme Manager Uninstallation,**

3.2.7.1. Theme Manager uninstallation takes place in the Administration Panel.

3.2.7.2. Engagy will provide the Client with information necessary to complete the Theme Manager uninstallation.

3.2.7.3. In order to perform the Theme Manager uninstallation procedure, the following authorizations are required:

- SharePoint Administrator for the purposes of adjustment in the SharePoint environment,
- Global Administrator for the purposes of app deregistration in Azure AD.

3.2.7.4. As a result of the uninstallation as part of the Client's Tenant, the following modifications take place:

- The theme is deactivated on the sites for which the user who is deinstalling the theme has administrative authorizations, if it was previously activated,
- SPFx Apps corresponding to the Themes are removed from Tenant App Catalog,
- the Theme Manager will be uninstalled from the Tenant App Catalog.

3.2.8. Displaying the currently planned and performed installation, update and uninstallation operations mentioned under section 3.2 above,

3.2.9. Displaying historical installation, update and uninstallation operations mentioned under section 3.2 above.

3.2.10. Processing requests to activate Themes from the Theme Manager.

3.3. The Theme Manager is available on the sites via web browsers, after previous installation in the Administration Panel. The Theme Manager allows for:

#### **3.3.1. Theme Activation on the Site,**

3.3.1.1. Activation is possible on sites marked as Hub Sites or sites not connected to any Hub Site. Theme Activation on the Hub Site results in the activation of the same theme on connected sites. Activation is an operation performed asynchronously through the Administration Panel functions.

3.3.1.2. Activation of the Theme by the Client enables a change of the appearance of the SharePoint Online site in which the Theme will be activated. A change of appearance consists in modifying one or more of the following elements: Site color palette, style and layout of elements on the site page.

3.3.1.3. Theme Activation takes place in the Theme Manager within the context of the SharePoint Site in which the Theme is to be activated.

3.3.1.4. For the Theme Activation on the Site to be possible, the Theme must be Available (previously installed).

3.3.1.5. Engagy will provide the Client with information necessary to activate the Theme on the site.

3.3.1.6. In order to perform the Site Theme Activation procedure, the Client needs to have the following authorizations:

- Owner of the site on which the Theme is activated,
- Site collection administrator of the site on which the Theme is activated.

3.3.1.7. As a result of the Theme Activation as part of the site, the following modifications take place:

- the Color Palette will be changed,
- the theme is activated by registering a dedicated site custom action responsible for the Theme activation.

### 3.3.2. Theme Deactivation on the Site.

3.3.2.1. Deactivation is possible on sites marked as Hub Sites or sites not connected to any Hub Site. Theme Deactivation on the Hub Site results in the deactivation of the same theme on connected sites.

Deactivation is an operation performed asynchronously through the Administration Panel functions. After Theme Deactivation, the site appearance is returned to the default appearance.

3.3.2.2. Theme Deactivation takes place in the Theme Manager within the context of the SharePoint site in which the Theme is to be deactivated

3.3.2.3. Engagy will provide the Client with information necessary to deactivate the Theme on the site.

3.3.2.4. In order to perform the site Theme Deactivation procedure, the Client needs to have the following authorizations:

- Owner of the site on which the Theme is deactivated,
- Site collection administrator of the site on which the Theme is deactivated.

3.3.2.5. As a result of the Theme Deactivation as part of the site, the following modifications take place:

- the Color Palette will be changed,
- the custom action element responsible for the Theme on the site will be removed

3.4. Using support services mentioned under § 9 of the GTC by redirecting to the Service Desk, in particular:

#### 3.4.1. Reporting an Error,

3.4.1.1. Errors are reported via the Service Desk.

3.4.1.2. Access to the Service Desk is granted to the e-mail address used to place the Order.

3.4.1.3. The Client may report demand for additional access to the Service Desk by submitting an Issue at the Service Desk.

3.4.1.4. The Client may report demand for removing an access account to the Service Desk by submitting an Issue at the Service Desk.

3.4.1.5. At a given moment, the Client must have at least one Service Desk access account.

3.4.1.6. Error handling is described in §9 section 9.2.

#### 3.4.2. Submitting Issues,

3.4.2.1. Issues are submitted via the Service Desk.

3.4.2.2. The rules of gaining access to the Service Desk are described in section 3.4.1 above.

3.4.2.3. Issue handling is described in §9 section 9.2.

#### 3.4.3. Ordering Dedicated Themes or Dedicated Theme Variants,

3.4.3.1. The Client requests the purchase of a Dedicated Theme or a Theme variant by submitting an Issue within a Service Desk (hereinafter referred to as the Order), in accordance with description of submitting issues under section 3.4.2. Dedicated Themes' completion schedule (hereinafter referred to as the Schedule), including the sequence of the Parties' activities, shall be set forth at:

[https://getdesigns.engagy360.com/assets/docs/Additional\\_services\\_schedule.pdf](https://getdesigns.engagy360.com/assets/docs/Additional_services_schedule.pdf).

3.4.3.2. The Parties make sure their staff working on the Order timely complete the tasks set forth in the Schedule.

3.4.3.3. If according to the Schedule, a completion of the Order requires the Client to make a decision, the Client shall make the decisions and notify them to Engagy by the times mutually agreed between the Parties.

3.4.3.4. The Client's failure to ensure (provide) the Service terms and conditions set forth under paragraph 4 or meet obligation set forth under section 3.4.4.3. shall constitute a delay on the part of the Client.

3.4.3.5. Engagy notifies to the Client the completion of the Order according to the Schedule, proposing the date of demonstration and completion of the Order (hereinafter referred to as the "Demonstration"). The Parties may agree on or change the method of Demonstration other than in writing.

3.4.3.6. The purpose of the Demonstration is to confirm that Engagy performed the Order as agreed and to allow the Client to check the completion of the Order. Having completed the demonstration, Engagy shall provide the Client electronically with the Demonstration protocol.

3.4.3.7. The Client shall either confirm that Engagy completed the order or refuse to consider the Order completed by reporting the reservations without undue delay – on the Demonstration protocol.

3.4.3.8. If the Order is not duly completed, the Client shall report the reservations to the Demonstration protocol in a manner set forth under section 9.2.3. below. The Client's failure to report the reservations mentioned

under the preceding sentence within 7 days from having been provided with the Demonstration protocol shall be deemed a confirmation of due completion of the Order.

#### **3.4.4. Termination of the Service,**

- 3.4.4.1. Termination of the Service involves the removal of the Theme Manager from the Client's Tenant and removal of information on the Client's Tenant from the Service environment.
- 3.4.4.2. Termination of the Service may be effected by submitting a request in the form of an Issue in the Service Desk or by sending a message using the contact form available on <https://engagy360.com> (for the Free plan).
- 3.4.4.3. The Client and Client's Tenant information is removed within 5 business days from the submission of the request. Engagy shall keep the information necessary to prove the fact that services have been provided for purposes of evidence and for tax accounting purposes according to the Privacy Policy.
- 3.4.4.4. Termination of the Service shall result in having the access to the Service Desk turned off.
- 3.4.4.5. The Client will be informed by e-mail on the removal of Client and Client's Tenant information; the e-mail will be sent to the address of the person requesting the information to be removed.
- 3.4.4.6. Removal of the information on the Client and the Client's Tenant is conditioned upon previous uninstallation of all Themes and Theme Manager.
- 3.4.4.7. After Service Termination, the Client will not be able to use the Administration Panel.
- 3.4.4.8. In order to completely remove the links to Engagy Designs service, the Engagy Designs' Azure AD application needs to be deleted from the Client's Azure Active Directory. This must be done by the Client's representative.

#### **3.4.5. Maintaining the dedicated themes.**

- 3.4.5.1. As part of the selected plans, Engagy maintains the Dedicated Themes and Dedicated Theme Variants prepared for the client.
- 3.4.5.2. The maintenance of Dedicated Themes and Dedicated Theme Variants consists of the removal of Errors in the themes within the time limits agreed under the plan.
- 3.4.5.3. The number of themes is determined for particular plans.
- 3.4.5.4. If the limit defined under the plan is exceeded, the client shall indicate which of the prepared themes are to be maintained and which should no longer be supported.
- 3.4.5.5. The themes to be maintained are indicated when ordering the Dedicated Theme or Dedicated Theme Variant that would exceed the limit.
- 3.4.5.6. The Client can buy maintenance service for additional themes exceeding the limit defined in the plan, at the rate defined in the Price List.

### **§ 4. TECHNICAL PREREQUISITES OF SERVICE PROVISION**

- 4.1. Provision of Services is subject to the following technical requirements:
  - 4.1.1. Microsoft/Office 365 plus the following requirements:  
<https://www.microsoft.com/en-ww/microsoft-365/microsoft-365-and-office-resources>,
  - 4.1.2. Web browser supported by Microsoft 365. More information may be found here:  
<https://www.microsoft.com/en-ww/microsoft-365/microsoft-365-and-office-resources>,
  - 4.1.3. Setting up the Tenant App Catalogue within the Tenant,
  - 4.1.4. Organization's Microsoft account,
  - 4.1.5. The Tenant containing SharePoint Online service configured in the modern variant – the Modern Experience,
- 4.2. Ensuring the conditions set forth under 4.1 shall be the responsibility of the Client, who shall cover any costs of ensuring such conditions and maintaining them as required by the suppliers of such solutions.
- 4.3. The Order may contain additional technical conditions connected with adjusting the Service to the individual requirements of the Client. If it does, the additional technical conditions contained in the Order shall prevail over the requirements set forth in this paragraph.

### **§ 5. LIABILITY FOR SERVICES**

- 5.1. Engagy's liability towards the Client shall be limited to an actual loss, however not exceeding the amount paid by the Client for the purchase of the Services, except for damages intentionally caused to the Client by Engagy.
- 5.2. To the applicable extent, notwithstanding other provisions of these GTC, Engagy shall not be liable under implied warranty for defects.
- 5.3. Engagy guarantees the completion of Orders for the creation of Dedicated Themes or Dedicated Theme Variants according to the Client's specification and the to the requirements of Microsoft 365 platform.

## § 6. LICENSING OF WORKS RELATED TO PROVISION OF THE SERVICE

- 6.1. Engagy shall retain sole ownership of any intellectual property rights to each expression of creative activity of an individual nature, fixed in any manner (copyrighted work), including software created or provided in connection with provision of the Service.
- 6.2. If in preparation of a Dedicated Theme Engagy uses works provided by the Client:
  - 6.2.1. The Client warrants that the use of the works by Engagy will not breach third party rights.
  - 6.2.2. Upon transfer of such works to Engagy, the Client grants Engagy a non-exclusive and worldwide license for their use in the provision of the Service.
- 6.3. Engagy grants to the Client a license to use the Works,
  - 6.3.1. Constituting a computer program – in the following fields of exploitation: **(a)** permanent or temporary multiplication of a computer program in whole or in part, including for the purpose of displaying, using, transferring and storing – in order to use the computer program solely for internal use of the Client, for communication purposes; **(b)** granting use or lease of a computer program or its copy – in order to use the computer program solely for internal purposes of the Client, for communication purposes,
  - 6.3.2. other than a computer program – in the following fields of exploitation: **(a)** in the field of recording and reproducing the Works – making their copies on any media and using any technique – for the purpose of using the Works solely for the internal use of the Client, for communication purposes; **(b)** in the field of distributing the work – displaying and reproducing – for the purpose of using the Work solely for internal use of the Client, for communication purposes.
- 6.4. License granted to the Client by Engagy to an Engagy work generated or made available in connection with performance of the Service ("**Work**") shall mean a non-exclusive and non-transferable right to use the Works for internal purposes of the Client, i.e. for the completion of the Client's activities for a purpose directly related to its business, according to the Agreement.
- 6.5. The license shall be granted upon the transfer of the Work or making it available for use.
- 6.6. The term of the license, number of users, number of Client tenancies and the number of users shall be set forth in the Order.
- 6.7. The Client must not grant sub-licenses.
- 6.8. Making changes to the Work, including modifying, shortening, combining or altering it, shall be prohibited. If the Client breaches the license conditions, Engagy shall have the right to terminate it without notice period.

## § 7. REMUNERATION

- 7.1. The Client shall pay Engagy the remuneration set forth in the Order, gross of the applicable VAT, if such remuneration is stipulated in the Order.
- 7.2. The fees set forth in the Order or resulting from it shall be paid through the digital store through which the Order was submitted, according to its price list or in a manner set forth individually in the Order submitted directly to Engagy.

## § 8. TERMINATION AND EXPIRY OF THE AGREEMENT

- 8.1. The Agreement shall terminate upon the elapse of the term of the Service provision set forth in the Order.
- 8.2. The Client may terminate the Agreement at any time with a one month written notice. If the Client terminates the Agreement before the elapse of the term of the Agreement, Engagy shall transform the Agreement into a corresponding Plan with monthly settlement at rates resulting from the service price list, shall deduct the cost of use of the service according to the price list, and the remaining amount shall be returned to the Client. Payment for provision of Additional Services shall not be reimbursable.



8.3. The Client shall have the right to terminate the Agreement with immediate effect if Engagy is at least 7 days in delay with the performance of its obligation or its material part and after previous notification in writing or by electronic means. In such case Engagy shall reimburse to the Client the remuneration paid in the amount proportional to the remaining term of the Service and corresponding to the value of the non-performed Orders.

## § 9. TECHNICAL SUPPORT

9.1. For clients with Basic, Standard and Enterprise plans Engagy shall provide technical support services for the term of the Agreement, free of charge, according to the following principles.

9.2. Processing of issues and errors:

9.2.1. The Client may report Errors and Issues to the dedicated Service Desk. If the Service Desk is not available, the Report may be sent through the Contact Form at <https://engagy360.com>.

9.2.2. To facilitate the processing of the report, the Client shall fill in all the fields in the Service Desk form marked as required.

9.2.3. If filing the report using the form at the page to the address provided under 9.2.1. the Client shall make all efforts for the report to include at least the following information: (i) report title – allowing for identification of the Error report or the Issue; (ii) Error description and the date when the Error took place. The report description must allow for determining the Error's location (including but not limited to the URL address), description of the defect and (if possible) screenshots documenting the Error.

9.2.4. The error repair time depends on the existing plan. The repair time shall be counted Monday to Friday, between 8.00 a.m. and 4.00 p.m., except for public holidays (hereinafter referred to as the "Business Days").

9.2.5. Engagy shall make efforts to examine the Error and/or repair the Error by the time resulting from the existing plan. If the Error cannot be removed within the time frame set forth in the previous sentence, until the Error is repaired Engagy shall provide a workaround involving turning on the theme corresponding to the default SharePoint theme.

9.2.6. Engagy shall answer the Issues by the time stipulated in the Client's existing Plan.

9.2.7. Engagy's obligation to provide technical support services free of charge shall not pertain to errors resulting from: (i) individual adjustments of SharePoint site made by the Client, (ii) Client's actions (or omissions).

## § 10. COLLATERAL

10.1. If a third party reports to the Client claims regarding the Work or its elements for reasons attributable solely to Engagy, then – upon notification from the Client – Engagy shall not fail to immediately proceed with examining the issue and shall undertake defense against such claims at its own cost and risk and also shall pay justified claims resolved in a settlement resulting from such claims, and if such recourse claims from the Client are awarded by a court, shall reimburse to the Client the whole amount of the paid claims, provided that Engagy receives: **(a)** written notification of such claim by the time allowing Engagy to get acquainted with it and prepare a response; **(b)** full and sole right to control and direct the discovery proceedings, defense and settlement proceedings (if any) regarding the claim; **(c)** justified assistance from the Client at Engagy expense.

10.2. If the use of the Work by the Client so requires (or may require, in Engagy's opinion) or if it is required by a settlement or if Engagy determines that such action is justified for the Client to avoid material liability, Engagy may, at its sole discretion, replace the Work with an essentially and functionally similar Work or otherwise allow the Client to continue using the Work.

10.3. The Parties hereby agree that if a third party reports claims to the Work for reasons attributable to the Client, upon receiving the claim Engagy shall immediately notify the claims to the Client, who shall not fail to immediately proceed with examining the issue and shall undertake defense against such claims at their own cost and risk and also shall pay any justified Engagy claims, and if such recourse claims from Engagy are awarded by a court, the Client shall reimburse to Engagy the whole amount of the paid claims, as well as any connected expenses and fees, including the costs of the court proceedings and reasonable legal costs, provided that the Client receives from Engagy: **(a)** notification of such claim (if the claim is submitted to Engagy); **(b)** necessary assistance from Engagy at the Client's expense.

## § 11. NON-DISCLOSURE

- 11.1. Engagy represents that the access rights to the Client's Tenant are used solely for the purpose of performing the services described under paragraph 3 and that no content of the site or of the documents from the Client's Tenant is sent to Engagy services.
- 11.2. Engagy shall not share information on Client's Tenant sites to third parties for purposes other than the provision of the Service to the Client.
- 11.3. The information obtained from Client's Tenant sites shall be stored solely for the period required to provide the service.

## § 12. PROCESSING AND PROTECTION OF PERSONAL DATA

- 12.1. Personal data of the persons authorized to represent the Client and Client's employees provided in connection with signing and performance of the Agreement binding the Parties are processed in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 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 95/46/EC (General Data Protection Regulation) (hereinafter referred to as "GDPR") and the Personal Data Protection Act dated 10 May 2018.
- 12.2. The Controller of the personal data of the persons authorized to represent the Client and Client's employees provided in connection with signing and performance of the Agreement binding the Parties is Engagy PSA with its registered seat in Wrocław, ul. Gen. Sikorskiego 26, 53-659 Wrocław (hereinafter referred to as the „Controller“). You can contact the Controller by sending an email at office@engagy360.com and by traditional mail at the Controller' seat address indicated above.
- 12.3. Personal data will be processed for the following purposes: (a) conclusion and performance of the Agreement – the legal basis for the processing is the necessity of data processing for the conclusion and performance of the Agreement or for taking actions at the request of a data subject before concluding the agreement; and in the case of the persons representing the legal persons involved in the performance of the Agreement the legal basis for data processing is the necessity to process to exercise the legitimate interest of the Controller or a third party (Article 6(1)(b) and (f) of GDPR); (b) establishing, pursuing or defending against claims connected with the concluded Agreement – the legal basis for data processing is the necessity of processing to exercise the Controller's legitimate interest. In this case the Controller's legitimate interest is the possibility to establish, pursue or defend against claims (Article 6(1)(f) of GDPR); (c) for tax and accounting purposes, the legal basis for data processing is the necessity of processing to carry out the legal obligation of the Controller (Article 6(1)(c) of GDPR);
- 12.4. The personal data mentioned under section 12.1 above may be disclosed to: the entities delivering and supporting IT systems used by the Controller and entities providing services connected with the Controller's ongoing activities – under relevant data processing agreements and while ensuring the application by the above-mentioned entities of adequate technical and organizational measures to ensure data protection and the entities authorized under commonly applicable legal provisions, including, without limitation, the institutions authorized to control the Controller's activities or the institutions authorized to obtain personal data under legal regulations.
- 12.5. The personal data mentioned under section 12.1 above shall be processed: (a) until the termination or expiration of the Agreement or (b) until the expiration of the statute of limitation for the claims under the Agreement or (c) until the Controller's legitimate interest is exercised or (d) until the lapse of the personal data retention obligation period under commonly applicable legal provisions (e.g. the obligation to retain accounting documents).
- 12.6. In connection with personal data processing, the data subject shall have the right to: data access, data rectification, data removal, data processing restriction, objection to data processing, data portability. The data subject shall be entitled to these rights in cases and within the scope of the applicable law. In relation to the processing of their personal data, the data subject shall also have the right to file a complaint with the supervisory authority – the President of the Personal Data Protection Office.
- 12.7. Providing personal data is voluntary, although it is necessary to conclude the Agreement. Failure to provide personal data within the necessary scope shall prevent the conclusion of the Agreement.
- 12.8. The Controller shall not make automated decisions, including the decisions resulting from profiling, based on the personal data of the persons referred to under section 12.1 above.
- 12.9. The Client represents that they have reviewed the contents of this personal data processing information clause constituting an appendix to the GTC and agrees to provide the above information on personal data processing to

the persons whose data have been provided to the Controller in connection with the conclusion and performance of the Agreement, indicating themselves as the source of the personal data, and to inform about the scope of the data provided to the Controller. This obligation shall also be fulfilled with respect to every new person and representative whose data have been or will be provided to the Client. This obligation shall be performed based on the clause template, constituting an appendix to the Agreement.

- 12.10. The personal data of the Client's representative that are processed during the use of the Service includes:
- Tenant id,
  - user's email address.
- 12.11. The "Engagy Designs" software processes personal data in the following scenarios
- performing self-service operations in the Administration Panel. In order to enable performing self-service operations in the Administration Panel, the user is required to log in with the organization account. The user account is not duplicated or created by Engagy.
  - Performing operations with Theme Manager. Engagy reads the logged user data in order to verify their authorizations to perform operations in the Client's Tenant. This information is not recorded.

### § 13. FORCE MAJEURE

- 13.1. Should any of the Parties of this Agreement have to suspend or delay their activities under this Agreement in a Force Majeure event, they shall immediately inform the other Party about it in writing, but no later than within five (5) Business Days from the date of notification opportunity, describing the event, its cause and consequences for the performance of this Agreement.
- 13.2. For the purposes of this Agreement, a Force Majeure event means any external event, activity or state beyond the Parties' control that is impossible to predict by any Party, with negative impact on the Agreement performance, including, without limitation, any event, activity or state that delays or prevents the performance of obligations under the Agreement, to the extent such activity, event or state: (i) is beyond the control of the Party invoking it and could not have been predicted, avoided or prevented by the Party, and (ii) does not result from activities, negligence or delays of the Party; (iii) is not an activity, event or state with consequences and resulting risk the Parties agreed to accept under the Agreement; (iv) with regard to emergencies, including natural disasters, that may affect the Subject of the Agreement and could not have been predicted due to their duration or intensity, for the avoidance of doubt, it shall be understood that no public communication regarding such events enables their prediction.
- 13.3. A Force Majeure event includes, without limitation: wars (declared or undeclared) and other military operations, invasions, terrorist acts, mobilizations or embargos, radioactive radiation or radioactive contamination, rebellion, revolution, uprising, military or civil takeover or civil war, a strike conducted in accordance with the applicable law, revolt, unrest or riots, natural disasters, such as earthquake, flood, epidemic, fire and others.
- 13.4. The Party that submitted such written notification shall be relieved from their obligations or meeting the deadline of their obligations for the duration of this event or its consequences. The deadline for the performance of mutual obligations shall be appropriately extended for the duration of the event mentioned above.
- 13.5. The Party affected by a Force Majeure event shall undertake appropriate efforts to minimize its consequences and resume the performance of this Agreement as soon as possible.
- 13.6. The delay or failure to perform the provisions of this Agreement caused by a Force Majeure event shall not constitute the basis for:
- 13.6.1. the termination of this Agreement, subject to section 13.7 below,
- 13.6.2. pursuing any claims for damages or additional costs incurred by the other Party.
- 13.7. Should the performance of this Agreement be delayed or suspended for an uninterrupted period of 30 days, each Party shall have the right to terminate this Agreement by submitting a written notification to the other Party. Should the Parties fail to use the above right within 60 days from the first day of the opportunity to terminate the Agreement, the Parties shall lose the right to terminate the Agreement. In such case Engagy shall reimburse to the Client the paid remuneration in the amount proportional to the remaining term of the Service, set forth in the Order.

### § 14. FINAL PROVISIONS

- 14.1. This GTC have been drafted based on the applicable law, including, without limitation:
  - a) the Act on Provision of Services by Electronic Means dated 18 July 2002 (Polish Journal of Laws No. 144, item 104, as amended);
  - b) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 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 95/46/EC (General Data Protection Regulation, OJEU L 2016 No. 119, p. 1, hereinafter referred to as "GDPR") and other commonly applicable provisions of Polish personal data protection law;
  - c) the Civil Code Act of 23 April 1964 (Polish Journal of Laws of 1964 No. 16 item 93, as amended).
- 14.2. The GTC are available for the Client at [https://getdesigns.engagy360.com/assets/docs/Terms\\_of\\_use.pdf](https://getdesigns.engagy360.com/assets/docs/Terms_of_use.pdf).
- 14.3. By ordering the Service, the user confirms that they have reviewed these GTC and understood their contents and accepts all their provisions.
- 14.4. Should any of the provisions of these GTC be or become ineffective or invalid, the effectiveness and validity of the remaining provisions shall remain intact. Ineffective or invalid provisions shall be replaced with provisions that are legally acceptable and suit best the regulatory intention of Engagy at the time of establishing these GTC.
- 14.5. Introduction of new or amended GTC by Engagy shall have no impact on the contents of contractual relationships established prior to such a change.
- 14.6. The changes to these GTC introduced by Engagy during the term of the Agreement shall be binding for the Client, provided that their contents are submitted to them by Engagy to the email address of the Client's Coordinator and the Client does not terminate the Agreement within 14 days from the date of delivering them to the Client. Should the Agreement be terminated in the manner described above, the Agreement shall be dissolved by the last day before the introduced changes enter into force. In such case Engagy shall reimburse to the Client the paid remuneration in the amount proportional to the remaining term of the Service, set forth in the Order. For the avoidance of doubt, the Parties indicate that the publishing of new or amended GTC by Engagy shall not change the terms and conditions of the Agreement, unless the new or amended terms and conditions are submitted to the Client as described in this paragraph.
- 14.7. Any notifications for the Client concerning the Agreement may be sent in electronic format to the email address of the Client's coordinator indicated in the Order.
- 14.8. Any advertising materials concerning the Services are of an informative nature only, while the provisions of this Agreement, including these GTC, shall constitute legally binding terms.
- 14.9. Any disputes resulting from the Agreement shall be settled by the common court competent for the registered seat of Engagy.
- 14.10. In matters not stipulated in the Agreement, the provisions of Polish law shall apply, including, without limitation, the provisions of the Civil Code, the Copyright and Related Rights Act and the Act on the Provision of Services by Electronic Means.
- 14.11. Should there be any discrepancies between the contents of these GTC and the provisions of the Order form, the provisions of the Order shall take precedence.
- 14.12. All rights and obligations arising under the Agreement, upon the request of the Client of Engagy, may only be transferred by means of an assignment onto a new entity, called the New Client ("New Client"), after obtaining a written consent of Engagy.
- 14.13. The Parties shall, without undue delay, provide each other with information necessary to perform the Services and notify about any circumstances that may affect the proper performance of the Agreement.
- 14.14. The Party shall provide a contact person for the other party ("Coordinator") to ensure effective collaboration and communication for the performance of the Agreement. The Coordinator shall be authorized to approve the prepared materials, documents, products and services (which includes signing the protocols on behalf of the Party). Each Party may rely on the decisions and approvals of the other Party's Coordinator (except for the situations where the other Party requires the approval of any change to the Agreement by other persons). The Coordinators shall manage the entire communication between the Parties. During the collaboration, the Coordinator of one Party shall be available to the other Party. Appointing or changing the Coordinator or their contact information shall not constitute an amendment to the Agreement and does not require written form.
- 14.15. The appendices constitute a part of these GTC.
- 14.16. Appendices: Appendix No. 1 - Data on the Client's tenant collected by Engagy in connection with providing Services.



## Appendices no. 1 – Data on the Client’s tenant collected by Engagy in connection with providing Services.

1. The Engagy Designs application collects basic telemetric data of references to service endpoints. For this purpose it uses the Azure Application Insights service. The telemetric data concerns load, performance and usage metrics, exception reports and other diagnostic data, including, without limitation:
  - Web server telemetry - HTTP requests. Uri, time taken to process the request, response code, client IP address. Session id.
  - Web pages – Page, user and session counts. Page load times. Exceptions. AJAX calls.
  - Performance counters – Memory, CPU, IO, Network occupancy.
  - Client and server context – OS, locale, device type, browser, screen resolution.
  - Exceptions and crashes – stack dumps, build id, CPU type.
  - Dependencies – calls to external services such as REST, SQL, AJAX. URI or connection string, duration, success, command.
  - Availability tests – duration of test and steps, responses.
  - Trace logs and custom telemetry – anything you code into your logs or telemetry.
2. Since the telemetry collection service does not have custom adjustments, the data allowing to identify service users / personal data are not collected, pursuant to the declaration of Microsoft (<https://docs.microsoft.com/pl-pl/azure/azure-monitor/app/data-retention-privacy>).
3. HTTP requests are anonymized automatically.
4. The Administration Panel collects the following information identifying the user’s tenant for licensing purposes:
  - Tenant id,
  - SharePoint Online service address,
  - information on conducted implementation and activation operations, along with the login of the user performing the operation,
  - Information on sites (addresses) with activated or historically activated Themes.
  - Information on user data (access token, email address) calling the operation for the duration of the operation.