

Amperity General Terms and Conditions

1. ORDER FORM

These Amperity General Terms and Conditions (the “ATC”) form part of the “Agreement” as defined in the order form that incorporates this ATC by reference and is signed by Amperity and the relevant customer identified in the order form (“**Order Form**”). Such customer is the “**Customer**” in this ATC and each of Amperity and Customer is a “**Party**” and both Amperity and Customer are “**Parties**” in this ATC. All undefined capitalized terms used in this ATC have the meanings given to them in the applicable Order Form.

2. APPLICATION TO CUSTOMER AFFILIATES

2.1. Affiliates Not Under Direct Order Form. Subject to the terms of the Agreement, Customer may allow its Affiliates to use the Services in accordance with the terms and conditions of the Agreement, provided that: (a) all restrictions and obligations under the Agreement are complied with in each instance by each such Affiliate; (b) Amperity may bill Customer for all Services used by its Affiliates; and (c) Customer shall ensure that such Affiliates are bound by obligations as protective of Amperity as the Agreement for the benefit of Amperity. Customer shall be liable for any breach of the terms and conditions of the Agreement caused by any of its Affiliates and any acts or omission of its Affiliates in connection with the Services as if such breaches, acts and omissions were committed by Customer, and shall ensure that any claim an Affiliate of Customer has against Amperity in connection with the Agreement is brought by Customer, except where such Affiliate has entered into its own order form with Amperity pursuant to Section 2.2 below. “**Affiliate**” means any corporation, partnership or other legal entity now existing or hereafter organized that directly or indirectly controls, is controlled by or under common control with a Party, for so long as such entity has control, is controlled or under common control with a Party. For purposes of the definition of Affiliate, “control” means the direct possession of a majority of the outstanding voting securities of an entity.

2.2. Affiliates Under Direct Order Form. In lieu of using the Services pursuant to Section 2.1 Customer’s Affiliates may directly acquire Services subject to the terms and conditions of the Agreement (excluding the Order Form between Customer and Amperity) by executing one or more separate order forms directly with Amperity. Such order forms shall be deemed to be a two-party agreement between Amperity and such Customer Affiliate. Each such Customer Affiliate executing any such order form shall be solely liable as the customer and responsible for its obligations pursuant to such order form, including the documents incorporated by reference into such order form. Customer shall have no obligations or liabilities as to any such order form signed by its Affiliate and Amperity shall look solely to the Affiliate executing such order form.

3. SERVICES

Amperity shall, subject to the terms of the Agreement, make available to Customer the Services ordered by Customer in the Order Form for the duration of the applicable Subscription Term.

4. USAGE RIGHTS; OWNERSHIP

4.1. Grant of Rights. Subject to the terms of the Agreement, Amperity hereby grants to Customer, solely during the applicable Subscription Term, a non-exclusive, non-transferable (except as set forth in Section 12.3) worldwide right to access and use the Services and Amperity Data solely for Customer’s internal business purposes. Customer hereby grants to Amperity, during the applicable Subscription Term, a worldwide, non-exclusive, non-transferable (except as set forth in Section 12.3), royalty-free right to host, access, use, display, transmit, distribute and otherwise use Customer Data to: (a) provide the Services pursuant to the Agreement; (b) maintain, develop, support and improve the Services; (c) fulfill Amperity’s obligations under the Agreement; (d) exercise and enforce its rights under the Agreement, including without limitation, under Section 12.2; and (e) comply with all applicable laws. “**Customer Data**” means all data made available by Customer or its Affiliates or their Users (or by any third party on their behalf) to Amperity or otherwise provided by Customer or its Affiliates or their Users (or by any third party on their behalf) pursuant to the Agreement, including but not limited to such data entered into the Services. “**Users**” means any individual that is an employee, agent, contractor, or representative of Customer or Customer’s Affiliates to whom Customer or its Affiliate grants access to or authorization to use the Services.

4.2. Ownership. Customer retains ownership of all right, title and interest in and to all Customer Data, and all intellectual property rights therein, subject to the express rights granted to Amperity in the Agreement. Customer acknowledges and agrees that as between Amperity and Customer, Amperity or its licensors or suppliers retain ownership of all right, title and interest in and to the following (together, the “**Amperity Property**”): (a) the Services and all technology, software, products, configurations, processes, algorithms, user interfaces, know-how, techniques, designs and intellectual property used by or for Amperity in providing the Services; (b) any and all tangible materials, data, text, images, materials, photos, audio, videos, reports, analyses, outputs, deliverables, information or other forms of communication made available by Amperity to Customer in connection with the Services (“**Amperity Data**”); (c) the Amperity name, all Amperity logos, and the product names associated with the Services; (d) any modification, configuration or derivative of any of the foregoing; and (e) any intellectual property rights embodied in any of the foregoing. Except as otherwise expressly authorized herein or by Amperity in writing, the non-exclusive use rights set forth in the Agreement are the entirety of Customer’s rights in connection with the Amperity Property, and such rights shall terminate upon the termination or expiration of the Agreement. Customer shall not remove any Amperity trademark, logo, or other mark or

identifier from the Services or Amperity Data made available to Customer, and no right or license is granted to Customer to use the trademarks of Amperity or any third party.

5. CUSTOMER OBLIGATIONS AND RESTRICTIONS

5.1. **Customer Data and Network Performance.** Customer is solely responsible for the accuracy and content of all Customer Data and entering Customer Data into the Services. Customer represents, warrants, and shall ensure that: (a) Customer has obtained, and will continue to have, all necessary rights, consents, and permissions in Customer Data, and has made and will continue to make all necessary disclosures and notices, in accordance with applicable laws, to grant the rights to Amperity with respect to such Customer Data under the Agreement and to enable Amperity to use and process such Customer Data as contemplated under the Agreement; and (b) that Customer Data, and Amperity's use or other processing of such Customer Data in accordance with the terms of the Agreement, will not and does not violate the rights of any third party or any applicable laws. Without Amperity's express prior written consent in each instance, Customer shall not (and shall not allow any User or third party to) send or transmit to Amperity any Customer Data that includes raw credit or bank card information pertaining to any of Customer's customers. Customer is responsible for procuring and maintaining the network connections that connect Customer to the Services.

5.2. **Authorized Users; Use of Services.** Customer is and shall remain solely responsible and liable for the use and confidentiality of its and its Users' credentials that are used to access the Services. Customer shall ensure that: (a) only authorized Users are permitted to use the Services; (b) its and its Users' use of the Services comply with all applicable laws, the Agreement, and the Documentation; (c) it and its Users comply with Amperity's Acceptable Use Policy, which is currently located at <https://amperity.com/amperity-acceptable-use-policy> and may be updated by Amperity from time to time, and is incorporated into this ATC by reference; and (c) it otherwise takes all commercially reasonable steps to protect the Services and the Documentation from unauthorized use and/or access. **"Documentation"** means the then-current applicable technical documentation such as user manuals that is supplied by Amperity to assist its customers in the use of the Services and is generally made available to Customer through the Services as updated from time to time in accordance with this ATC, excluding any third-party content and content published in user forums posted on such website and content related to any future functionality or features.

5.3. **Third-Party Applications.** The Services may interact with and access Customer's and Third-Party Applications and related information used by Customer in connection with the Services, including but not limited to access to Customer Data and related sources. Customer shall make any such Third-Party Applications, data sources, Customer Data and information available to Amperity and the Services as necessary to use the Services as contemplated in the Agreement, including, without limitation, obtaining all required licenses, permissions, access, and credentials. Customer shall be solely responsible for ensuring compliance with third-party terms of use, privacy policies, and contractual obligations in making such Third-Party Applications, Customer Data and related sources, and other information available to Amperity. If Customer transfers or causes the transfer of Customer Data or Amperity Data from the Services to a Third-Party Application or other location, such transfer constitutes a distribution by Customer and not by Amperity. **"Third-Party Applications"** means online, web-based applications or services and offline software products or other Customer Data sources and Customer-directed Customer Data destinations, if applicable, that are provided by third parties and interoperate with the Services.

5.4. **Usage Limits.** Customer acknowledges that access to and use of the Services is limited to the usage and volume limits and metrics set forth in the applicable Order Form (the **"Usage Limits"**). Amperity may monitor use of the Services to verify Customer's compliance with the Usage Limits. Customer shall be obligated to pay fees for use in excess of any Usage Limits at Amperity's then-current rates.

6. FEES; PAYMENT TERMS

6.1. **Fees.** Customer agrees to pay Amperity the fees specified in the Order Form. Unless otherwise set forth on the Order Form, Customer will pay each accurate invoice within thirty (30) days after the applicable invoice date and shall be made in US Dollars. Customer agrees to pay a late charge of one and one-half percent (1.5%) per month (or part of a month), or the maximum rate permitted by applicable law, whichever is less, for all overdue amounts not subject to a good faith dispute.

6.2. **Taxes.** Fees are exclusive of taxes. Customer shall be responsible for the payment of all sales, use, and similar taxes arising from or relating to the Services rendered hereunder, except for taxes related to the net income of Amperity and any taxes or obligations imposed upon Amperity under federal, state, and local wage laws.

7. CONFIDENTIALITY

7.1. **Confidential Information.** During the term of the Agreement, each Party (a **"Disclosing Party"**) may disclose its confidential and proprietary information to the other party (a **"Receiving Party"**). Subject to the exceptions listed below, a Disclosing Party's **"Confidential Information"** shall be defined as information disclosed by the Disclosing Party to the Receiving Party under the Agreement that is either: (a) clearly marked or otherwise clearly designated as confidential or proprietary; or (b) should be reasonably understood by the Receiving Party to be the confidential or proprietary information of the Disclosing Party. For the avoidance of doubt, the Amperity Property and pricing under the Agreement is the Confidential Information of Amperity, and Customer Data is the Confidential Information of Customer.

7.2. **Confidential Treatment.** A Receiving Party shall hold in confidence, and shall not disclose (or permit its personnel to disclose) any Confidential Information to any person or entity except to its directors, officers, employees, outside consultants, advisors or in the case of Amperity to its independent contractors or subcontractors (collectively **"Representatives"**) who have a need to know such Confidential Information in the course of the performance of their duties for the Receiving Party and who are bound by a duty of confidentiality no less protective of the Disclosing Party's Confidential Information than the terms of this Section 7. The Receiving Party and its Representatives shall use such Confidential Information only for the purpose for which it was disclosed and shall not use or exploit such Confidential Information for its own benefit or the benefit of another party without the prior written consent of the Disclosing Party or unless expressly

permitted under the Agreement. Each Party accepts responsibility for the actions of its Representatives and shall protect the other Party's Confidential Information in the same manner as it protects its own proprietary information of a similar nature and sensitivity, but in no event shall less than reasonable care be used. Customer further agrees that it shall not use the Services for the purposes of conducting comparative analysis, evaluations or product benchmarks with respect to the Services and will not publicly post any analysis or reviews of the Services without Amperity's prior written approval.

7.3. **Exceptions.** Notwithstanding anything to the contrary, the obligations of the Receiving Party set forth in this Section shall not apply to any information of the Disclosing Party that: (a) is or becomes a part of the public domain through no wrongful act of the Receiving Party; (b) was in the Receiving Party's possession free of any obligation of confidentiality at the time of the Disclosing Party's communication thereof to the Receiving Party; (c) is developed by the Receiving Party completely independent from the Confidential Information of the Disclosing Party; or (d) is required by law or regulation to be disclosed, but only to the extent and for the purpose of such required disclosure after providing the Disclosing Party with advance written notice, if reasonably possible, such that the Disclosing Party (at the Disclosing Party's expense) is afforded an opportunity to contest the disclosure or seek an appropriate protective order. In addition, the obligations of Amperity set forth in this Section shall not apply to any suggestions for product or service improvement or modification or other Feedback provided by Customer in connection with any present or future product or service, (provided such Feedback does not identify Customer or contain any Customer Data), and, accordingly, neither Amperity nor any of its customers or business partners shall have any obligation or liability to Customer with respect to any use or disclosure of such suggestions. **"Feedback"** means any Customer-provided feedback or reports about any errors, problems, or defects in, or feedback on or suggestions for changes or improvement to the Services.

7.4. **Injunctive Relief.** Notwithstanding any other provision of the Agreement, both Parties acknowledge that any disclosure or use of the Disclosing Party's Confidential Information in a manner inconsistent with the provisions of the Agreement may cause the Disclosing Party irreparable and immediate damage for which remedies other than injunctive relief may be inadequate. Therefore, both Parties agree that, in addition to any other remedy to which the Disclosing Party may be entitled hereunder, at law or equity, the Disclosing Party shall be entitled to seek an injunction to restrain such use in addition to other appropriate remedies available under applicable law.

7.5. **Prior Agreements.** This Section 7 supersedes all prior agreements, proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the Parties relating to each Party's obligations with respect to Confidential Information.

8. WARRANTIES

8.1. **Subscription Service Warranty.** Amperity warrants that during the applicable Subscription Term for any Subscription Service the Subscription Service will conform, in all material respects, as described in the Service Description Guide. **"Subscription Services"** means Amperity's proprietary subscription-based software solution set forth and described on the applicable Order Form. For any breach of the above warranty, Amperity will, at no additional cost to Customer, provide commercially reasonable remedial services to enable the Subscription Service to conform to the warranty. Customer will provide Amperity with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. Such warranty shall only apply if the Subscription Service has been utilized by Customer in accordance with the Agreement.

8.2. **No Other Warranty.** NEITHER AMPERITY NOR ANY AMPERITY SUBCONTRACTORS REPRESENT THAT AMPERITY WILL BE ABLE TO CORRECT ALL REPORTED DEFECTS OR ERRORS OR THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. AMPERITY MAKES NO WARRANTY REGARDING THE FEATURES OR SERVICES PROVIDED BY THIRD PARTIES. THE WARRANTIES STATED IN THIS SECTION 8 ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY AMPERITY AND ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND AMPERITY'S SOLE AND EXCLUSIVE LIABILITY ARISING FROM ANY DEFECTS OR PERFORMANCE OR QUALITY ISSUES WITH THE SERVICES OR AMPERITY DATA. THERE ARE NO OTHER WARRANTIES AND TO THE FULLEST EXTENT PERMITTED BY LAW, AMPERITY DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, QUALITY, AVAILABILITY, TITLE, ACCURACY, COMPLETENESS OR CURRENCY APPLICABLE TO THE SERVICES OR AMPERITY DATA, WHETHER ARISING BY THE COURSE OF DEALING, USAGE OR TRADE PRACTICE OR COURSE OF PERFORMANCE. CUSTOMER AGREES THAT IT IS NOT RELYING ON DELIVERY OF ANY FUTURE FUNCTIONALITY OR FEATURES, OR ANY ORAL OR WRITTEN PUBLIC COMMENTS OR ADVERTISING OF AMPERITY REGARDING FUTURE FUNCTIONALITY OR FEATURES, IN ITS PURCHASE OF THE SERVICES.

9. LIMITATION OF LIABILITY.

9.1. **Consequential Damage Exclusion.** Except to the extent the liability of a Party cannot be limited or excluded under applicable law or for a Party's liability under Section 10, neither Party will be liable to the other Party for loss of profits or for any special, indirect, incidental, consequential, reliance, punitive or exemplary damages (including without limitation, damages for loss of business profits (excluding fees owed under the Agreement)), loss of goodwill, business interruption or cost of delay, loss of use or lost or inaccuracy to business information and/or data of any kind, in connection with the performance of the Agreement, even if it is aware of the possibility of the occurrence of such damages.

9.2. **Limitation of Liability.** Except to the extent the liability of a Party cannot be limited under applicable law or for a Party's liability under Section 10, the total cumulative liability of a Party to the other Party for any and all claims and damages arising under the Agreement, whether by statute, contract, tort or otherwise, will not exceed the fees paid or payable by Customer to Amperity under the Order Form for the Services which form the subject of the claim during the twelve (12) month period immediately preceding the first event giving rise to the claim or damages. The provisions of the Agreement allocate risks between the Parties. The pricing set forth in the Order Form reflects this allocation of risk and the limitation of liability specified in this ATC.

10. INDEMNIFICATION

10.1. **Amperity Indemnification.** Subject to Section 10.3 below, Amperity will defend Customer and its officers, directors, employees and agents (collectively, the "**Customer Indemnitees**"), against any claim, demand, suit or proceeding made or brought against any of Customer Indemnitees by a third party alleging that the Services infringe or misappropriate such third party's intellectual property rights (a "**Claim Against Customer**"), and will indemnify Customer Indemnitees from any damages (including reasonable attorney fees and costs) finally awarded against any of Customer Indemnitees as a result of (or for amounts paid by under a settlement) a Claim Against Customer. If a Claim Against Customer is brought or is likely, in Amperity's sole opinion, to be brought, Amperity will, at its option and expense: (a) obtain the right for Customer to continue using the Services; (b) replace or modify the affected Services so that they become non-infringing; or (c) upon notice to Customer, terminate the Agreement or Customer's use of the affected Services, provided that in the case of (c) Amperity promptly refunds to Customer the prorated portion of any unused pre-paid annual subscription fees paid hereunder for the affected Services. Amperity's obligations in this Section 10.1 do not cover Claims Against Customer to the extent such Claims Against Customer arise from: (i) any Customer Data (regardless of whether Amperity processed such Customer Data) or any products, services, technology, materials or data not created or provided by Amperity (including without limitation any Customer Data); (ii) any part of the Services or other services provided in accordance with Customer specifications, requirements, or instructions; (iii) any combination with other products, processes or materials not provided by Amperity (where the alleged damages, costs or expenses arise from or relate to such combination); (iv) where Customer continues the allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; or (v) Customer's use of the Services is not strictly in accordance with the Agreement, the Order Form or any other Documentation.

10.2. **Customer Indemnification.** Subject to Section 10.3 below, Customer will defend Amperity and its officers, directors, employees and agents (collectively, the "**Amperity Indemnitees**") against any claim, demand, suit or proceeding made or brought against any or all of the Amperity Indemnitees by a third party: (a) alleging that Customer Data, or any use thereof, infringes the intellectual property rights or proprietary rights of others, or has caused harm to a third party; (b) arising out of or attributable to Customer's breach of Section 5 or Section 7 above; or (c) arising out of or attributable to Customer's misuse of the Services (each, a "**Claim Against Amperity**"). Customer will indemnify the Amperity Indemnitees from any damages, reasonable attorney fees and costs finally awarded against the Amperity Indemnitees as a result of (or for any amounts paid under a settlement) a Claim Against Amperity.

10.3. **Indemnification Procedure.** Each Party's obligation to indemnify the other party is conditioned on the Party seeking indemnification: (a) promptly notifying the indemnifying Party in writing of any claim, suit or proceeding for which indemnity is claimed, provided that failure to so notify will not remove the indemnifying Party's obligation except to the extent it is prejudiced thereby; (b) allowing the indemnifying Party to solely control the defense of any claim, suit or proceeding and all negotiations for settlement, provided that the indemnifying Party shall not settle any claim that requires the indemnified Party to admit fault or subjects the indemnified Party to ongoing obligations without the indemnified Party's prior written consent (such consent not to be unreasonably withheld or delayed); and (c) giving the indemnifying Party reasonable assistance in the defense and settlement of any claim, suit or proceeding for which indemnity is claimed.

10.4. **Sole Remedy.** This Section 10 states the indemnifying Party's sole liability to, and the indemnified Party's exclusive remedy against, the other party for any type of claim described in this Section 10.

11. TERM, TERMINATION AND SUSPENSION

11.1. **Term.** The Agreement will commence on the Order Effective Date and will continue in effect until otherwise terminated in accordance with Section 11.2 below. The term of the Order Form shall be set forth on the Order Form. Amperity reserves the right to change the rates, charges and or limits, and to introduce new charges under the Order Form upon providing Customer with written notice thereof (email permitted) at least sixty (60) days prior to the then-current renewal date of the Order Form.

11.2. **Termination.** Either Party may terminate the Agreement or the Order Form immediately (i) in the event of a material breach of the Agreement or the Order Form by the other Party that is not cured within thirty (30) days of written notice from the non-breaching Party, or (ii) if the other Party ceases doing business or is the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding, that is not dismissed within sixty (60) days of filing. Either Party may also terminate the Agreement upon no less than thirty (30) days' prior written notice to the other Party for any reason, provided that at such time there are no order forms then currently outstanding and in effect between the Parties.

11.3. **Effect of Termination.** Termination or expiry of the Order Form shall not be deemed a termination or expiry of the rest of the Agreement unless otherwise agreed by the Parties in writing. Termination of the Agreement in its entirety shall terminate the Order Form. Upon any termination or expiration of the Agreement or the Order Form, Amperity shall no longer provide the applicable Services to Customer, and Customer shall promptly cease and cause its Users to promptly cease using the relevant Services. If the Order Form is terminated as a result of Amperity's material breach, then Customer shall be entitled to a refund of the pro rata portion of any prepaid and unused fees pertaining to the remaining term of the Order Form. If the Order Form is terminated for any reason other than as a result of Amperity's material breach, then Amperity shall be entitled to all of the fees due under the applicable Order Form for the entire Subscription Term of the relevant Order

Form. Sections 1, 2, 4.2, 5.1-5.3, 6, 7, 8.2, 9, 10, 11, and 12 of this ATC shall survive the termination or expiry of the Agreement for any reason.

11.4. **Retrieval of Customer Data Upon Termination.** Within thirty (30) days following termination or expiration of the Order Form (that results in the expiration or termination of the Services) or the Agreement, Customer may retrieve Customer Data in accordance with established and reasonable system access procedures. After such 30 day period, Amperity shall have no further obligation to store or make available Customer Data to Customer and will delete such Customer Data. Upon Customer's written request, Amperity will provide Customer with Amperity's confirmation of Customer Data deletion.

11.5. **Suspension.** In addition to its other rights or remedies under the Agreement, (including without limitation any termination rights) set forth in the Agreement, Amperity reserves the right to suspend use of the Services: (a) if Customer is thirty (30) days overdue in the payment of fees not subject to a good faith dispute in Section 6.1 (Fees); (b) if Amperity deems such suspension necessary as a result of Customer's material breach of its obligations under Section 5; (c) if Amperity reasonably believes such suspension is necessary to prevent or stop the conduct of illegal activity or suspected illegal activity or to prevent or mitigate damage or imminent damage to Amperity's systems or data stored on such systems; or (d) as required by law or at the request of governmental entities.

12. GENERAL

12.1. **Entire Agreement.** The Agreement constitutes the, complete and exclusive agreement between the parties related to the subject matter of the Agreement and supersedes, terminates and extinguishes all prior and contemporaneous agreements (including but not limited to any confidentiality or non-disclosure agreements), rights granted, discussions, correspondence, negotiations, promises, arrangements, proposals, quotes, marketing materials, due diligence documentation, representations, purchase orders and understandings, whether written or oral, concerning the subject matter of the Agreement. Any amendments, additions, or modifications to the terms of the Agreement must be set forth in a written document signed by both Parties. Other than as expressly set forth in the Agreement, each Party acknowledges that, in entering into the Agreement, it has not relied and is not relying on, and each Party shall have no claim or remedies (including but not limited to any claims for misrepresentations) for, any representation, statement, understanding, agreement, commitment, assurance, warranty or collateral contract of any person (whether party to the Agreement or not), whether written, oral or otherwise, and whether made by or on behalf of the Parties prior to the date of this Agreement. Each party waives all rights and remedies which, but for this clause, might otherwise be available to it in respect of any such representation, statement, understanding, agreement, commitment, assurance, warranty, or collateral contract. If any provision of the Agreement is held prior to be illegal, invalid, or unenforceable, the provision will be enforced to the maximum extent permissible so as to affect the original intent of the parties, and the remaining provisions of the Agreement will remain in full force and effect. To the extent any translation is provided to a Party, it is provided for convenience purposes only, and in the event of any conflict between the English and translated version, where permitted by law, the English version will control and prevail. Nothing in this Section 12.1 operates to limit or exclude any liability for fraud or fraudulent misrepresentation.

12.2. **Feedback; Aggregate Data.** In the event Customer provides Amperity with Feedback, Customer hereby grants to Amperity an irrevocable, fully-paid up, non-exclusive, royalty-free, perpetual and worldwide license to use, reproduce, distribute, create derivative works of, publicly perform, and publicly display such Feedback in any medium or format. Amperity may create or generate aggregated and anonymized data derived from Customer Data or data or information derived from Customer's or its Affiliates' or their Users' use of the Services, in all cases that does not personally identify Customer or its Affiliates or their customers or Users ("**Aggregate Data**"). All right, title and interest in and to the Aggregate Data and intellectual property rights therein, shall be solely and exclusively owned by Amperity. Without limiting the foregoing, Amperity may use Aggregate Data for any purpose, including to provide, develop and improve its products and services during or after the term of the Agreement and any other commercial purposes.

12.3. **Assignment.** The Agreement shall be binding upon and for the benefit of Amperity, Customer, and their respective permitted successors and assigns. Except as expressly stated in the Agreement, neither Party may otherwise assign its rights or delegate its duties under the Agreement either in whole or in part without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed, and any attempted assignment or delegation without such consent will be void. Amperity may use independent contractors, subcontractors, or other third parties in connection with the provision of Services under the Agreement.

12.4. **Governing Law; Claims Limitation.** The Agreement and any claims (including but not limited to any non-contractual claims) shall be governed by and construed in accordance with the laws of the State of Washington, USA without regard to its conflict of law provisions. The parties hereby irrevocably consent to the non-exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Seattle, Washington or New York, New York for the purpose of adjudicating any action or proceeding to enforce the term of the Agreement. The United Nations Convention on Contracts for the International Sales of Goods and any conflicts of law principles and the Uniform Information Transaction Act (where enacted) will not apply to the Agreement. Either Party must initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within one year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

12.5. Disputes. Any disputes between the Parties arising out of the Agreement shall be resolved as follows: Members of the senior management of both Parties shall meet to attempt to resolve such disputes. If a dispute cannot be resolved within fifteen (15) days, either Party may make a written demand for mediation. Within fifteen (15) days after such written demand, the Parties shall meet for one day with an impartial mediator. The costs and expenses of the mediator shall be shared equally by the Parties. Neither Party shall be prohibited from seeking injunctive relief in any court of competent jurisdiction.

12.6. Headings. The headings to the sections of the Agreement are for ease of reference only and shall not affect the interpretation or construction of the Agreement.

12.7. Relationship of the Parties. The relationship between Amperity and Customer is that of an independent contractor, and nothing in the Agreement shall be construed as making the Parties hereto partners or creating the relationships of employer and employee, master and servant, or principal and agent between them, for any purpose whatsoever. Neither Party shall make any contracts, warranties or representations or assume or create any obligations, express or implied, in the other Party's name or on its behalf.

12.8. Force Majeure. Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, pandemic, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing Party.

12.9. Notices. All notices will be in writing and given when delivered to the address set forth in an Order Form as to Customer and to Amperity at 701 5th Ave, Suite 2600, Seattle, WA 98104. Notices from Amperity to Customer may also be in the form of an electronic notice to Customer's authorized representative or administrator designated in an Order Form.

12.10. Modifications. Notwithstanding any other provision under the Agreement, Amperity may make modifications to the Services or a particular component of the Services, Documentation, and the Service Description Guide from time to time, provided that such modifications to the Services do not materially degrade any key functionality of the Services. Amperity may provide notice of modifications to the Subscription Service via release notes or publication. System notifications and information from Amperity relating to the operation, hosting or support of the Subscription Service can also be provided within the Subscription Service or made available via the Support.

12.11. Publicity. Customer hereby grants Amperity a non-exclusive license solely during the term of the Agreement to use Customer's name and display Customer's logo in Amperity's customer lists and in the customer section of Amperity's website.

12.12. No Third-Party Beneficiaries. Nothing contained in the Agreement is intended or shall be construed to confer upon any third party any rights, benefits or remedies of any kind or character whatsoever, or to create any obligation of a Party to any such third party.

12.13. Interpretation and Counterparts. The Agreement will not be construed in favor of or against any party by reason of the extent to which any Party participated in the preparation of the Agreement. The Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to the Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

12.14. Waiver and Severability. Performance of any obligation required by a Party under the Agreement may be waived only by a written waiver signed by an authorized representative of the other Party, which waiver shall be effective only with respect to the specific obligation described in such written waiver. The failure of either Party to exercise any of its rights under the Agreement will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of the Agreement will not affect the validity or enforceability of any of the other provisions of the Agreement, and the Agreement will be construed in all respects as if such invalid or unenforceable provision(s) were omitted.