



Last updated: April 05, 2019

AMPLESPOT TERMS AND CONDITIONS

These AmpleSpot Terms and Conditions (the '**Agreement**') is entered into by and between Ampletime Ltd, a Company registered in England and Wales, Company number 08021484 ('AmpleSpot') and the entity agreeing to these terms ('**Customer**').

This Agreement is effective as of the date that you create the Subscription or, if applicable, the date that the Agreement is countersigned (the '**Effective Date**').

If you are accepting on behalf of your employer or another entity, you represent and warrant that: (i) you have full legal authority to bind your employer or the applicable entity to these terms and conditions; (ii) you have read and understood this Agreement; and (iii) you agree to this Agreement on behalf of the party that you represent. If you don't have the legal authority to bind your employer or the applicable entity please do not start the Subscription (or, if applicable, do not sign this Agreement). This Agreement governs the Customer's access to and use of the Products as ordered in the Dashboard.

From time to time, AmpleSpot may modify this Agreement. Unless otherwise specified by AmpleSpot, changes become effective for the Customer upon renewal of the Customer's current Subscription (as defined below) or entry into a new Subscription.

AmpleSpot will use reasonable efforts to notify the Customer of the changes via the notices displayed in the Dashboard, email or other means. The Customer may be required to click to accept or otherwise agree to the modified Agreement before renewing a Subscription or entering into a new Subscription, and in any event, continued use of the Products after the updated version of this Agreement goes into effect will constitute the Customer acceptance of such updated version.

If AmpleSpot specifies that changes to the Agreement will take effect prior to the Customer's next renewal or order (such as for legal compliance or product change reasons) and Customer objects to such changes, Customer may terminate the applicable Subscription and receive as its sole remedy a refund of any fees Customer has pre-paid for use of the applicable Products for the terminated portion of the Subscription.

BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, YOU ARE AGREEING TO BE BOUND BY ALL TERMS, CONDITIONS, AND NOTICES CONTAINED OR REFERENCED IN THIS AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, PLEASE DO NOT USE ANY PRODUCTS. FOR CLARITY, EACH PARTY EXPRESSLY AGREES THAT THIS AGREEMENT IS LEGALLY BINDING UPON IT.

1. Definitions

1.1. In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Affiliate" means any entity under the control of Customer where "control" means ownership of or the right to control greater than 50% of the voting securities of such entity.

"AUP" means Amlespot Acceptable Use Policy, available at <https://app.amlespot.com/legal/aup> or a successor URL.

"Contractor" means an independent contractor or consultant who is not a competitor of Amlespot.

"Customer Data" means any data of any type that is submitted to the Products by or on behalf of the Customer, including without limitation: (a) data submitted, uploaded or imported or manually entered to the Products by the Customer and (b) data collected from the Customer Properties via the use of the Products.

"Customer Properties" means Customer's venues, websites, apps, Customer Equipment or other offerings owned and operated by (or for the benefit of) Customer through which Customer uses the Products to communicate with Persons.

"Person" means physical natural person whose information is stored in the Account.

"End-User" means physical natural person who accessed Amlespot Products and Accepted End-User Terms and Conditions.

"End-User Terms" means the document outlining how their information will be stored and processed that the Customer is responsible to provide Persons who are accessing the Products.

"Dashboard" means Amlespot's user interface that can be accessed via the Internet through which the Customers may manage the Products.

"Specifications" means the documentation, manuals and specifications describing the operation, use, characteristics, capabilities and performance of the Products as issued by Amlespot from time to time.

"Amlespot Code" means certain software code, software development kits (SDKs) or other code provided by Amlespot for deployment on Customer Properties.

"Customer Equipment" network access equipment, controllers, server, Bluetooth, NFC, video, other sensors or any other electronic device which is being used for the purposes of collection of the Customer Data and providing access to the Products for the Persons.

"Device" means a computer, smartphone or other electronic devices that are used to access the Products by a Person.

"Laws" means all applicable local, state, federal and international laws, regulations and conventions, including, without limitation, those related to data privacy and data transfer, international communications, and exportation of technical or personal data.

"Account" means Customer's or Partner's identification entry in with Amlespot.

"Dashboard User" means an employee or Contractor of the Customer or its Affiliate who is authorized to access the Products.

"Products" means Amlespot's proprietary software-as-a-service solution(s), including but not limited to the Dashboard, application programming interfaces (APIs) and Amlespot Code.

"Taxes" means any sales, use, GST, VAT, withholding, or similar taxes or levies, whether domestic or foreign, other than taxes based on the income of Amlespot.

"Third-Party Platform" means any software, software-as-a-service, data sources or other products or services not provided by Amlespot that are integrated with the Products as described in the Specifications.

"Billable Item" means any billable resource such as but not limited to persons, contacts, access points (APs), sensors, SMS messages. The definitions of all billable items are set out on the Subscription as accessed through the Dashboard from time to time.

"Subscription" means a non-exclusive term license in respect of provisioning of the Products for the Subscription Period.

"Subscription Fee" means any such fee, in whichever currency payable, in respect of a Subscription as shall be set out in the Subscription management page as accessed through the Dashboard from time to time.

"Subscription Period" means such period as specified in relevant Subscription plan as accessed through the Dashboard or, if unspecified, one month.

"Prepaid Balance" means prepaid credits in Customer's Account. These credits are separate from any payments and balances related to Subscription Fee.

“Payment Method” means payment card bank transfer or any other payment method as set for the Customer by Amplespot.

"Partner" means an authorised reseller of the Products.

“GDPR” means 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.

1.2. Clause headings shall not affect the interpretation of this Agreement.

1.3. Words in the singular shall include the plural and vice versa.

1.4. A reference to one gender shall include a reference to the other genders.

1.5. A reference to any party shall include that party's personal representatives, successors or permitted assigns.

1.6. A reference to a statute, statutory provision or any subordinate legislation made under a statute is a reference to such statute, provision or subordinate legislation as in force at the date of this Agreement.

1.7. References to clauses and Appendices are to the clauses and Appendices of this Agreement.

1.8. Any phrase introduced by the terms including, include, in particular, or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. Products

2.1. Products Overview. Amplespot's Products are a suite of software-as-a-service solutions offered through a single platform. The Products are designed to enable the Customer to manage communications with Persons through the entire lifecycle of their relationship with the Customer and to provide a Dashboard for accessing and managing the Customer Data regarding those Persons. The Customer may import and export Customer Data between the Products and certain Third-Party Platforms through supported integrations and Amplespot API.

In addition, the Products can be employed to enable the Customer to provide access control and authentication for Persons who wish to utilize a wireless or wired connection that is provided by the Customer to access the Internet or other computer networks in Customer Properties and to collect usage, location, and other data from their Devices.

The Products also include Amlespot Code that can be deployed on Customer Equipment to enable management, data collection and control functions as well as to other Customer Properties to enable online data collection and messaging functionality.

2.2. Provision of Products. The Products are provided by Amlespot to the Customer on a subscription basis as set out in the Subscription that is accessible via the Dashboard.

2.3. Access to Products. The Customer may consume the Products solely for its own benefit and in accordance with this Agreement, the Specifications and any scope of use restrictions designated in the applicable Subscription. If the Customer is given API keys or passwords to access the Products on Amlespot's systems, the Customer will require that all Dashboard Users keep API keys, user ID and password information strictly confidential and not share such information with any unauthorized persons. User IDs are granted to the individual, named persons and may not be shared. If the Customer is accessing the Products using credentials provided by a third party (e.g., Google), then the Customer will comply with all applicable terms and conditions of such third party regarding provisioning and use of such credentials. The Customer will be responsible for any and all actions taken using the Customer's accounts and passwords.

If any Dashboard User who has access to a user ID is no longer an employee (or Contractor, as set forth below) of the Customer, then the Customer will immediately delete such user ID and otherwise terminate such Dashboard User's access to the Service.

The right to use the Products includes the right to deploy Amlespot Code on Customer Equipment in order to enable the use of the Products as further described below.

2.4. Deployment of Amlespot Code. Subject to all of the terms and conditions of this Agreement, Amlespot grants to Customer a limited, non-transferable, non-sublicensable, non-exclusive license during any applicable Subscription Period to copy the Amlespot Code in the form provided by Amlespot on Customer Properties solely to support Customer's use of the Products and otherwise in accordance with the Specifications and this Agreement. Customer must implement Amlespot Code on the Customer Properties in order to enable features of the Products. Customer will implement all Amlespot Code in strict accordance with the Specifications and other instructions provided by Amlespot. Customer acknowledges that any changes made to the Customer Properties after initial implementation of Amlespot Code may cause the Products to cease working or function improperly and that Amlespot will have no responsibility for the impact of any such Customer changes.

2.5. Contractors and Affiliates. Customer may permit its Contractors and its Affiliates' employees and Contractors to serve as Dashboard Users, provided Customer remains responsible for compliance by such individuals with all of the terms and conditions of this Agreement, and any use of the Products by such individuals is for the sole benefit of Customer.

2.6. General Restrictions. Customer will not (and will not permit any third party to): (a) rent, lease, provide access to or sublicense the Products to a third party; (b) reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to the Products, except to the extent expressly permitted by applicable law (and then only upon advance notice to Amlespot); (c) copy or modify the Products or any Specifications, or create any derivative work from any of the foregoing; (e) remove or obscure any proprietary or other notices contained in the Products (including without limitation (i) the "Powered by Amlespot" designation that may appear as part of the deployment of the Products on Customer Properties and (ii) notices on any reports or data printed from the Products); or (f) publicly disseminate information regarding the performance of the Products.

2.7. Amlespot APIs. If Amlespot makes access to any APIs available as part of the Products, Amlespot reserves the right to place limits on access to such APIs (e.g., limits on numbers of calls or requests). Further, Amlespot may monitor Customer's usage of such APIs and limit the number of calls or requests Customer may make if Amlespot believes that Customer's usage is in breach of this Agreement or may negatively affect the Products.

2.8. Trial Subscriptions. If Customer receives free access or a trial or evaluation subscription to the Products (a "**Trial Subscription**"), then Customer may use the Products in accordance with the terms and conditions of this Agreement for a period of thirty (30) days or such other period granted by Amlespot (the "**Trial Period**"). Trial Subscriptions are permitted solely for Customer's use to determine whether to purchase a paid subscription to the Products. Trial Subscriptions may not include all functionality and features accessible as part of a Paid Subscription. If Customer does not enter into a paid Subscription, this Agreement and Customer's right to access and use the Products will terminate at the end of the Trial Period.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, AMPLESPOT WILL HAVE NO WARRANTY, INDEMNITY, OR OTHER OBLIGATIONS WITH RESPECT TO TRIAL SUBSCRIPTIONS.

2.9 Modifications to Products. Amlespot shall have the right to change, suspend or discontinue any aspect of the Products at any time, without notice. If Amlespot makes a material change to the Products, Amlespot will inform Customer, provided that Customer has an active Subscription with Amlespot at the time of the announcement of such change.

3. Customer Data

3.1. Rights in Customer Data. As between the parties, the Customer will retain all rights, title and interest (including any and all intellectual property rights) in and to the Customer Data as provided to Amlespot or collected by use of Amlespot Products. Subject to the terms of this Agreement, Customer hereby grants to Amlespot a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, modify, create derivative works of and display the Customer Data solely to the extent necessary to provide the Products to the Customer.

3.2. Storage of Customer Data. Amplespot does not provide an archiving service. Amplespot agrees only that it will not intentionally delete any Customer Data from Products prior to termination of Customer's applicable Subscription Period. Amplespot expressly disclaims all other obligations with respect to storage.

3.3. Customer Obligations.

a) Compliance with Laws.

Customer agrees to comply with all applicable Laws in its use of the Products. Without limiting the generality of the foregoing, Customer will not engage in any unsolicited advertising, marketing, or other activities using the Products, including without limitation any activities that violate the Telephone Consumer Protection Act of 1991, CAN-SPAM Act of 2003 or any other anti-spam laws and regulations.

b) Social Media Data.

i. **FullContact; Opt-In.** The Products can employ third-party products provided by FullContact, Inc. ("**FullContact**") to enable the Customer to retrieve publicly-available information about Persons including without limitation social media information, profile information, gender, company, job titles, photos, physical addresses, and website URLs ("**Social Media Data**") based on Person's email addresses, phone numbers or other identification information (e.g., Facebook, Twitter, LinkedIn, Google) that Persons may provide in order to access the Products. FullContact uses Person's email addresses and phone numbers as described in its privacy policy, available at <https://www.fullcontact.com/privacy/>. The Customer can opt-in to have Person's email addresses and/or phone numbers sent to FullContact by contacting Amplespot support.

ii. **Restrictions.** Customer agrees not to use any Social Media Data and other data obtained via the Products for the purposes of cookie tracking, ad exchanges, ad networks, data brokerages, sending electronic communications (including email) in violation of applicable Law, or any other activity or purpose that may be identified as prohibited by Amplespot from time to time.

iii. **Disclosures.** Customer agrees to obtain all necessary clearances, consents and approvals from Persons in order to use Social Media Data and other Persons' data as required under all applicable Laws, including without limitation by disclosing in Customer's privacy policy information about the collection and use of Persons' email addresses as set forth in this Section.

3.4. Indemnification by Customer. Customer will indemnify, defend and hold harmless Amplespot from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim arising from or relating to any Customer Data or breach or alleged breach by Customer of

Section 3.3 (Customer Obligations). This indemnification obligation is subject to Customer receiving (i) prompt written notice of such claim (but in any event notice in sufficient time for Customer to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, or settlement of such claim; and (iii) all necessary cooperation of Amlespot at Customer's expense.

Notwithstanding the foregoing sentence, (a) Amlespot may participate in the defense of any claim by counsel of its own choosing, at its cost and expense and (b) Customer will not settle any claim without Amlespot's prior written consent, unless the settlement fully and unconditionally releases Amlespot and does not require Amlespot to pay any amount, take any action, or admit any liability.

3.5. Data Deletion. Amlespot will enable Customer and/or Persons to delete Customer Data during the applicable Term in a manner consistent with the functionality of the Products. If Customer or Person uses the Products to delete any Customer Data during the applicable Term, this will constitute an instruction to Amlespot to delete the relevant Customer Data from Amlespot's systems in accordance with applicable law. Amlespot will comply with this instruction as soon as reasonably practicable and within a maximum period of 180 days unless the Law requires longer storage.

4. Security and Compliance

4.1. All reasonable measures. Amlespot uses all commercially reasonable technical and organizational measures designed to prevent unauthorized access, use, alteration or disclosure of any Products or Customer Data. However, Amlespot will have no responsibility for errors in transmission, unauthorized third-party access or other causes beyond Amlespot's control.

4.2 Facilities and Data Transfer. All facilities used to store and process Customer Data will adhere to reasonable security standards no less protective than the security standards at facilities where Amlespot stores and processes its own information of a similar type. Amlespot has implemented at least industry standard systems and procedures to ensure the security and confidentiality of Customer Data, protect against anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access to or use of Customer Data. As part of providing the Products, Amlespot may transfer, store and process Customer Data in the countries where Amlespot or its agents maintain facilities. By using the Products, Customer consents to this transfer, processing and storage of Customer Data.

4.3. Choice of the country where data is stored. The customer can request that their Customer Data is stored in a specific country. When the feature is active, Amlespot will store Customer Data which belongs to that Customer's on servers based in the requested country, in addition to Amlespot's existing data centres. Depending on the Subscription, use of this feature may carry additional charges. The Customer will be contacted by Amlespot Support before this request is processed.

5. Third-Party Platforms

The Products may support integrations with certain Third-Party Platforms. In order for the Products to communicate with such Third-Party Platforms, Customer may be required to input credentials in order for the Products to access and receive relevant information from such Third-Party Platforms.

By enabling the use of the Products with any Third-Party Platform, Customer authorizes Amlespot to access Customer's accounts with such Third-Party Platform for the purposes described in this Agreement. The customer is solely responsible for complying with any relevant terms and conditions of the Third-Party Platforms and maintaining appropriate accounts in good standing with the providers of the Third-Party Platforms.

Customer acknowledges and agrees that Amlespot has no responsibility or liability for any Third-Party Platform or any Customer Data exported to a Third-Party Platform. Amlespot does not guarantee that the Products will maintain integrations with any Third-Party Platform and Amlespot may disable integrations of the Products with any Third-Party Platform at any time with or without notice to Customer.

6. Ownership

6.1. **Amlespot Technology.** This is a subscription agreement for access to and use of the Products. Customer acknowledges that it is obtaining only a limited right to the Products and that irrespective of any use of the words "purchase", "sale" or like terms in this Agreement no ownership rights are being conveyed to Customer under this Agreement. Customer agrees that Amlespot or its suppliers retain all right, title and interest (including all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Products and all Specifications and any and all related and underlying technology and documentation and any derivative works, modifications or improvements of any of the foregoing (collectively, "**Amlespot Technology**"). Except as expressly set forth in this Agreement, no rights in any Amlespot Technology are granted to Customer. Further, Customer acknowledges that the Products are offered as an online, hosted solution and that Customer has no right to obtain a copy of any of the Products, except for Amlespot Code in the format provided by Amlespot.

7. Fees, charges, payments and taxes

7.1. **Subscriptions and Renewals.** Unless specified otherwise, each Subscription will automatically renew for additional Subscription Period unless either party gives the other written notice of termination prior to the expiration of the then-current Subscription.

7.2. Partner Subscriptions. If you procure the Products via the Partner, then Sections 7.3 (Fees and Payment), 7.4 (Payment Via Payment Card), 7.5 (Invoice Payments) and 7.6 (Suspension of Service) does not apply to you. Your fees, payments and suspension of Products shall be covered by the agreement you signed with the Partner.

7.3. Fees and Payment. All fees are as set forth in the applicable Subscription and will be paid by Customer within thirty (30) days of invoice, unless (a) Customer is paying via Credit Card (as defined below) or (b) otherwise specified in the applicable Subscription. Except as expressly set forth in Section 9 (Limited Warranty) and Section 13 (Indemnification), all fees are non-refundable. The customer is responsible for paying all Taxes, and all Taxes are excluded from any fees set forth in the applicable Subscription. If Customer is required by Law to withhold any Taxes from Customer's payment, the fees payable by Customer will be increased as necessary so that after making any required withholdings, Amlespot receives and retains (free from any liability for payment of Taxes) an amount equal to the amount it would have received had no such withholdings been made. Any late payments may be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less.

7.4. Payment Via Payment Card. If you are purchasing the Products via credit card, debit card or other payment card ("**Payment Card**"), the following terms apply:

1. Recurring Billing Authorization. By providing Payment Card information and agreeing to purchase any Products, Customer hereby authorizes Amlespot (or its designee) to automatically charge Customer's Payment Card on the same date of each calendar month (or the closest prior date, if there are fewer days in a particular month) during the Subscription Period for all fees accrued as of that date (if any) in accordance with the applicable Subscription. Customer acknowledges and agrees that the amount billed and charged each month may vary depending on Customer's use of the Products and may include subscription fees for the remainder of Customer's applicable billing period and overage fees for the prior month.
2. Foreign Transaction Fees. Customer acknowledges that for certain Payment Cards, the issuer of Customer's Payment Card may charge a foreign transaction fee or other charges.
3. Invalid Payment. If a payment is not successfully settled due to expiration of a Payment Card, insufficient funds, or otherwise, the Customer remains responsible for any amounts not remitted to Amlespot and Amlespot may, in its sole discretion, either (i) invoice Customer directly for the deficient amount, (ii) continue billing the Payment Card once it has been updated by Customer (if applicable) or (iii) terminate this Agreement.
4. Changing Payment Card Information. At any time, Customer may change its Payment Card information by entering updated Payment Card information via the "Subscriptions"

page on the Dashboard.

5. **Termination of Recurring Billing.** In addition to any termination rights set forth in this Agreement, Customer may terminate the Subscription by sending Amplespot notice of non-renewal to support@amplespot.com or via the Dashboard in accordance with Section 7.1 (Subscriptions and Renewals). As set forth in Section 2.9 (Trial Subscriptions), if Customer does not enter into a paid Subscription following a Trial Period, this Agreement and Customer's right to access and use the Products will terminate at the end of the Trial Period and Customer's Payment Card will not be charged.
6. **Payment of Outstanding Fees.** Upon any termination or expiration of the Subscription, Amplespot will charge Customer's Payment Card (or invoice Customer directly) for any outstanding fees for Customer's use of the Products during the Subscription Period, after which Amplespot will not charge Customer's Payment Card for any additional fees.

7.5. Invoice Payments. If you are purchasing the Products by paying the invoices issued by Amplespot via bank transfer ("**Invoice Payments**"), the following terms apply:

1. **Variable Charges.** Customer acknowledges and agrees that the amount billed each month may vary depending on Customer's use of the Products and may include subscription fees for the remainder of Customer's applicable billing period and overage fees for the prior month.
2. **Transaction Fees.** Fees and charges may be applied by the banks and other institutions to the payments made by Customer to the Amplespot. Customer agrees that it is its sole responsibility to pay these fees and charges.
3. **Payment of Outstanding Fees.** Upon any termination or expiration of the Subscription, Amplespot will invoice the Customer for any outstanding fees for Customer's use of the Products during the Subscription Period, after which Amplespot will not invoice for any additional fees.

7.6. Suspension of Products. Unless specified otherwise, if Customer's account is seven (7) days or more overdue, in addition to any of its other rights or remedies (including but not limited to any termination rights set forth herein), Amplespot reserves the right to suspend Customer's access to the applicable Product (and any related products or/and services) without liability to Customer until such amounts are paid in full. Amplespot also reserves the right to suspend Customer's access to the Products without liability to Customer if Customer's use of the Products is in violation of the AUP.

7.7 Prepaid Balance will lapse if not used within one year after the purchase date. Amplespot is not obliged to refund any Prepaid Balance.

8. Term and Termination

8.1. **Term.** This Agreement is effective as of the Effective Date and expires on the date of expiration or termination of all Subscriptions.

8.2. **Termination for Cause.** Either party may terminate this Agreement (including all related Subscriptions) if the other party (a) fails to cure any material breach of this Agreement (including a failure to pay fees) within thirty (30) days after written notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter).

8.3. **Effect of Termination.** Upon any expiration or termination of this Agreement, Customer will immediately cease any and all use of and access to all Products (including any and all related Amplespot Technology) and delete (or, at Amplespot's request, return) any and all equipment which may have been provided to Customer by Amplespot, copies of the Specifications, any Amplespot's passwords or access codes and any other Amplespot Confidential Information and property in its possession. Customer may retain and use internally copies of all reports exported from any Products prior to termination. Customer acknowledges that following the termination it may have no further access to any Customer Data input into any Product and that Amplespot may delete any such data as may have been stored by Amplespot at any time. Except where an exclusive remedy is specified, the exercise of either party of any remedy under this Agreement, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law or otherwise.

8.4. **Survival.** The following Sections will survive any expiration or termination of this Agreement: 2.6 (General Restrictions), 2.8 (Trial Subscriptions), 3.2 (Storage of Customer Data), 3.4 (Indemnification by Customer), 6 (Ownership), 7.3 (Fees and Payment), 7.4 (Payment Via Payment Card), 7.5 (Invoice Payments), 8 (Term and Termination), 9.2 (Warranty Disclaimer), 12 (Limitation of Remedies and Damages), 13 (Indemnification), 14 (Confidential Information) and 16 (General Terms).

9. Limited Warranty

9.1. **Limited Warranty.** Amplespot warrants, for Customer's benefit only, that each Product will operate in substantial conformity with the applicable Specifications. Amplespot's sole liability (and Customer's sole and exclusive remedy) for any breach of this warranty will be, at no charge to Customer, for Amplespot to use commercially reasonable efforts to correct the reported non-conformity, or if Amplespot determines such remedy to be impracticable, either party may terminate the applicable Subscription and Customer will receive as its sole remedy a refund of any fees Customer has pre-paid for use of such Product for the terminated portion of the applicable Subscription Period. The limited warranty set forth in this Section 9.1 will not

apply: (i) unless Customer makes a claim within thirty (30) days of the date on which Customer first noticed the non-conformity, (ii) if the error was caused by misuse, unauthorized modifications or third-party hardware, software, products or services, or (iii) to use provided on a no-charge, trial or evaluation basis.

9.2. Warranty Disclaimer. EXCEPT FOR THE LIMITED WARRANTY IN SECTION 9.1, ALL PRODUCTS ARE PROVIDED "AS IS". NEITHER AMPLESPOT NOR ITS SUPPLIERS MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. Amplespot does not warrant that Customer's use of the Products will be uninterrupted or error-free, nor does Amplespot warrant that it will review the Customer Data for accuracy or that it will preserve or maintain the Customer Data without loss or corruption. AMPLESPOT SHALL NOT BE LIABLE FOR THE RESULTS OF ANY COMMUNICATIONS SENT OR ANY COMMUNICATIONS THAT WERE FAILED TO BE SENT USING THE PRODUCTS. AMPLESPOT SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, THIRD-PARTY PLATFORMS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF AMPLESPOT. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

10. Support

During the Subscription Period, Amplespot will provide the Customers with technical support in accordance with Amplespot's Support Policy available at <https://app.amplespot.com/legal/supportpolicy> or a successor URL ("**Support Policy**").

11. Availability

The Products are available subject to Amplespot's Service Level Agreement available at <https://app.amplespot.com/legal/sla> or a successor URL ("**SLA**").

12. Limitation of Remedies and Damages

12.1. Consequential Damages Waiver. EXCEPT FOR EXCLUDED CLAIMS (DEFINED BELOW), NEITHER PARTY (NOR ITS SUPPLIERS) SHALL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOSS OF USE, LOST DATA, LOST PROFITS, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

12.2. Liability Cap. AMPLESPOT'S AND ITS SUPPLIERS' ENTIRE LIABILITY TO CUSTOMER ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER TO AMPLESPOT DURING THE PRIOR SIX (6) MONTHS UNDER THIS AGREEMENT.

12.3. Excluded Claims. "Excluded Claims" means any claim arising (a) from Customer's breach of Section 2.6 (General Restrictions); (b) under Section 3.3 (Customer Obligations) or 3.4 (Indemnification by Customer); or (c) from a party's breach of its obligations in Section 14 (Confidential Information) (but excluding claims arising from operation or non-operation of any Product).

12.4. Nature of Claims and Failure of Essential Purpose. The parties agree that the waivers and limitations specified in this Section 12 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

13. Indemnification

Amplespot will defend Customer from and against any claim by a third party alleging that a Product when used as authorized under this Agreement infringes a UK patent, UK copyright, or UK trademark and will indemnify and hold harmless Customer from and against any damages and costs finally awarded against Customer or agreed in settlement by Amplespot (including reasonable attorneys' fees) resulting from such claim, provided that Amplespot will have received from Customer: (i) prompt written notice of such claim (but in any event notice in sufficient time for Amplespot to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense and settlement (if applicable) of such claim; and (iii) all reasonable necessary cooperation of Customer. If Customer's use of a Product is (or in Amplespot's opinion is likely to be) enjoined, if required by settlement or if Amplespot determines such actions are reasonably necessary to avoid material liability, Amplespot may, in its sole discretion: (a) substitute substantially functionally similar products or services; (b) procure for Customer the right to continue using such Product; or if (a) and (b) are not commercially reasonable, (c) terminate this Agreement and refund to Customer the fees paid by Customer for the portion of the Subscription Period that was paid by Customer but not rendered by Amplespot. The foregoing indemnification obligation of Amplespot will not apply: (1) if such Product is modified by any party other than Amplespot, but solely to the extent the alleged infringement is caused by such modification; (2) if such Product is combined with products or processes not provided by Amplespot, but solely to the extent the alleged infringement is caused by such combination; (3) to any unauthorized use of such Product; (4) to any action arising as a result of Customer Data or any third-party deliverables or components contained within such Product; (5) to the extent the alleged infringement is not caused by the particular technology or implementation of the Product but instead by features common to any similar product or service; or (6) if Customer settles or makes any admissions with respect to a claim without Amplespot's prior written consent. THIS SECTION 13 SETS FORTH AMPLESPOT'S

AND ITS SUPPLIER'S' SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

14. Confidential Information

Each party (as "**Receiving Party**") agrees that all code, inventions, know-how, business, technical and financial information it obtains from the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure.

Any Amlespot Technology, performance information relating to any Product, and the terms and conditions of this Agreement will be deemed Confidential Information of Amlespot without any marking or further designation. Except as expressly authorized herein, the Receiving Party will (1) hold in confidence and not disclose any Confidential Information to third parties and (2) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under this Agreement.

The Receiving Party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know (including, for Amlespot, the subcontractors referenced in Section 16.7 (Subcontractors)), provided that such representatives are bound to confidentiality obligations no less protective of the Disclosing Party than this Section 14 and that the Receiving Party remains responsible for compliance by any such representative with the terms of this Section 14.

The Receiving Party's confidentiality obligations will not apply to information that the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information.

The Receiving Party may make disclosures to the extent required by law or court order, provided the Receiving Party notifies the Disclosing Party in advance and cooperates in any effort to obtain confidential treatment. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

15. Co-Marketing

At the request of Amlespot, Customer agrees to the issuance of a joint press release ("**Press Release**") on a mutually agreed upon date or the 90th day from the Effective Date, whichever is earlier. Each party will have the right to approve the Press Release in advance, but such approval will not be unreasonably delayed or withheld. The customer also agrees to participate in other reasonable marketing activities that promote the benefits of the Products to other potential customers and to use of Customer's name and logo on Amlespot's web site and in Amlespot promotional materials. Customer agrees that Amlespot may disclose Customer as a customer of Amlespot.

16. General Terms

16.1. **Assignment.** This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign this Agreement without the advance written consent of the other party, except that either party may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such party's assets or voting securities. Any attempt to transfer or assign this Agreement except as expressly authorized under this Section 16.1 will be null and void.

16.2. **Severability.** If any provision of this Agreement will be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect.

16.3. Governing Law and Dispute Resolution.

a) Direct Dispute Resolution. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, whether arising in contract, tort or otherwise, ("**Dispute**"), the parties shall first use their best efforts to resolve the Dispute. If a Dispute arises, the complaining party shall provide written notice to the other party in a document specifically entitled "Initial Notice of Dispute" specifically setting forth the precise nature of the dispute ("**Initial Notice of Dispute**"). If an Initial Notice of Dispute is being sent to Amlespot it must be emailed to legal@amplespot.com and sent via mail to:

Attn: Legal
Ampletime Ltd
2a Charing Cross Road
London, England
WC2H 0HH, United Kingdom

Following receipt of the Initial Notice of Dispute, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution of the Dispute that is satisfactory to both parties ("**Direct Dispute Resolution**"). If the parties are unable to reach a resolution of the Dispute through Direct Dispute Resolution within thirty (30) days of the receipt of the Initial Notice of Dispute, then the Dispute shall subsequently be resolved as set forth below.

b) Governing Law and Jurisdiction. Customer agrees that any claim which is now subject to the dispute resolution as set out in this section 16.3 will be governed by and construed in accordance with the laws of England and Wales. By using Amlespot Products Customer irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Products (including non-contractual disputes or claims).

16.4. **Amendments and Waivers**. Except as otherwise provided herein, no supplement, modification, or amendment of this Agreement will be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in writing signed by a duly authorized representative on behalf of the party claimed to have waived. No provision of any purchase order or other business form employed by Customer will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement will be for administrative purposes only and will have no legal effect.

16.5. **Entire Agreement**. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. Customer acknowledges that the Products are online, subscription-based products and that in order to provide improved customer experience Amlespot may make changes to the Products, and Amlespot will update the applicable Specifications accordingly. The support and service level availability terms described in the Support Policy and the SLA may be updated from time to time upon reasonable notice to Customer to reflect process improvements or changing practices (but the modifications will not materially decrease Amlespot's obligations as compared to those reflected in such terms as of the Effective Date).

16.6. **Force Majeure**. Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events that occur after the signing of this Agreement and that are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services, or refusal of a license by a government agency.

16.7. **Subcontractors.** Amplespot may use the services of subcontractors and permit them to exercise the rights granted to Amplespot in order to provide the Products under this Agreement, provided that Amplespot remains responsible for (i) compliance of any such subcontractor with the terms of this Agreement and (ii) for the overall performance of the Products as required under this Agreement.

16.8. **Summons.** Nothing in this Agreement prevents Amplespot from disclosing Customer Data to the extent required by law or court orders, but Amplespot will use commercially reasonable efforts to notify Customer where permitted to do so.

16.9. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will be considered one and the same agreement.

17. Privacy Policy

Amplespot Privacy Policy which outlines how we store and process our Customers data is available at <https://app.amplespot.com/legal/privacypolicy> or a successor URL ("**Privacy Policy**").

Signatures

AMPLESPOT	CUSTOMER
Name:	Name:
Title:	Title:
Date:	Date:
Signed:	Signed: