

## Amperity Terms of Service

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These Amperity Terms of Service (“**Chuck Terms**”) are entered into as an agreement between you and Amperity, Inc. (“**Amperity**”) and govern your use of and access to, and Amperity’s provision of, any services, products or functionality that may be made available to you by Amperity at no charge or on a fully discounted, free basis (“**Chuck Services**”). These Chuck Terms consist of: (1) the terms and conditions set forth below and any documents referenced in these terms and conditions, (2) any terms and conditions set forth in an ordering document, online order or other sign-up or registration process that Amperity enables specifying the Chuck Services to be provided by Amperity and any documents referenced therein (“**Order**”).

If you are accepting these Chuck Terms using an email address or by providing other information from an organization or entity: (a) you will be deemed to represent that party, (b) your acceptance of these Chuck Terms will bind such organization or entity to these Chuck Terms, (c) you represent and warrant that you have authority and have obtained all necessary rights, consents and authorizations to agree to these Chuck Terms on behalf of such organization or entity, (d) the rights granted to you are expressly conditioned upon such representation and warranty being true, and (d) the word “**you**” or “**Customer**” in these Chuck Terms will refer to such organization or entity. Otherwise, “**you**” refers to the individual who is accessing or using the Chuck Service in their individual capacity.

BY INDICATING YOUR ACCEPTANCE TO THESE CHUCK TERMS (SUCH AS BY CHECKING A BOX WHICH INDICATES YOUR ACCEPTANCE TO THESE CHUCK TERMS, WHICH MAY BE HYPERLINKED) OR ACCESSING OR USING ANY CHUCK SERVICE, YOU AGREE TO BE BOUND BY THESE CHUCK TERMS. IF YOU DO NOT AGREE TO THESE CHUCK TERMS, YOU SHOULD NOT ACCESS OR USE ANY CHUCK SERVICE.

### 1. DEFINITIONS

“**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.

“**Aggregate Data**” means 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 Chuck Services, in all cases that does not personally identify Customer or its Affiliates or their customers or Users.

“**Agreement**” means any Order terms, these Chuck Terms, the then current version of the Amperity Service Description Guide, and documents or Documentation referenced in the foregoing.

“**Amperity’s Acceptable Use Policy**” means the terms currently located at <https://amperity.com/amperity-acceptable-use-policy> and may be updated by Amperity from time to time, and is incorporated into these Chuck Terms by reference.

“**Amperity Data**” means 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 Chuck Services, excluding Customer Input Data.

“**Amperity Data Processing Addendum to the Terms**” or “**DPA**” means the terms currently located at <https://chuckai.amperity.com/dpa.pdf> and may be updated by Amperity from time to time, and is incorporated into these Chuck Terms by reference

“**Amperity Property**” means (a) the Chuck 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 Chuck Services; (b) Amperity Data; (c) the Amperity name, all Amperity logos, and the product names associated with the Chuck Services; (d) any modification, configuration or derivative of any of the foregoing; and (e) any intellectual property rights embodied in any of the foregoing.

“**Customer Data**” means: (a) Customer Input Data, and (b) data derived from the Customer Input Data and processed or reformatted by and output from the Chuck Services, excluding any component of the Chuck Services, Amperity Data or Amperity’s Confidential Information.

“**Customer Input 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 Chuck Services.

“**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 Chuck Services and is generally made available to Customer through the Chuck Services as updated from time to time accordance with these Chuck Terms, excluding any third-party content and content published in user forums posted on such website and content related to any future functionality or features.

“**Effective Date**” means the date on which the earlier of the following occurs: (a) the date you accept these Chuck Terms, or (b) the date you access or use any Chuck Service.

“**Representatives**” means directors, officers, employees, outside consultants, advisors or in the case of Amperity to its independent contractors or subcontractors.

“**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 Chuck 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 Chuck Services.

## 2. CHUCK SERVICES

- 2.1. **Chuck Services.** Subject to the terms of these Chuck Terms, Amperity shall make available to Customer the Chuck Services ordered by Customer in the Order during the Chuck Period. The “**Chuck Period**” means the period commencing on the date Amperity gives Customer access to the Chuck Services and ending upon the end of the Chuck term specified in the Order or until terminated, including if either Party terminates the Chuck Services or if the Chuck Services are otherwise terminated pursuant to these Chuck Terms.
- 2.2. **Existing or Prior Customers.** To be eligible to receive the Chuck Services, you must not be an existing Amperity customer or have previously received any Amperity products or services prior to the Effective Date. If you are a current customer of Amperity’s paid version of the Chuck Services, your existing agreement, not these Chuck Terms, will continue to apply.
- 2.3. **Eligibility.** You represent and warrant that you are, and you shall ensure that any person using or accessing the Chuck Services is at least the age of 18 or the age of legal majority where they reside if such age is higher than 18. You shall ensure that any information provided to Amperity in connection with obtaining access to any Chuck Service is complete, truthful and accurate. Without limiting the foregoing, you shall not create more than one account. At the end of the Chuck Period, you will no longer have access to the Chuck Services, and any new subscription to Amperity’s services will be governed by separate terms and conditions. You may not sign up for an additional Chuck Service during the Chuck Period. After the Chuck Period, you may not sign up or attempt to sign up for another Chuck Service without Amperity’s prior written consent. Any breach of this Section 2.3 by you will be considered a breach of these Chuck Terms by you and a violation of Amperity’s intellectual property rights.
- 2.4. **Breach of Chuck Services Terms.** You represent and warrant that you are eligible to receive the Chuck Services based on the criteria and requirements set forth in Section 2.2 and 2.3. At any time after the Effective Date, including after Amperity has provided Customer with access to the Chuck Services, Amperity may determine that Customer is not eligible to receive the Chuck Services or has breached these Chuck Terms (such determination to be made in Amperity’s sole and absolute discretion), in which case, without limiting any rights or remedies of Amperity, Amperity may immediately end Customer’s access to the Chuck Services (or if no access has been given yet, then not provide Customer with access to the Chuck Services at all), and upon notice to Customer from Amperity, these Chuck Terms and the Chuck Period will immediately terminate.
- 2.5. **Switching to Paid Version.** If you decide to obtain from Amperity a paid version of the Chuck Services, then such paid version shall be governed by a separate agreement between you and Amperity. You acknowledge and agree that the paid version of the Chuck Services may not be identical to the Chuck Services. For example, Usage Limits (as defined in Section 4.5), technical services and support, Amperity Data and certain features and functionality of the paid version of the Chuck Services may be different to the Chuck Services. It is your responsibility to review such details before signing up to a paid version of the Chuck Services.

### 3. USAGE RIGHTS; OWNERSHIP

- 3.1. Grant of Rights. Subject to the terms of these Chuck Terms, Amperity hereby grants to Customer, solely during the Chuck Period, a non-exclusive, non-transferable worldwide right to access and use the Chuck Services and Amperity Data, for the sole purpose of Customer's internal evaluation of the Chuck Services in determining whether to procure a paid version of the Chuck Services ("**Permitted Purpose**"). Customer hereby grants to Amperity during the Chuck Period or if Customer signs up for a paid version of the Amperity Services then during the relevant subscription term, a worldwide, non-exclusive, non-transferable royalty-free right to host, access, use, display, transmit, distribute and otherwise use Customer Data to: (a) provide the Chuck Services pursuant to the Chuck Terms; (b) maintain, develop, support and improve the Chuck Services; (c) fulfill Amperity's obligations under the Chuck Terms; (d) exercise and enforce its rights under the Chuck Terms, including, without limitation, under Section 10.2; and (e) comply with all applicable laws.
- 3.2. Ownership. As between the Parties, 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 Chuck Terms. 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 Amperity Property. Except as otherwise expressly authorized herein or by Amperity in writing, the non-exclusive use rights set forth in the Chuck Terms 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 Chuck Terms. Customer shall not remove any Amperity trademark, logo, or other mark or identifier from the Chuck 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.

### 4. CUSTOMER OBLIGATIONS AND RESTRICTIONS

- 4.1. Customer Data and Network Performance. Customer is solely responsible for the accuracy and content of all Customer Data and entering Customer Data into the Chuck 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 (including, without limitation, any exports, restrictions, national security controls and regulations), to grant the rights to Amperity with respect to such Customer Data under the Chuck Terms and to enable Amperity to use and process such Customer Data as contemplated under the Chuck Terms; and (b) that Customer Data, and Amperity's use or other processing of such Customer Data in accordance with the terms of the Chuck Terms, 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 include, without limitation, raw credit, bank card information or other regulated cardholder data pertaining to any individuals or any regulated patient, medical or other protected health information (including as defined under Health Insurance Portability and Accountability Act, as amended and supplemented ("**Restricted Data**"). Amperity will have no liability under the Chuck Terms relating to Restricted Data that is processed in violation of the foregoing sentence. Customer is responsible for procuring and maintaining the network connections that connect Customer to the Chuck Services.
- 4.2. DPA. The parties agree to comply with the DPA, which is incorporated by reference and forms part of these Chuck Terms.
- 4.3. Authorized Users; Use of Chuck 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 Chuck Services. Customer shall ensure that: (a) only authorized Users are permitted to use the Chuck Services; (b) its and its Users' use of the Chuck Services comply with all applicable laws, the Chuck Terms, and the Documentation; (c) it and its Users comply with Amperity's Acceptable Use Policy; and (c) it otherwise takes all commercially reasonable steps to protect the Chuck Services and the Documentation from unauthorized use and/or access. Amperity shall not be responsible or liable for any deletion, correction, damage, destruction, or loss of Customer Data that does not arise from a breach of its security obligations under these Chuck Terms, including but not limited to any disclosure of Customer Data by Customer or its Users.
- 4.4. Third-Party Applications. The Chuck Services may interact with, and access Customer's and Third-Party Applications and related information used by Customer in connection with the Chuck 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 Chuck Services as necessary to use the Chuck Services as contemplated in the Chuck Terms, 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 Chuck Services to a Third-Party Application or other location, such transfer constitutes a distribution by Customer and not by Amperity.
- 4.5. Usage Limits. Customer acknowledges that access to and use of the Chuck Services is limited by usage, compute, storage and volume limits and metrics set forth in the applicable Order ("**Usage Limits**"). Amperity may monitor use of the Chuck Services to verify Customer's compliance with the Usage Limits. Whether Customer has exceeded the Usage Limits will be determined by Amperity in its sole discretion. Amperity may terminate Customer's access to the Chuck Service upon Customer's use in excess of any Usage Limits.

## 5. CONFIDENTIALITY

- 5.1. **Confidential Information.** During the term of the Chuck Terms, each Party (a **"Disclosing Party"**) may disclose its confidential and proprietary information to the other party (a **"Receiving Party"**). **"Confidential Information"** of the Disclosing Party, means information disclosed by the Disclosing Party to the Receiving Party under the Chuck Terms 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 (excluding the Amperity name, all Amperity logos, and the product names associated with the Chuck Services to the extent they are public) is the Confidential Information of Amperity, and Customer Data is the Confidential Information of Customer.
- 5.2. **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 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 5. 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 Chuck Terms. 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 or access the Chuck Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes, and shall not publicly post any analysis or reviews of the Chuck Services without Amperity's prior written approval.
- 5.3. **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 in connection with any present or future product or service, or reports about any errors, problems, or defects in provided by Customer (**"Feedback"**) (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.
- 5.4. **Injunctive Relief.** Notwithstanding any other provision of the Chuck Terms, both Parties acknowledge that any disclosure or use of the Disclosing Party's Confidential Information in a manner inconsistent with the provisions of the Chuck Terms 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.
- 5.5. **Prior Agreements.** This Section 5 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.

## 6. WARRANTIES

- 6.1. No Warranty. NEITHER AMPERITY NOR ANY AMPERITY SUBCONTRACTORS REPRESENT THAT AMPERITY WILL BE ABLE TO CORRECT ALL REPORTED DEFECTS OR ERRORS OR THAT THE CHUCK SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE CHUCK SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. AMPERITY MAKES NO WARRANTY REGARDING THE FEATURES OR SERVICES PROVIDED BY THIRD PARTIES. TO THE FULLEST EXTENT PERMITTED BY LAW, THE CHUCK SERVICES AND AMPERITY DATA ARE PROVIDED ON AN-IS AND AS-AVAILABLE BASIS, AND AMPERITY DISCLAIMS ALL WARRANTIES, GUARANTEES, INDEMNITIES AND SERVICE LEVELS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THOSE OF DATA SECURITY, MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, QUALITY, AVAILABILITY, TITLE, ACCURACY, COMPLETENESS OR CURRENCY APPLICABLE TO THE CHUCK 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 THAT THE CHUCK SERVICES WILL BE AVAILABLE FOR CUSTOMER AFTER THE CHUCK PERIOD, OR ANY ORAL OR WRITTEN PUBLIC COMMENTS OR ADVERTISING OF AMPERITY REGARDING AMPERITY PRODUCTS OR SERVICES, THE CHUCK SERVICES OR FUTURE FUNCTIONALITY OR FEATURES.

## 7. LIMITATION OF LIABILITY.

- 7.1. 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 8, 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 Chuck Terms), 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 Chuck Terms, even if it is aware of the possibility of the occurrence of such damages.
- 7.2. Limitation of Liability. Except for Customer's liability arising from use of the Chuck Services in breach of these Chuck Terms (which shall not be limited or excluded), to the extent the liability of a Party cannot be limited under applicable law or for a Party's liability under Section 8, the total cumulative liability of a Party to the other Party for any and all claims and damages arising under the Chuck Terms, whether by statute, strict liability, contract, tort or otherwise, will not exceed USD \$100.
- 7.3. Essential Bargain. Each Party acknowledges and agrees that this Section 7 is a fundamental basis of the bargain and a reasonable allocation of risk between the Parties. The pricing set forth in the Order Form reflects this allocation of risk and the limitation of liability specified in these Chuck Terms.

## 8. INDEMNIFICATION

- 8.1. Customer Indemnification. 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 4 or Section 5 above; or (c) arising out of or attributable to Customer’s misuse of the Chuck 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.
- 8.2. Indemnification Procedure. Amperity will: (a) promptly notifying Customer in writing of any claim, suit or proceeding for which indemnity is claimed under Section 8.1, provided that failure to so notify will not remove Customer’s obligation except to the extent it is prejudiced thereby; (b) allow Customer to solely control the defense of any claim, suit or proceeding and all negotiations for settlement, provided that Customer shall not settle any claim that requires Amperity to admit fault or subjects Amperity to ongoing obligations without Amperity’s prior written consent (such consent not to be unreasonably withheld or delayed); and (c) give Customer reasonable assistance in the defense and settlement of any claim, suit or proceeding for which indemnity is claimed under Section 8.1.

## 9. TERM, TERMINATION AND SUSPENSION

- 9.1. Term. These Chuck Terms will commence on the Effective Date and will continue until the earlier of termination of the Chuck Terms under Section 9.2 or elsewhere in these Chuck Terms or expiration or termination of the Chuck Period.
- 9.2. Termination. Customer may terminate the Chuck Terms or Chuck Period at any time and for any reason upon written notice to Amperity. Amperity may terminate the Chuck Terms or Chuck Period at any time and for any reason, upon written notice to Customer. The Chuck Terms and Chuck Period will immediately terminate upon the commencement of any subscription purchased by Customer of any Amperity products or services.
- 9.3. Effect of Termination. Termination of these Chuck Terms shall automatically terminate the Chuck Period. Upon any termination or expiration of the Chuck Period, Amperity shall no longer provide the Chuck Services to Customer, and Customer shall promptly cease and cause its Users to promptly cease using the Chuck Services. Termination of the Chuck Period by Amperity shall not prejudice any rights or remedies available to Amperity for any breach of these Chuck Terms by Customer. Sections 1, 2.5, 3.2, 4.1, 5, 6, 7, 8, 9 and 10 of these Chuck Terms shall survive the termination or expiry of the Chuck Period for any reason.
- 9.4. Retrieval of Customer Data Upon Termination. Within thirty (30) days following termination or expiration of the Chuck Period, Customer may retrieve Customer Data in accordance with established and reasonable system access procedures. In the event Customer purchases a subscription to a paid version of the Chuck Services during such 30-day period, Amperity may retain some or all Customer Data to enable Customer to access such Customer as part of its paid subscription. After such 30-day period, unless otherwise stated in a separate agreement between the Parties governing Customer’s purchase of a subscription to a paid version of the Chuck Services, Amperity shall have no further obligation to store or make available Customer Data to Customer and will delete such Customer Data, and upon Customer’s written request, Amperity will provide Customer with Amperity’s confirmation of Customer Data deletion.
- 9.5. Suspension. In addition to its other rights or remedies available to Amperity, Amperity reserves the right to suspend use of the Chuck Services for any reason, including, without limitation, if: (a) Amperity deems such suspension necessary as a result of Customer’s breach of its obligations under Section 4; (b) 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 (c) as required by law or at the request of governmental entities.

## 10. GENERAL

- 10.1. **Entire Agreement.** The Chuck Terms constitute the, complete and exclusive agreement between the parties related to the subject matter of the Chuck Terms and supersede, terminate and extinguish 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 Chuck Terms. Any amendments, additions, or modifications to the terms of the Chuck Terms must be set forth in a written document signed by both Parties. Other than as expressly set forth in the Chuck Terms, each Party acknowledges that, in entering into the Chuck Terms, 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 Chuck Terms or not), whether written, oral or otherwise, and whether made by or on behalf of the Parties prior to the date of these Chuck Terms. 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 Chuck Terms is held prior to be illegal, invalid, or unenforceable, the provision will be enforced to the maximum extent permissible to affect the original intent of the parties, and the remaining provisions of the Chuck Terms 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 10.1 operates to limit or exclude any liability for fraud or fraudulent misrepresentation.
- 10.2. **Feedback.** 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 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.
- 10.3. **Assignment.** The Chuck Terms shall be binding upon and for the benefit of Amperity, Customer, and their respective permitted successors and assigns. Except as expressly stated in the Chuck Terms, neither Party may otherwise assign its rights or delegate its duties under the Chuck Terms 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 Chuck Services under the Chuck Terms.
- 10.4. **Governing Law; Claims Limitation.** The Chuck Terms 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 for the purpose of adjudicating any action or proceeding to enforce the term of the Chuck Terms. 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 Chuck Terms. Either Party must initiate a cause of action for any claim(s) relating to the Chuck Terms and their 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).
- 10.5. **Disputes.** Any disputes between the Parties arising out of the Chuck Terms 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.
- 10.6. **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.
- 10.7. **Notices.** All notices will be in writing and given when delivered to the address set forth in the Order as to Customer (email is sufficient) and to Amperity at 1201 2nd Ave, Suite 1000, Seattle, WA 98101. Notices from Amperity to Customer may also be in the form of an electronic notice to Customer's authorized representative or administrator designated in the Order.
- 10.8. **Modifications to Chuck Services.** Notwithstanding any other provision under the Chuck Terms, Amperity may make modifications to the Chuck Services or a particular component of the Chuck Services, Documentation, and the Service Description Guide from time to time, provided that such modifications to the Chuck Services do not materially degrade any key functionality of the Chuck 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 Chuck Services can also be provided within the Chuck Services or made available via the Support.
- 10.9. **Headings; Interpretation.** The headings to the sections of the Chuck Terms are for ease of reference only and shall not affect the interpretation or construction of the Chuck Terms. The Chuck Terms 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 Chuck Terms.

- 10.10. Relationship of the Parties. The relationship between Amperity and Customer is that of an independent contractor, and nothing in the Chuck Terms 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.
- 10.11. No Third-Party Beneficiaries. Nothing contained in the Chuck Terms 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.
- 10.12. Waiver and Severability. Performance of any obligation required by a Party under the Chuck Terms 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 Chuck Terms will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of the Chuck Terms will not affect the validity or enforceability of any of the other provisions of the Chuck Terms, and the Chuck Terms will be construed in all respects as if such invalid or unenforceable provision(s) were omitted.