



## GENERAL TERMS AND CONDITIONS

30 April 2025

### 1. Who we are and how this Agreement applies

- 1.1. Spade.Fit Limited with a principal place of business at 137 Bexleyheath, England, DA6 7EZ, United Kingdom and registered company number 15570352 (“Us”, “We”, “Our” or “Spade”) makes certain services, features, content, websites (or other linked pages) or applications available to you, from time to time, collectively referred to as the “Data” or “Services”.
- 1.2. This Agreement shall apply to the Services whether you purchased a membership or received a membership through a third party, including from an authorised third-party retailer or marketplace. These Terms and Conditions apply to both paid and/or free trial versions of the application (“App”).
- 1.3. “You”, “Your” or “Customer” refer to the person accessing or using the Services, or if you create an account on behalf of an employer, company, organisation, or other entity, then (i) all references to “you” in this Agreement includes you and that entity, and (ii) you represent and warrant that you are an authorised representative of the entity with the authority to bind the entity to this Agreement, and that you agree to this Agreement on the entity’s behalf.
- 1.4. By accessing and using the Service in any manner, you acknowledge that you have read, understood, and agree to be bound by this Agreement. If you do not accept and agree to be legally bound by this Agreement, you are not authorised to use the Services. Spade may modify this Agreement at any time and such modification will be effective upon posting such modifications to the Services. If a change is material, you may terminate this Agreement and request a pro-rated refund of Membership Fees by contacting us [here](#) within 30 days of the posting of such material change (otherwise you waive your ability to seek a refund). By continuing to access or use the Services after such modification, you are agreeing to be legally bound by the modified Agreement.

### 2. Registration.

- 2.1. You must pay a subscription fee and open an account to obtain a Membership. In order to use a Membership, you must subscribe, pay any applicable subscription fees (“Membership Fees”) as and when due, and create an account (“Account”). You agree to provide true, accurate and complete information and keep your Account information current and updated. You shall not select or use as a username (i) a name of another person with the intent to impersonate that person; (ii) a name subject to any rights of a person other than yourself without appropriate authorisation or

(iii) a name that is obscene, hateful, racially or ethnically offensive, or is otherwise inappropriate.

- 2.2. You are solely responsible for any and all activities that occur under your Account. You must keep Your Account password and details confidential and secure, You are not permitted to share or use another person’s Account or registration information in order to access the Services. You may not publish, distribute or post login information for your Account. You agree to notify Spade immediately of any breach of security or unauthorised use of Your Account or password.
- 2.3. The Services are provided to you for personal use only and may not be used in connection with any commercial activities except those that are expressly approved by Spade in advance in writing.
- 2.4. You represent and warrant that you are at least 13 years of age or as mandated by the law of your local jurisdiction, provided that if you are under the legal age to form a binding contract in your jurisdiction, your use of the Services is subject to requirements of parental consent, in which case (i) your supervising parent or legal guardian is considered the user under this Agreement and is responsible for any and all activity; and (ii) you represent that your parent or legal guardian has reviewed and agreed to this Agreement and the Privacy Policy. If you are under age 13 or the age mandated by the law of your local jurisdiction, you may not, under any circumstances or for any reason, use the Services. We may, in our sole discretion, refuse to offer the Services to any person or entity and change its eligibility criteria at any time.
- 2.5. In some countries, Spade may set a higher age limit, such as 18 years of age, to set up an Account.
- 2.6. You are not permitted to access the Services where this Agreement or use of the Services is prohibited or to the extent offering, sale or provision of the Services conflicts with any applicable law, rule or regulation.

### 3. Data Products and Services

- 3.1. Spade software, text, graphics, images, video, audio, data, and other technology and material are made available to you through the Services (collectively referred to as the “Content”). The Content includes proprietary and third-party advanced technologies, such as artificial intelligence, machine learning systems, and similar technology and features (together, “AI Technology”), this may include third party large language models (“LLM”).
- 3.2. Subject to this Agreement and your active and valid Membership, Spade grants to You a non-exclusive, non-transferable, limited and

revocable, worldwide licence to use the Services solely for the Customer's own personal use until termination or expiry of this right under this Agreement (the "**Licence**"). You shall ensure that the Services may only be accessed and used by authorised users on Your owned or controlled system, in accordance with the Licence terms herein, and as otherwise expressly permitted by Spade in writing.

- 3.3. This Licence is granted for the membership term ("**Initial Term**"). The Membership will **automatically renew for successive periods consisting of the same period as the initial Term** (e.g., monthly, annually, or bi-annually depending on your Membership), unless either party cancels the subscription upon 30 days from receipt of notice to the other party ("**Cancellation Notice**"). Where You have chosen to prepay for a 1 Year subscription and cancel during the then-current Term, You will not be eligible for a refund of any pro-rated amounts for the remaining term.
- 3.4. Spade shall provide to You a licence to use the Services in accordance with the terms and conditions of this Agreement. From time to time, Spade may add, delete, or alter data, design, navigation, or other content related to the Service or may change the form in which or the means by which the Service is accessed by You (in particular to make changes in the maintenance hours and user identification procedures). Spade may modify any Service on reasonable prior written notice to Customer, where such modification is imposed on Spade by industry rules or standards or applicable laws or regulations, international or domestic; to discontinue any feature or component or content, provided that the Services generally allow you to track your recovery, sleep, and strain, and provide fitness insights and coaching, or; to make technical adjustments and improvements, for example to address a security threat.
- 3.5. The Services permit access to content, recommendations, and data posted, stored, or displayed at the direction of users of the Services, for which we cannot accept any responsibility or liability. The Services also include access to, links to, and content, recommendations, and data from third-party websites, products and services ("**External Services**"). The External Services may include AI Technology, including LLM. These External Services are provided solely as a convenience to you, are not an endorsement by us of the content, recommendations, and data on or made available through such External Services, and may be subject to separate legal terms and conditions between you and third parties. The content, recommendations, and data of such External Services are developed and provided by others.
- 3.6. The following activities are expressly prohibited: (i) collecting usernames and/or email addresses of other users by electronic or other means for the purpose of sending unsolicited email or other communications; (ii) any use of the Services which may harm or degrade the reliability, speed,

or operation of the Services or any underlying hardware or software including, for example by introducing malware, hacking or bypassing our security; (iii) use of web scraping, web harvesting, or web data extraction methods from Spade Services even if the Account owner gives permission; (iv) reverse engineering the Services or any underlying software, except to the extent this restriction is prohibited by applicable law, (v) any use of the Services which is unlawful or in violation of this Agreement.

- 3.7. Use of your Membership is dependent upon a supported device, supported mobile device and internet access. It is your responsibility to ensure access to the internet and functionality of your mobile device. You are responsible for all internet access charges. Please check with your internet provider for information on possible internet data usage charges.

#### 4. Payment

- 4.1. By choosing a recurring payment plan, you acknowledge that such Membership Fees have an initial payment ("**Initial Membership Fee**") (unless you sign up for a Free Trial as described in Section 7 below) and recurring payment feature. You authorise Spade.Fit Limited to charge your credit card (or other payment form) for the Membership Fee and at the beginning of each subsequent billing period according to your subscription terms as described to you in the process of obtaining your Membership (e.g., monthly, annually, or biannually depending on your Membership) until you cancel your Membership.
- 4.2. You agree to pay the Membership Fees as described in this Agreement and during the purchase and payment process, including without limitation, the non-refundable Initial Membership Fee (as described above). Any payment terms presented to you in the process of obtaining your Membership are deemed part of this Agreement and are incorporated into this Agreement by reference. Unless otherwise stated, all Membership Fees are non-refundable, even if you stop using the Services.
- 4.3. Spade may collect payments from you directly or we may use a third-party payment processor ("**Payment Processor**") to bill you through a payment account linked to your Account on the Services (your "**Billing Account**") for your Membership. The processing of payments by a Payment Processor will be subject to the terms, conditions and privacy policies of the Payment Processor in addition to this Agreement. We are not responsible for any errors by a Payment Processor. By choosing to purchase a Membership, you agree to pay us, either directly or through a Payment Processor, all Membership Fees and other charges at the prices then in effect and in accordance with the applicable payment terms and you authorise us, through a Payment Processor, to charge your chosen payment provider (your "**Payment Method**"). You agree to make payment using your selected

Payment Method. We reserve the right to correct any errors or mistakes that we or a Payment Processor make even if we or a Payment Processor have already requested or received payment.

- 4.4. The terms of your payment will be based on your Payment Method and may be determined by agreements between you and the financial institution, credit card issuer or other provider of your chosen Payment Method. If we, through a Payment Processor, do not receive payment from you, you agree to pay all amounts due on your Billing Account upon demand.
- 4.5. You must provide current, complete and accurate information for your billing account. You must promptly update all information to keep your billing account current, complete and accurate (such as a change in billing address, credit card number, or credit card expiration date), and you must promptly notify us or our payment processor if your payment method is cancelled (e.g., for loss or theft) or if you become aware of a potential breach of security, such as the unauthorised disclosure or use of your user name or password.
- 4.6. If you have obtained a free Membership, your free Membership shall continue until the earlier of (1) the end of the applicable free Membership period (or if no period is stated, 1 month), or (2) when otherwise terminated in accordance with this Agreement. If your free Membership has lasted longer than 6 months for whatever reason, Spade reserves the right at any time to modify or discontinue, temporarily or permanently, such free Membership, your Account and your access to the Services with or without notice.
- 4.7. All charges are payable in GBP clear of all setoffs and deductions, prior to the start of a Term. All charges payable hereunder are exclusive of any applicable shipping charges and/or taxes, duties and similar governmental assessments. You shall pay any shipping charges and/or taxes, duties and assessments resulting from this Agreement, including any value-added, sales, use or other similar taxes (excluding taxes based on Spade's net income) and related interest and penalties. If any deduction or withholding is required by law, the Customer shall pay the required amount to the relevant governmental authority, provide Service Provider with an official receipt or certified copy or other documentation acceptable to Service Provider evidencing the payment, and pay to Service Provider in addition such amount as is necessary to ensure the net amount actually received by Service Provider equals the full amount Service Provider would have received had no such deduction or withholding been required.
- 4.8. Spade reserves the right to increase any subscription fee from time to time and at least upon 45 days notice to the Customer before any such increase comes into effect. Customer may choose to cancel subscription upon notification of such increase. If Customer (after having received notice of an increase in fees) wants to exercise

this right, Customer must [inform Spade](#) in writing no later than thirty (30) days after Customer has received such information from Spade.

## 5. Cancellation

- 5.1. If you have a monthly Membership, you may cancel your monthly Membership at any time, but your cancellation will only be effective as of the end of your initial commitment period of twelve (12) months (or thereafter the end of the currently paid month).
- 5.2. To change or cancel your Membership, go to Account settings on in your app and navigate to the Membership tab. If you cancel your Membership during the middle of our Membership term, your Membership will be terminated as of the expiration of your then-current term and will not be renewed. You may continue to use your Membership until the end of your then-current term. Spade will not provide any prorated refund of any portion of the Membership Fee paid for the then-current Membership term. If you do not want to continue to be charged on a recurring basis, you must cancel your Membership before the end of the then-current term.
- 5.3. Upon termination of your Membership, all licenses granted to you under this Agreement shall terminate automatically, your right to use the Services shall cease and your User Content, as defined below, will no longer be available to you through the Services but you can request a copy of your data collected by the App by following the instructions set forth in the [Spade Privacy Policy](#).
- 5.4. Unless otherwise prohibited by law, and without prejudice to our other rights or remedies, Spade shall have the right to immediately terminate your access to any or all of the Services if you breach any of the terms of this Agreement.

## 6. Trials

- 6.1. Spade currently offers a free trial period to end users in select countries (a "Free Trial" or "Spade Trial") to allow the end user to try the Services before committing to one of the Spade Membership options.
- 6.2. Our Free Trial will come with an associated 12-month membership, which shall automatically begin at the end of the Spade Trial period unless you cancel your Free Trial in accordance with this section 6. Note that. If you do not cancel your Free Trial, you will be billed an upfront fee of the equivalent of a 1 month Membership at the end of the Free Trial for a 1 month rolling Membership, OR You will be billed an upfront fee of the equivalent of a 12-month Membership at the end of the Free Trial for a 12-month Membership, whichever is applicable. Memberships will be subject to the autorenewal terms provided in this Agreement.
- 6.3. You may cancel Your Free Trial at any time during the Free Trial period.
- 6.4. Eligibility. Free Trials are available to all new end users in select countries as indicated in the

signup process. Free Trials are subject to all other applicable terms and conditions set out in this Agreement.

- 6.5.** This Section sets forth additional legally binding terms and conditions that govern a Free Trial.

**7. NO MEDICAL ADVICE**

- 7.1.** Spade's Services are not medical advice and, shall not be considered medical advice.

- 7.2.** Spade provides the Services for you to track, manage, and share your wellness-related information. All Content available through the Services is for general fitness and informational purposes only. Spade Services (e.g. heart rate, sleep analytics, and other biometric indicators) are subject to various limitations (e.g. poor signal quality or missing signal) and are not guaranteed to be error-free or accurate. Except as specifically indicated, Spade Services are intended solely for personal wellness tracking and not for making any medical decisions.

- 7.3.** You should always consult a qualified and licensed medical professional prior to beginning or modifying any diet, exercise, consultations, or training programme. You agree that your exercise and athletic activities carry certain inherent and significant risks of bodily injury, death or property damage, and that you voluntarily assume all known and unknown risks associated with these activities.

- 7.4.** Use of the Services, or communication with Us via the internet, e-mail or any other means, does not create any doctor-patient relationship. The Services and any results or Content displayed via the Services, whether provided by Spade or third parties, do not provide medical advice and are not intended to be a substitute for (i) advice from Your doctor or other medical professionals, or (ii) a visit, call, or consultation with Your doctor or other medical professionals.

- 7.5.** The Services do not and are not intended to diagnose, prevent, monitor, treat or alleviate disease; diagnose, monitor, treat, alleviate or compensate for an injury or handicap; investigate, replace or modify the anatomy of a physiological process; control conception, or achieve its principle intended action in or on the human body by pharmacological, immunological or metabolic means, even if it is assisted in its function by such means. You should not use the Services or any Content on the Services for diagnosing or treating a health condition.

- 7.6.** If You have any medical questions, please call or see Your doctor or other healthcare provider. You should never disregard medical advice or delay in seeking medical advice because of any Content presented on the Services.

- 7.7.** The Spade Services are not intended for emergency or life-threatening situations. If You believe You are experiencing a medical emergency, contact Your local emergency services immediately.

**8. Ownership**

- 8.1.** The data or information contained within the Data Products and Services ("**Data**") is licenced, not sold. As between the parties, Spade owns all right, title and interest in and to the Data, Data Products and Services. You acknowledge that certain aspects of the Data Products and Services, including but not limited to the databases, programmes, protocols and displays (as well as the selection, arrangement and sequencing of the contents thereof), are proprietary and unique to Spade, as to which copyright, patent or other proprietary rights may be held by Spade or third parties from whom Spade has licensed or otherwise acquired such rights. You agree to comply with all copyright, trademark, trade secret, patent and other laws necessary to protect Spade's (or its licensors') rights in such proprietary information, and agree not to remove or conceal any copyright or similar notices from the Data Products, Services or other material supplied by Spade and to only display any Data delivered as graphics in its entirety. You shall not block or obstruct Spade's logo contained in any Data delivered as graphics.

- 8.2.** You will, at Spade's request, do all such further reasonable acts, deeds and things and execute all such further documents, deeds, and instruments, both during the Term of this Agreement and thereafter, necessary for the protection and enforcement of the Spade's intellectual property rights.

- 8.3.** Spade shall be entitled to use any data (including, but not limited to, usage and operations data in connection with the Customer's use of the Data Products and Service, including query logs and metadata (for example, object definitions and properties) derived from the provision of the Data Products and Services in aggregated, aliased, or anonymous form, for analysis, machine learning and the improvement of Spade products and services. If You give Spade feedback regarding improvement or operation of Data Products and Services, Spade may use the feedback without restrictions or obligation of any kind. Feedback and their content with related intellectual property rights will automatically become the property of Spade.

**9. User Content**

- 9.1.** The Services may include functionality to permit You to submit content to the Services in accordance with Your Account, such as completing surveys or journal information or through community posts ("**User Content**"), hosting, sharing and/or publishing. User Content includes any of Your data, profile information, chat postings, and any other content that You submit to Spade that You make available to others. You understand that Spade does not guarantee any confidentiality in regards to User Content that You submit and make available to others.

- 9.2.** You are solely responsible for User Content You submit and any and all consequences of Our

posting or publishing such User Content through the Services. In connection with any User Content You submit, You affirm, represent, and/or warrant that: (i) You own or have the necessary licenses, rights, consents, and permissions to use and authorise Spade to use all trademark, trade secret, copyright, publicity or other proprietary rights in and to any and all User Content to enable inclusion and use of the User Content in the manner contemplated by the Services and this Agreement; and (ii) You have the express specific, informed and unambiguous consent, release, and/or permission of each and every identifiable individual person in the User Content to use the name or likeness of each and every such identifiable individual person to enable inclusion and use of the User Content in the manner contemplated by the Services and this Agreement.

**9.3.** By submitting or uploading Your User Content to Us, You grant to Us a worldwide, non-exclusive, royalty-free, fully paid-up, sublicensable and transferable license to (i) Reproduce, host, distribute, and display Your User Content so that it is accessible on the Services including to other users of the Services; (ii) Edit, modify, aggregate, and prepare derivative works of, Your User Content (iii) Share Your User Content with social media platforms (i.e., posting User Content to X, Facebook, Instagram or TikTok if enabled in Your Account's sharing settings); (iv) Promote and advertise the Services with Your User Content; and; (v) Improve Our Services through the use of Your User Content.

**9.4.** To the extent User Content contains personal data (as defined by the EU General Data Protection Regulation, the UK General Data Protection Regulation, or other relevant law in your country), if you share such data with third parties through our Services, you grant your consent to us to so use and share such data. You also hereby grant each user of the Services a non-exclusive license to access your User Content through the Services, if you have permitted such access through your Account settings, and to use, reproduce, distribute, prepare derivative works of, display, publish and perform such User Content as permitted through the functionality of the Services and under this Agreement. We may maintain copies of any User Content for purposes of backup, security, or maintenance, or as required by law.

**9.5.** If Your use of the Services is on behalf of or managed by a coach, team, organising body or other entity You are affiliated with ("Affiliate Entity"), Your User Content may also be shared with that team or other organisation as more fully described in Our Privacy Policy. You consent to that sharing and acknowledge and agree that Spade are not responsible for any use or disclosure of Your information by that Affiliate Entity.

**9.6.** In connection with User Content, You further agree that You will not: (i) submit material that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to post the material and to grant Us all of the license rights granted herein; (ii) publish falsehoods or misrepresentations that could damage Us or any third party; (iii) submit material that is unlawful, obscene, defamatory, libelous, threatening, pornographic, harassing, hateful, racially or ethnically offensive, or encourages conduct that would be considered a criminal offense, give rise to civil liability, violate any law, or is otherwise inappropriate; (iv) post advertisements or solicitations of business; or (v) impersonate another person. Spade does not endorse any User Content or any opinion, recommendation, or advice expressed therein, and expressly disclaims any and all liability in connection with any User Content. We do not permit copyright infringing activities and infringement of intellectual property rights in connection with the Services, and We will remove User Content if properly notified that such User Content infringes on another's intellectual property rights. We may remove any User Content without prior notice. We may also terminate Your access to the Services if You are determined to be a repeat infringer or serious first-time infringer in Our sole discretion. We also reserve the right to decide whether User Content is appropriate and complies with this Agreement for violations other than copyright infringement and violations of intellectual property law, in Our sole discretion. If We determine, in Our sole discretion, that User Content associated with You or Your account is in violation of this Agreement or is otherwise inappropriate, We may remove such User Content, terminate Your access for uploading such User Content, and/or terminate Your access to the Services at any time, without prior notice.

## **10. Restrictions on Use; Compliance with Laws; Confidentiality**

**10.1.** Except as expressly allowed in writing by Spade, the Services and Data Products (including extractions and/or compilations thereof) may not be copied or reproduced, used, amended, modified, reverse engineered (unless applicable law prohibits such restriction), distributed, sold, sublicensed, displayed, transmitted or broadcast in any form without the prior written permission of Spade.

**10.2.** Except as necessary to achieve the use of the Data Products or Services, You shall not permit any user of the Service to download, extract, copy or otherwise reproduce all or any substantial part of the Data and place such Data into a secondary database, including, without limitation, caching of the Data.

**10.3.** You warrant that You will not: (i) interfere with another user's use and enjoyment of the

Service; (ii) interfere with or disrupt: (a) the security measures of any Service; or (b) the networks connected to any Service; or (iii) perform any potentially disruptive actions such as stress testing or scripting/automation of user interfaces without Spade's prior written approval.

- 10.4. You shall promptly notify Spade if You become aware of any breach of the permitted usage or any other unauthorised use or copying of any Service.
- 10.5. Each party shall ensure that the supply and use of the Data Products and Services will comply with all local, state, national and international laws, and regulations to the extent applicable to each party.
- 10.6. The fact that the parties entered into this Agreement, the terms and conditions of this Agreement, all access codes and user IDs and passwords issued to You by Spade and/or created by You to access Spade subscription hereunder, and all information as to the business methods or operations of either party acquired or learned by the other party, shall be treated as confidential and only disclosed to a party's employees, permitted service providers and agents on a need-to-know basis, unless disclosure is otherwise required by law or court order. You are solely responsible and liable for using user credentials by authorised users and will promptly withdraw user credentials from terminated employees or other persons who are no longer authorised to access the Service and/or Data Products. As between the parties the Data is the confidential information of Spade.

## 11. Artificial Intelligence Usage and Restrictions

- 11.1. Artificial Intelligence ("AI") definitions. For purposes of this Agreement: (a) "AI Processing" means any use of Spade Data with artificial intelligence technologies, including large language models, machine learning systems, or generative AI tools; (b) "Training" means using Spade Data to develop, train, fine-tune, or improve any AI model's parameters or capabilities; and (c) "Inference" means generating outputs using an AI tool without modifying or improving the underlying model.
- 11.1 The Content, including AI Technology, available through the Services may include training recommendations, and other media to help you meet your health, fitness, and wellness goals. You acknowledge and agree that Spade is not a healthcare provider, personal trainer or fitness instructor and that the Services (including any recommendations and any information available through the Services, including AI Technology, that may appear to be personalised) may not be appropriate for you. If You have any concerns about Your health or fitness, You should consult your doctor before starting any new exercise programme. Spade is not responsible for any results that may or may not be obtained from the use of the Service.

- 11.2 You acknowledge and agree that, in addition to the limitations and restrictions set forth in this Agreement, there are numerous limitations that apply with respect to AI Technology and the Output it generates, including that (i) it may contain errors or misleading information and may not be accurate or reliable; (ii) AI Technology is based on predefined rules and algorithms that lack the ability to think creatively and come up with new ideas and can result in repetitive or formulaic content; (iii) AI Technology can struggle with understanding the nuances of language, including slang, idioms, and cultural references, which can result in Output that is out of context or does not make sense; (iv) AI Technology does not have emotions and cannot understand or convey emotions in the way humans can, which can result in Output that lacks the empathy and emotion that humans are able to convey; (v) AI Technology can perpetuate biases that are present in the data used to train them, which can result in Output that is discriminatory or offensive; (vi) AI Technology can struggle with complex tasks that require reasoning, judgment and decision-making; (vii) AI Technology requires large amounts of data to train and generate content, and the data used to train AI Technology may be of poor quality or biased, which will negatively impact the accuracy and quality of the generated Output; and (viii) AI Technology-generated Output can lack the personal touch that comes with content created by humans, which can make it seem cold and impersonal.

- 11.3 You will use independent judgement and discretion before relying on or otherwise using Output. Output is for informational purposes only and is not a substitute for advice from a qualified professional.

- 11.4 To the extent permitted by law, Spade bears no liability to you or anyone else arising from or relating to your use of AI Technology.

- 11.5 **Restricted Activities.** You shall not: (a) Use Spade Data for Training any of AI foundational models (b) Upload Spade Data to public or consumer AI platforms (including but not limited to free versions of ChatGPT, Bard, Gemini, or similar services); (c) Process bulk Spade Data through any AI system without Spade's prior written approval; or (d) Allow any third party to perform any of the above activities with Spade Data.

- 11.6 Remediation. If You discover any violation of this clause, You shall immediately: (i) cease the non-compliant AI Processing; (ii) notify Spade; (iii) take all reasonable steps to remove Spade Data from any unauthorised AI system; and (iv) provide Spade with a written remediation plan within five (5) business days.

## 12. Limitation of Liability and Indemnification

- 12.1. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, SPADE MAKES NO REPRESENTATIONS, CONDITIONS,

GUARANTEES OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, REGARDING SATISFACTORY QUALITY OR MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE DATA PRODUCTS OR SERVICES WILL BE AVAILABLE FOR USE, UNINTERRUPTED, ERROR FREE OR THAT ANY ERRORS WILL BE CORRECTED. THE DATA IS PROVIDED "AS IS" AND "AS AVAILABLE". YOU HEREBY ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY WARRANTY, CONDITION, GUARANTEE OR REPRESENTATION MADE BY SPADE, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT. YOU ASSUME ALL RISK FOR ANY RESULTS IT OBTAINS BY OR AS A RESULT OF USING THE DATA PRODUCTS OR SERVICES. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER SPADE NOR OUR AFFILIATES OR PARTNERS SHALL BE SUBJECT TO LIABILITY FOR TRUTH, ACCURACY, OR COMPLETENESS OF ANY INFORMATION CONVEYED TO USERS OF THE SERVICES OR FOR ERRORS, MISTAKES OR OMISSIONS THEREIN OR FOR ANY DELAYS OR INTERRUPTIONS OF THE DATA OR INFORMATION STREAM FROM WHATEVER CAUSE. FURTHER, SPADE MAKE NO WARRANTY THAT THE SERVICES WILL BE AVAILABLE ERROR FREE OR THAT THE SERVICES OR THE CONTENT ARE FREE OF COMPUTER VIRUSES OR SIMILAR CONTAMINATION OR DESTRUCTIVE FEATURES. IF YOUR USE OF THE SERVICES OR THE CONTENT RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT OR DATA, SPADE SHALL NOT BE RESPONSIBLE FOR THOSE COSTS. YOU AGREE THAT YOU USE THE SERVICES AND THE CONTENT AT YOUR OWN RISK.

- 12.2.** IN NO EVENT SHALL SPADE HAVE ANY LIABILITY FOR ANY LOST PROFITS OR REVENUES, OR INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES OR LOSSES SUFFERED BY YOU OR ANY THIRD PARTY, INCLUDING ANY LOSS OF OPPORTUNITY, ANTICIPATED SAVINGS OR GOODWILL, EVEN IF SPADE HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME.
- 12.3.** You shall indemnify, defend and hold Spade harmless from and against any and all liability, damage, loss or expense (including reasonable legal fees and expenses of litigation) incurred by or imposed upon Spade in connection with any third-party claim, suit, action, demand or judgment ("**Claim**") to the extent arising out of or related to a claim for (i) breach of the terms of this Agreement, including, but not limited to,

any use of the Services by any person or entity unauthorised access to the Services (ii) negligence or wilful misconduct in the use of the Services, (iii) your uploading of, access to, connection to, or use or misuse of the Content or the Services, (iv) breach of applicable laws or regulations, and; (v) Your User Content.

- 12.4.** IN NO EVENT WILL SPADE'S MAXIMUM TOTAL AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AGGREGATE CHARGES YOU HAVE PAID TO SPADE FOR THE SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO THE DAMAGE ALLEGED TO HAVE BEEN CAUSED.
- 12.5.** NOTWITHSTANDING ANY OTHER CLAUSE IN THIS AGREEMENT, NEITHER PARTY EXCLUDES OR LIMITS ITS LIABILITY FOR (I) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; (II) DAMAGES CAUSED BY ITS GROSS NEGLIGENCE OR WILFUL MISCONDUCT; OR (III) FRAUD.

### **13. Notices**

- 13.1.** All notices required or permitted to be given under this Agreement shall be in English and in writing or such electronic means as are agreed between the parties and shall be sent by letter, email, or delivered by hand to the registered office address or such other address as the receiving party may from time to time designate. If delivered by private express delivery service, notice shall be deemed conclusively made upon delivery by such service. If delivered by mail, notice shall be deemed conclusively made 5 days after deposit thereof in the mail. If delivered by email, notice shall be deemed to be received on the following business day. Notices to Spade shall be sent to: Legal Counsel via Legal@Spade.Fit. Notices to You will be sent to the primary contact email as provided by the Customer. A party shall be obliged to immediately notify the other party of any changes in its address (including email address), telephone numbers, and contact persons. Either party which fails to comply with the afore-mentioned requirement shall not be entitled to bring claims or replies against the other party that the obligations of the latter performed according to the most recent available details of the other party do not meet the requirements of this Agreement or that the notices sent according to such details have not been received.

### **14. Force Majeure**

- 14.1.** Neither party shall be liable for any delay in performing or failure to perform any obligation under this Agreement (save for a payment obligation), to the extent that the delay or failure results from events or circumstances outside its reasonable control, including but not limited to, war, riot, civil commotion, strike, lockout or any other industrial action, act of God, storm, fire, earthquake, flood, disruption of communication

systems, disruption of data feeds, electrical failure or action of government. If any such event occurs then the periods in which the parties are required to perform their obligations hereunder shall be extended by the period of the duration of any such event and the party prevented from performing its obligations hereunder shall as soon as practicable give notice to the other of the occurrence of such event and of its cessation. Notwithstanding the foregoing, in the event of a delay exceeding 3 months, either party may terminate this Agreement on written notice to the other party.

## 15. Assignment

- 15.1** The terms and conditions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties and their permitted successors and assignees, and references in this Agreement to a party shall include its permitted successors and assignees.
- 15.2** Neither party may assign or transfer this Agreement or any rights or obligations under it (and any such attempted assignment shall be deemed null and void), except (i) as approved in writing by the other party, which consent shall not be unreasonably withheld; (ii) to any company which is that party's subsidiary, holding company, or a subsidiary of any such holding company, so long as it remains a subsidiary or holding company as the case may be; or (iii) to any company to which all or the relevant part of its business is transferred, provided that the purchaser of the business agrees in writing to be bound by the obligations of that party under this Agreement; and provided further that the assignee under (ii) or (iii) above is not a competitor of the other party.

## 16. Governing Law

- 16.1.** This Agreement shall be governed by and construed in accordance with the laws of England and Wales. It is agreed that in relation to You the Courts of England and Wales shall have exclusive jurisdiction. However, nothing in this clause shall prevent Spade from applying for and obtaining injunctive relief, bringing a claim or enforcing any order of the Courts of England and Wales in any other country or jurisdiction.
- 16.2.** The parties exclude the application of United Nations Convention on Contracts for International Sale of Goods (CISG) to this Agreement.

## 17. General

- 17.1.** This Agreement supersedes all prior agreements, arrangements and understandings between the parties, whether written or oral, in respect of its subject matter and constitutes the entire agreement and understanding between the parties relating to the subject matter of this Agreement. This Agreement may only be modified, amended, or

any of its terms waived, by a written document signed by authorised representatives of each party.

- 17.2.** Any terms and conditions contained in Your purchase order or in any other document submitted by You which are additional to or inconsistent with the terms and conditions of this Agreement are null and void.
- 17.3.** Where this Agreement is translated into a language other than English that translation shall be for reference only. In the event of any conflict between the non-English and English language versions then the English language version of this Agreement shall take precedence.
- 17.4.** Nothing in these terms shall constitute or be deemed to constitute either party as agent or partner of the other for any purpose whatsoever.
- 17.5.** Notwithstanding anything on the contrary herein, during the term of this Agreement, either party may identify the other party as its customer or service provider, as the case may be, and use the other party's name and logo in connection with proposals (e.g. brochures and presentations) to prospective customers or otherwise refer to the other party in print or electronic (including video) form for marketing purposes (e.g. in webinars, white papers and newsletters). Each party has the right to revoke the consent, given as per this clause 12.5, with written notice to the other party.
- 17.6.** Nothing in this Agreement confers or purports to confer on any person who is not a party to this Agreement any beneficial rights, or any other right, to enforce any term or provision of this Agreement.
- 17.7.** If any one or more provisions of this Agreement is held to be unenforceable, such provision shall be reformed to permit its enforcement in a manner that most closely accomplishes the original objectives of the provision, and the other provisions of this Agreement will remain in full force and effect.
- 17.8.** A failure or delay of either party to enforce a provision of this Agreement or a previous waiver or forbearance by either party shall not be construed as a continuing waiver of any provision of this Agreement.
- 17.9.** All sections of this Agreement that, by their nature, should survive termination will survive termination, including, without limitation, the sections entitled User Content, Indemnity, Disclaimer of Warranty and Limitation of Liability, and General.
- 17.10.** This Agreement or any amendments thereof may be executed by means of an electronic signature or a comparable electronic procedure. The parties agree that the electronic signature shall not be denied concerning the legal effect and its admissibility as evidence in legal proceedings because of its electronic form or its missing for qualified electronic signatures.

**18. Personal Data**

**18.1.** Notwithstanding any other provision of this Agreement, in exercising its rights and performing its obligations under this Agreement the Parties shall, to the extent necessary, at all times comply with all applicable personal data protection laws and regulations established in their respective country and shall not do or omit to do anything which has the effect of placing the other party in breach of any such laws or regulations. Each party is responsible for the security of the received personal data and must ensure its protection by using the appropriate technical and organisational measures.

**18.2.** Spade collects, uses and processes personal data of Your representatives (preferred salutation, title, name, business contact information, credentials to access Products and Services, profile data, Products and Services usage data) for the purposes of performing, and processing the Agreement. In order to fulfil

contractual obligations, it is necessary to forward some of Your information to Spade's affiliates and partner companies that process this data on Spade's behalf. This information is used in accordance with legal stipulations and only for the defined purposes. Spade's Privacy Policy can be found online [here](#).

**18.3.** If any litigation results in connection with this Agreement, the prevailing party shall be entitled to reasonable fees, costs and expenses, including, but not limited to, court costs, expert witness fees and attorneys' fees. The prevailing party shall be the party who receives substantially the relief sought, whether by judgment, summary judgment, dismissal or otherwise.