

Sweetspot Terms of Service

Effective: August 29, 2024

Welcome to Sweetspot! These Terms of Service (these “Terms”) govern your access to and use of our services, websites and mobile applications (collectively, the “Services”), and constitute a binding contract between you or the entity you represent and Sweetspot Chat, Inc., a Delaware corporation (“Sweetspot” or “we”). By using our Services, you agree to be bound by these Terms and our [Privacy Policy](#). Do not use the Services if you do not agree to these Terms or the Privacy Policy.

If you are an individual using the Services on your own behalf, you represent and warrant to Sweetspot that you have the authority to accept these Terms. If you are using the Services on behalf of an entity or organization, you represent and warrant to Sweetspot that you have the legal authority to accept these Terms on their behalf, and the terms “you” and “your” shall refer to such entity or organization.

Certain definitions can be found in Section 12.

1. Services.

1.1. Ownership. We own the Services. Except for the limited license in Section 1.2, neither these Terms nor your use of the Services gives you any right, title or interest in or to the Services or the Documentation.

1.2. Right to Use the Services. We hereby grant you a limited, non-sublicensable, non-exclusive, nontransferable (except as expressly permitted in Section 13.10) right to access and use the Services during the Term.

1.3. Registration. To access the Services, you must register for an account with Sweetspot. The account information you provide must be accurate, current and complete. You may not share your account credentials with anyone else. You are responsible for all activities that occur under your account.

1.4. Use Restrictions. You agree not to: (a) use the Services in a manner that violates applicable law or any Documentation; (b) use the Services in a manner that infringes, misappropriates or violates our intellectual property rights or the intellectual property rights of any third party; (c) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services; (d) modify, translate, or create derivative works based on the Services; (e) use the Services to develop competing products or services; (f) offer, sell, resell, rent, lend, lease, license, pledge, transfer, distribute, or provide access to, or otherwise make available, the Services to any unauthorized third party; (g) use the Services for service bureau or outsourcing purposes; or (h) remove any proprietary notices or labels from the Services.

1.5. Third Party Services. You may be able to access third party products, services or content through the Services (each a “Third Party Service”). If you use or access a Third Party Service through the Services, your access and use of such Third Party Service is also subject to any additional terms that may be applicable to such Third Party Service, whether such terms are provided by us or by the third party that provides the Third Party Service.

2. Customer Data.

2.1. Definition. “Customer Data” means (a) all electronic data that you submit, or that others submit on your behalf, to the Services, and (b) all other information that you provide to us, or that others provide to us on your behalf, in connection with your use of the Services.

2.2. Ownership, Authority and Responsibility. As between you and us, you own all Customer Data. You represent and warrant to us that you have the authority necessary to upload your Customer Data to the Services or to otherwise send us your Customer Data. You are responsible for the contents of your Customer Data. We do not control, verify or endorse your Customer Data.

2.3. Output Data. Portions of the Services rely on artificial intelligence to allow you to input Customer Data and receive output from the Services (such output, “Output Data”). As between you and us, you own all Output Data. Due to the nature of the artificial intelligence that allows you to receive Output Data from our Services, your Output Data may not be unique. Other Sweetspot customers may receive the same or similar output data from our Services, and the responses they request and receive from our Services are not owned by you and do not constitute your Output Data.

2.4. Authority to Send Data to Third Parties. If, in connection with your use of the Services, you request that certain of your Customer Data and/or Output Data be sent to one or more third parties, as indicated by you during your use of the Services, you agree that we may transfer such information to such third parties.

2.5. Right to Use Customer Data to Provide the Services. In order to provide the Services to you, you hereby grant us, our Affiliates, and our trusted third parties the right to transmit, process, use and disclose Customer Data and Output Data, but only (a) as necessary for us to provide the Services, (b) as permitted by these Terms, and/or (c) as required by law, regulation or order.

2.6. Right to Use Anonymized and Aggregated Customer Data. You hereby grant us, our Affiliates, and our trusted third parties the right to use and disclose, subject to our confidentiality obligations in Section 3, and solely for our internal business purposes, including operating, maintaining and improving the Services, any Customer Data or Output Data that has been anonymized and aggregated by us in such a way that it cannot be used to identify you or any of your customers, clients or users.

2.7. Right to Use Usage Data. You hereby grant us, our Affiliates, and our trusted third parties the right to use and disclose, subject to our confidentiality obligations in Section 3, and solely for

business purposes, including operating, maintaining and improving the Services, any information about your configuration and use of the Services (“Usage Data”), provided such Usage Data has been anonymized and aggregated by us in such a way that it cannot be used to identify you or any of your customers, clients or users.

2.8. Feedback. We welcome any suggestions, recommendations, comments and other feedback that you have about the Services or Sweetspot generally (collectively, “Feedback”). If you provide Feedback to us, you grant us the right to use and exploit that Feedback for any purpose whatsoever without compensation or restriction of any kind. You have no obligation to provide Feedback, and we have no obligation to use Feedback.

3. Confidentiality.

3.1. Obligations. Each of us (the “Disclosing Party”) may disclose to the other (the “Receiving Party”) business, technical or financial information that we identify at the time of disclosure as being confidential or that should reasonably be understood by the Receiving Party as being confidential under the circumstances (such information, “Confidential Information”). Your Confidential Information includes your Customer Data. The Receiving Party agrees not to use or disclose the Disclosing Party’s Confidential Information except (a) as necessary to provide the Services or (b) as permitted by these Terms and the Privacy Policy. Notwithstanding the foregoing, the Receiving Party may disclose the Disclosing Party’s Confidential Information to its service providers (its “Representatives”) who have a need to know such information in connection with the Services and who are bound by confidentiality obligations at least as restrictive as those set forth in this Section 3. The Receiving Party is responsible for any violation of its obligations under this Section 3 committed by one or more of its Representatives.

3.2. Exceptions. The Disclosing Party’s Confidential Information does not include information that (a) is or becomes generally available to the public, (b) was known to or in the possession of the Receiving Party prior to its disclosure by the Disclosing Party, (c) was rightfully disclosed to the Receiving Party by a third party, or (d) was independently developed by the Receiving Party or its Representatives without reference to the Disclosing Party’s Confidential Information. The Receiving Party may disclose the Disclosing Party’s Confidential Information if required to do so by law, provided that it promptly notifies the Disclosing Party of such disclosure to the extent it is legally permitted to do so.

4. Security and Privacy.

4.1. Security. We will implement and maintain reasonable administrative, physical, and technical safeguards to protect Customer Data from accidental loss and from unauthorized access, use, alteration, or disclosure. You agree to use reasonable efforts to prevent unauthorized parties from accessing or using the Services with your account credentials. You will promptly notify us if you believe (a) that your account credentials have been lost, stolen or made available to an unauthorized party or (b) that an unauthorized party has accessed the Services.

4.2. Privacy. Our Privacy Policy describes how we use and protect Customer Data and other personal information.

5. Payment and Taxes.

5.1. Fees. Some of the Services require payment before you can access or use such Services (each a “Paid Service”). If you choose to subscribe to a Paid Service, you agree to pay the fees quoted to you when you subscribe to such Paid Service, in the currency and on the schedule indicated in such quote (the “Fees”). All Fees paid and payable to SweetSpot are non-cancelable and non-refundable except as expressly set forth in these Terms, in the quote for such Fees, or as otherwise required by law.

5.2. Right to Change Fees. We may change the fees we quote for Paid Services at any time, provided, however, that if you subscribe to a Paid Service that we agree to provide you for a specific duration, then for the duration of such Paid Service (not including any automatic or other renewal period), we agree not to charge you different fees than the Fees you paid or that are payable by you for such Paid Service.

5.3. Automatic Renewal. Once the term of a Paid Service ends, your subscription to that Paid Service will automatically renew for a term of equal duration as the term just ended, and you will be charged for the renewed Paid Service at the then-current Fees for such Paid Service. If you do not want a Paid Service to automatically renew after it ends, you must cancel the Paid Service within 30 days of the renewal date by following the directions we provide in your account dashboard, whereupon your access to the Paid Service will terminate at the end of its current term.

5.4. Payment Processing. You authorize us and our third-party payment processors to charge the payment method you provide to us when you subscribe to a Paid Service, including in connection with any renewal of such Paid Service. You are responsible for ensuring that your payment method information is correct and current.

5.5. Taxes. Fees do not include taxes, which we will charge you for as required by applicable law at the same time as we charge you for Fees. You are responsible for paying the taxes we charge.

5.6. Late Payments. If we or our third-party payment processors cannot charge your payment method when undisputed Fees are due, then, in addition to the other rights and remedies available to us under these Terms and applicable law, we may (a) immediately suspend your access to the corresponding Paid Service and (b) charge you a finance charge of 1.5% of the unpaid balance each month until the Fees are paid in full.

5.7. Disputed Fees. If you wish to dispute any Fees, you must notify us in writing within 30 days of when such Fees became due and payable.

6. Trial Services. The terms of this section apply to any Services that we make available to you free of charge (each, a “Trial Service”). If a Trial Service would be a Paid Service if not for the fact that it is made available to you free of charge (such Trial Service, a “Paid Service Trial”), then we will offer such Paid Service Trial to you free of charge until the expiration of the trial period for such service, as expressly indicated to you when you subscribed to the Paid Service Trial, or as otherwise agreed to in writing between you and Sweetspot. Unless you cancel a Paid Service Trial before it ends, we will charge you for the then-current Fees applicable to such Paid Service when the trial period for such Paid Service Trial ends. Trial Services are offered for the purposes of testing, evaluating, and improving such services, have reduced or different privacy, security, or compliance commitments than non-Trial Services, and may not become generally available or be error free. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THESE TERMS, TRIAL SERVICES ARE OFFERED “AS-IS”, AND EXCEPT TO THE EXTENT PROHIBITED BY LAW, SWEETSPOT DISCLAIMS ALL WARRANTIES FOR TRIAL SERVICES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

7. Term; Termination.

7.1. Term. These Terms constitute an agreement between you and Sweetspot (the “Agreement”) that becomes effective when you first accept these Terms online, first subscribe to a Paid Service, or first use any Service, whichever occurs first, and the Agreement will remain in effect until terminated in accordance with this Section 7 (the time during which the Agreement remains in effect, the “Term”).

7.2. Termination for Convenience. If you are not subscribed to a Paid Service that we agreed to provide you for a specific duration, then you may terminate the Agreement at any time by canceling your account with Sweetspot and stopping your use of the Services. If you are subscribed to a Paid Service that we agreed to provide you for a specific duration, then, subject to its earlier termination in accordance with Section 7.3, the Agreement will remain in effect until the following conditions have been met: (a) the term of each Paid Service to which you are subscribed has ended without renewal, (b) you have canceled your account with Sweetspot, and (c) you have stopped using the Services. If, after terminating the Agreement, you start using the Services again, you again agree to be bound by these Terms.

7.3. Termination for Cause. We may immediately terminate the Agreement or suspend your access to the Services without giving notice to you if (a) we reasonably believe that your continued use of the Services would cause real harm or loss to us or other customers of Sweetspot or (b) you fail to pay any undisputed Fees when due and such failure continues more than 15 days after our delivery of a written notice to you. Both you and Sweetspot may terminate the Agreement by giving written notice to the other party if any of the following conditions occur: (a) the other party materially

breaches the Agreement and does not cure the breach within 30 days after receiving written notice; (b) the institution by or against the other party of insolvency, receivership or bankruptcy proceedings; (c) the other party's making an assignment for the benefit of creditors; or (d) the other party's dissolution, winding up or ceasing to do business.

7.4. Effect of Termination. Termination of the Agreement will not affect any rights or obligations that have accrued under the Agreement up to and including the date of such termination, including your obligation to pay any Fees that are owed. Upon termination of the Agreement for any reason, you must immediately stop using the Services. We will make all Customer Data available to you for electronic retrieval for a period of 30 days after termination of the Agreement, after which we may delete stored Customer Data. If the Agreement is terminated pursuant to Section 7.3, then you agree not to use the Services again unless we agree to your use in writing. The terms of the Agreement that are intended by their nature to survive any termination of the Agreement, including terms related to confidentiality, disclaimers, and limitations of liability, will survive and continue in full force and effect after termination of the Agreement.

8. Warranty and Disclaimer. We warrant to you that (a) we will perform the Paid Services in a professional and workmanlike manner with employees or other service providers having a level of skill commensurate with the requirements of these Terms, and, (b) to our knowledge, the Paid Services do not infringe upon any third-party intellectual property rights. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION, SWEETSPOT HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND TITLE.

9. Indemnification.

9.1. Sweetspot Indemnity. Subject to Section 9.3, we will defend you from any and all claims, demands, suits or proceedings ("Claims") brought against you by a third party alleging that any Paid Service, as provided by us to you in accordance with these Terms, infringes any United States patent or copyright, or misappropriates any trade secret of any third party (each, an "Infringement Claim"). We will indemnify you for all damages and costs (including reasonable attorneys' fees) finally awarded by a court of competent jurisdiction, or paid to a third party in accordance with a settlement agreement signed by us, in connection with an Infringement Claim. In the event of an Infringement Claim, we may, in our discretion: (a) obtain the right to permit you to continue using the Paid Service, (b) modify or replace the relevant portion(s) of the Paid Service with a non-infringing alternative having substantially equivalent performance within a reasonable period of time, or (c) terminate the Agreement as to the infringing Paid Service and provide a pro rata refund of any prepaid, unused Fees that you previously paid for such infringing Paid Service. Notwithstanding the foregoing, we will not be liable for, and will not be obligated to defend you from, any Infringement Claim of any kind to the extent that it arises or results from: (i) unauthorized use of the Services or breach of these Terms by you or any of your authorized users, (ii) modifications to the Services made by a party other than us, (iii) the combination of the Services with other products, processes or technologies not provided by

us, (iv) Customer Data, or (v) a Trial Service. The indemnification obligations set forth in this Section 9.1 are our sole and exclusive obligations, and your sole and exclusive remedy, with respect to an Infringement Claim.

9.2. Your Indemnity. Subject to Section 9.3, you will defend us from any and all Claims brought against us by a third party alleging a violation of a third party's rights arising from or relating to: (a) the use of the Services by you in violation of these Terms (including violation of any Documentation); (b) applications, products or services developed or offered solely by you (as between you and us); (c) Customer Data, including your provision of, or your or our use of, Customer Data, provided that we has complied with these Terms with respect to the applicable Customer Data; or (d) our transmission of any data, including Customer Data, to a third party if such transmission was authorized by you. You will indemnify us for all damages and costs (including reasonable attorneys' fees) finally awarded by a court of competent jurisdiction, or paid to a third party in accordance with a settlement agreement signed by you, in connection with any such Claim.

9.3. Indemnification Procedure. The party seeking indemnity under this Section 9 ("Indemnitee") must give the other party ("Indemnitor") the following: (a) prompt written notice of any Claim for which the Indemnitee intends to seek indemnity under this Section 9, (b) if requested by the Indemnitor, reasonable cooperation and assistance in the defense of the Claim, at the Indemnitor's sole expense, and (c) if requested by the Indemnitor, sole control over the defense and settlement of the Claim at the Indemnitor's expense, provided that the Indemnitee may also participate in the defense of the Claim at its own expense on a monitoring and non-controlling basis. A party's failure to perform any obligations under this Section 9.3 will not relieve the Indemnitor of its obligations under Section 9.1 or 9.2 (as applicable) except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced because of such failure. The Indemnitor shall not settle a Claim for which Indemnitee is seeking indemnification under this Section 9 without the Indemnitee's written consent if such settlement would require action or payment by the Indemnitee.

10. Limitation of Liability.

10.1. Limitations. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION 10: (A) IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES OR THEIR EMPLOYEES, AGENTS, CONTRACTORS, OFFICERS OR DIRECTORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES; (B) IN NO EVENT SHALL SWEETSPOT OR ITS AFFILIATES OR THEIR EMPLOYEES, AGENTS, CONTRACTORS, OFFICERS OR DIRECTORS BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH YOUR INABILITY TO USE THE SERVICES, INCLUDING AS A RESULT OF ANY PERMITTED TERMINATION OR SUSPENSION OF THE AGREEMENT AS PROVIDED BY THESE TERMS, OR YOUR USE OF OR ACCESS TO THE SERVICES, OR THE COST OF PROCUREMENT OF SUBSTITUTE SERVICES; AND (C) IN NO EVENT SHALL EITHER PARTY'S CUMULATIVE AND AGGREGATE LIABILITY UNDER THESE TERMS EXCEED THE TOTAL FEES PAID TO SWEETSPOT BY YOU FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. THE

EXCLUSIONS AND LIMITATIONS IN THIS SECTION APPLY WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER BASIS, EVEN IF THE NON-BREACHING PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

10.2. Exceptions. The limitations in Section 10.1 shall not apply to: (a) a party's gross negligence or willful misconduct; (b) your breach of Section 1.4; (c) either party's indemnification obligations under Section 9; (d) your payment obligations to us under these Terms; or (e) the extent such limitations are prohibited by law.

11. Export and Sanctions. You represent and warrant to us that you are not (a) named on any U.S. government list of persons or entities with which U.S. persons are prohibited from transacting, or (b) owned or controlled by or acting on behalf of any such persons or entities. You will not access or use the Services in any manner that would cause us or any third party to violate any U.S. or international sanctions, embargo, export control law, or similar prohibition.

12. Certain Definitions.

12.1. "Affiliate" means, with respect to either party, any entity that directly or indirectly controls, is controlled by, or is under common control with such party. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

12.2. "Documentation" means the technical documentation, usage guidelines, parameters, and other requirements provided or made available to you by us.

13. Miscellaneous.

13.1. Customer Mention. We may use your name and/or logo to identify you as our customer, including on our public website, provided that we comply with any written guidelines that you deliver to us regarding such use. We will promptly stop using your name and/or logo upon your written request.

13.2. Headings. The headings in these Terms are for convenience only and do not affect the meaning or interpretation of these Terms.

13.3. Entire Agreement. These Terms and the policies, addendums and documentation referred to herein constitute the entire agreement and understanding between you and SweetSpot with respect to the subject matter hereof and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

13.4. Relationship of the Parties. For all purposes under these Terms, you and Sweetspot will each be and act as an independent contractor with respect to each other and will not bind or attempt to bind the other to any agreement.

13.5. No Third-Party Beneficiaries. The Agreement is for the sole benefit of you and Sweetspot; there are no intended third-party beneficiaries.

13.6. Notice to Government Customers. Each of the software components that constitute the Services is a "commercial product" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212.

13.7. Governing Law; Jurisdiction and Venue. These Terms are governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of New York. Any legal suit, action, or proceeding arising out of or related to these Terms or the Services will be instituted exclusively in the federal courts of the United States or the state courts of the State of New York, in each case that are located in New York, New York, and you and Sweetspot irrevocably submit to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

13.8. Force Majeure. Except for your payment obligations, neither you nor Sweetspot shall have any liability to each other for any failure or delay resulting from any condition or event outside the reasonable control of the affected party, including but not limited to governmental action, acts of terrorism, acts of God, labor conditions or power failures.

13.9. Amendment. Except as provided in Section 13.13, this Agreement may be modified only by a written instrument executed by you and Sweetspot.

13.10. Assignment. Neither you nor Sweetspot shall have the right to assign the Agreement without the prior written consent of the other party, except that either of us may assign our rights and obligations under the Agreement without the consent of the other party to a successor in interest to all or substantially all of our assets or business, provided that notice is provided within 30 days of such assignment and the assignee agrees in writing to accept all our obligations and responsibilities under this Agreement, including, in your case, all outstanding Fees.

13.11. Waivers. The failure of you or Sweetspot to exercise or enforce any condition, term or provision of these Terms will not operate as a waiver of such condition, term or provision. Any waiver by you or Sweetspot of any condition, term or provision of these Terms shall not be construed as a waiver of any other condition, term or provision of these Terms.

13.12. Severability. The invalidity, illegality, or unenforceability of any provision in these Terms does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction.

13.13. Modifications to the Terms. You acknowledge and agree that we have the right, in our sole discretion, to modify these Terms from time to time, and that modified terms become effective on the first day of the calendar month after the modified terms were posted. If you have an account with us, you will be notified of modifications by email. You are responsible for reviewing and becoming familiar with any such modifications. Your continued use of the Services after the effective date of any modification will be deemed acceptance of the modified terms. Notwithstanding the foregoing, if you subscribed to a Paid Service that provides for a fixed term of Service that is 12 months or longer, any modifications to these Terms made during such term will instead be effective, insofar as they apply to such Paid Service and not to any other Services, immediately upon the start of the renewal term for such Paid Services.

13.14. Notices. All notices must be in writing. You agree that we may provide you notice, including by email, using the information provided by you when you registered for an account with us. You may send notices to us at this email address: founders@sweetspot.so. Notices will be deemed given on the date of receipt, if sent by email, or on the date sent, if sent by registered or certified mail, return receipt requested, postage prepaid, or by nationally recognized overnight courier, freight prepaid, specifying next-day delivery, with written verification of receipt.