

SPREEDLY TERMS OF SERVICE

About this Agreement

Spreadly provides web-based payments services through its proprietary API integrations (collectively, the **"Platform"**) that enables merchants to validate, tokenize, and vault payment methods and then transact with one or more of the many payment gateways and other third-party service providers integrated with Spreadly's Platform. Spreadly is not a payment processor and does not receive or exercise control over any funds remitted in connection with a Transaction.

These terms of service, together with an Ordering Document(s) (if any), and any applicable Supplemental Terms (collectively the **"Terms of Service"**) are a contract between Spreadly, Inc. (**"Spreadly," "we" or "our"**) and the entity or person using Spreadly's Platform (**"you" and "your"**). Capitalized terms used in these Terms of Service not defined inline are defined in Section 15 below.

We may revise these Terms of Service and any applicable policies from time to time. The revised version will be effective at the time we post it to the Spreadly website. By continuing to use the Platform after any changes to these Terms of Service, you agree to abide and be bound by those changes. If you do not agree with any changes to these Terms of Service you may terminate your use of the Spreadly Platform as set out in Section 7 before such changes become effective and/or close your account. Please note that certain terms and conditions survive termination of the Terms of Service and you may still be liable to us for any liabilities you may have incurred and are responsible for prior to termination.

THESE TERMS OF SERVICE INCLUDE A MANDATORY ARBITRATION PROVISION THAT REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO SETTLE DISPUTES RATHER THAN JURY TRIALS OR ANY OTHER COURT PROCEEDINGS, OR CLASS ACTIONS OF ANY KIND. BY CREATING AN ACCOUNT OR BY OTHERWISE ACCESSING OR USING THE PLATFORM, YOU (I) EXPRESSLY AGREE AND CONSENT TO BE BOUND BY THE TERMS AND CONDITIONS OF THESE TERMS OF SERVICE, AND (II) STATE THAT YOU HAVE AUTHORITY AND LEGAL CAPACITY TO AGREE TO THESE TERMS OF SERVICE. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS THESE TERMS OF SERVICE, YOU MAY NOT ACCESS OR USE THE PLATFORM.

1. Spreadly Account. Access and use of the Platform may require you to register for an account. During registration, we will ask you for information necessary to establish your Spreadly account, which may include Personal Data. You must provide accurate and complete information during the registration process and always keep that information current. You are responsible for all activity that occurs under your Spreadly account, including for any actions taken by persons to whom you have granted access to your account. We reserve the right to suspend or terminate the access of anyone who provides inaccurate, untrue, or incomplete information, or who violates the account registration requirements.

2. Platform; Services.

2.1. Provision and Use of Spreadly Platform.

2.1.1. During the Term and subject to these Terms of Service, Spreadly authorizes you access and use the Platform on a non-exclusive and non-transferable basis solely to transact, validate, tokenize, and vault payment methods with one or more of the many payment gateways and other Third-Party Integrations that are integrated with the Platform.

2.1.2. Spreadly may modify any aspect of the Platform, including, without limitation, the design, look and feel, functionality, content, material and/or information provided via the Platform at any time in Spreadly's sole discretion, and without notice to you. All such modifications or updates will be deemed a part of the Platform and will be governed by these Terms of Service.

2.1.3. You will access and use the Platform solely for lawful purposes and will not use it for any fraudulent, illegal or criminal purposes. You hereby grant us authorization to share your information with law enforcement, including information concerning your Transactions and your account, if Spreadly reasonably suspects that your use of the Platform has been for an unauthorized, illegal, or criminal purpose. Further, Spreadly reserves the right to not store or

submit any Transaction you submit that Spreadly believes is in violation of these Terms of Service or applicable Law or otherwise exposes Spreadly or other Spreadly users to harm, including but not limited to, fraud, illegal, and other criminal acts.

2.1.4. You must not, and must not enable or allow any third party to:

2.1.4.1. modify, adapt, translate or create derivative works or improvements of the Platform (or any portion thereof);

2.1.4.2. rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Platform or any features or functionality of the Platform to any other person or entity for any reason, including as part of any time-sharing, service bureau or software as a service arrangement (except for permitted activity by Merchant Aggregators as set forth in Section 2.4);

2.1.4.3. reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive, gain access to or discover the source code of the Platform or the underlying structure, ideas, know-how, algorithms or methodology relevant to the Platform;

2.1.4.4. input, upload, transmit or otherwise provide to or through the Platform any information or materials that are unlawful or injurious, or contain, transmit or activate any malicious code;

2.1.4.5. attempt to gain unauthorized access to, damage, destroy, disrupt, disable, impair, interfere with or otherwise impede or harm in any manner the Platform;

2.1.4.6. perform load tests, network scans, penetration tests, ethical hacks or any other security auditing procedures against the Spreadly's software, infrastructure or Transaction API;

2.1.4.7. access or use the Platform in any way that infringes, misappropriates or otherwise violates any intellectual property right, privacy right or other right of any third party, or that violates any applicable Law; or

2.1.4.8. access or use the Platform for purposes of (i) benchmarking or competitive analysis, (ii) developing, producing, marketing, distributing, licensing or selling any product or service that may compete with the Platform, or (iii) disclosing to Spreadly's competitors, for any purpose, otherwise non-public information about the Platform.

2.2. Third-Party Integrations.

2.2.1. Spreadly enables you to access third-party applications and services (e.g., receivers, gateways, payment processors, fraud checks, alternative payment methods, etc.) that are integrated to the Platform and intended to interoperate with Spreadly's Platform (a "**Third-Party Integration**"). These Third-Party Integrations are provided for your convenience only and Spreadly does not approve or endorse any Third-Party Integration to you (however certain third-party integrators may compensate Spreadly for referring you to them or if you elect to use their services). Your access and use of any Third-Party Integration is at your own risk and Spreadly disclaims all responsibility and liability for your use of any Third-Party Integration. The services provided by third-party integrators are not Spreadly's Platform and are not governed by this these Terms of Service. Your use of any Third-Party Integration, including those linked from a

Spreadly website, is subject to your agreement with such third-party integrator, including the third-party integrator's own terms of service and privacy policies, as applicable.

2.2.2. Spreadly is not a payment gateway or a payment processor and does not receive or exercise control over any funds remitted in connection with the Platform. You will be required to procure the services of certain Third-Party Integrations to make full use of the Platform. Initiating a Transaction through the Spreadly Platform does not guarantee that a payment Transaction will be authorized or processed. Spreadly does not assume any direct or indirect liability or responsibility for your agreements with any third-party.

2.2.3. The availability of any Third-Party Integration, endpoint or receiver is subject to change at any time. Spreadly will use commercially reasonable efforts to provide 60 days advance notice if Spreadly determines that the Platform can no longer integrate with a Third-Party Integration.

2.2.4. You are responsible for conducting your own due diligence and security review of all Third-Party Integrations that you chose to use with the Spreadly Platform. If Spreadly provides Professional Services to facilitate your connection to a Third-Party Integration, those Professional Services are in no way an endorsement of such third-party and Spreadly expressly disclaims any responsibility or guarantees of the performance of such third-party.

2.3. Trial Features. Spreadly may classify certain features of the Platform, including a particular release or feature, as "**Trial Features**". Spreadly will provide Trial Features during the Trial Period.

2.3.1. Trial Features may be paid-for features of the Platform sometimes while still classified as a free Trial Features in other circumstances. The price and Fees (if applicable) for Trial Features will be noted on the applicable Ordering Document or Supplemental Terms.

2.3.2. Unless otherwise mutually agreed in a particular Ordering Document, the trial period for each Trial Feature will be 90 days from the Trial Features activation date (the "**Trial Period**"). You agree that your access to and use of a Trial Features will automatically terminate at the end of the Trial Period applicable to such Trial Features, with or without notice, unless you elect to convert such Trial Features into a paid subscription of the Platform pursuant to a new agreement or Ordering Document with Spreadly detailing the terms of such paid subscription (e.g., duration and applicable pricing).

2.3.3. Spreadly may suspend or terminate your access to any Trial Features, modify or remove any features or functions of the Trial Features, and shorten or extend the Trial Period, at any time without prior notice.

2.4. Merchant Aggregator. If you are a Merchant Aggregator, the Platform allows you to act as a non-merchant of record facilitating your merchant partners to sell to downstream customers while providing payment and non-payment services on behalf of their merchants ("**Merchant Aggregator Services**") and the follow additional terms will apply to your use of the Platform.

2.4.1. Fees. You will pay Spreadly the Fees and charges as agreed in writing, as well as other amounts owed under these terms for Merchant Aggregators and the Ordering Document Pursuant to the terms set forth in Section 5.1. You will pay Spreadly the Fees regardless of whether you collected any fees or amounts owed to you from your merchants.

2.4.2. Customer Support and Disputes. You will be responsible to resolve all merchant disputes and provide necessary assistance at your own cost to the acquiring banks, card networks, Spreadly and other payment partners for dealing with merchant disputes.

2.4.3. Agreements with Merchants. You represent that your merchants are eligible to utilize the Platform, are located in the eligible territory and have elected to receive services through you regarding your merchant's service agreement(s). You represent that you have appropriate contractual or other arrangements with each such eligible merchant whereby such merchant authorizes you, as its representative, to receive Merchant Aggregator Services on behalf of such merchant in connection with the merchant's Transactions, through you. You are solely responsible for having the appropriate contractual or other arrangements with each merchant whom you represent is a merchant in your merchant aggregator group. Spreadly will not be responsible for monitoring, auditing, reviewing or enforcing such arrangements. You agree that you and your merchant are subject to the terms.

2.4.4. Limitation of Liability. Spreadly will not be liable to you for any damages caused by Spreadly's conduct in compliance with, or as permitted by the Terms of Service and associated legal and regulatory requirements related to your responsibilities or actions as a Merchant Aggregator. You agree that Spreadly will not be liable to any merchant for any damages caused to the merchant by, or resulting from (i) any failure by you to comply with the Terms of Service and associated legal and regulatory requirements, (ii) your failure to perform any commitment to the merchant or (iii) any acts, omissions or representations made by you in connection with soliciting customers for your services or performing any of its functions as a Merchant Aggregator.

2.5. Support Services. During the Term, so long as you comply with these Terms of Service, Spreadly will provide technical support services to you in accordance with the [Support Services Terms](#), which are incorporated herein by reference (the "**Support Services**").

2.6. Professional Services. If you and Spreadly enter into an Ordering Document for Spreadly to perform technical, consulting or other professional services, the following additional terms will apply:

2.6.1. The terms and conditions included in an Ordering Document, including payment terms, term and termination and other limitations govern Spreadly's provision of such Professional Services described therein.

2.6.2. Spreadly reserves the right to determine which of Spreadly's personnel or subcontractors will be assigned to perform the Professional Services, and to replace or reassign such personnel in its sole discretion.

2.6.3. In connection with Spreadly's provision of the Professional Services, you will: (i) reasonably cooperate with Spreadly in all matters relating to the performance of the Professional Services; (ii) respond promptly to Spreadly's requests to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Spreadly to perform the Professional Services; (iii) provide the content, data and materials that you are required to enable the performance of the Professional Services; and (iv) perform those additional tasks and assume those additional responsibilities specified in the applicable Ordering Document. You agree that Spreadly's performance is dependent on your timely and effective fulfillment of the foregoing responsibilities.

2.6.4. You must secure all rights, consents, licenses or approvals required or necessary to allow Spreadly to access or use any third-party data, materials, software or technology necessary for Spreadly's performance of the Professional Services

2.6.5. You acknowledge and agree that all results and proceeds of the Professional Services provided by Spreadly will be deemed to be a part of the services provided related to use of the

Platform hereunder and therefore owned by Speedly and provided to you in accordance with Section 2.1 of these Terms of Service.

3. Confidentiality.

3.1. “**Confidential Information**” means all proprietary, non-public information or materials of any character, whether written, electronic, verbal or otherwise furnished by the disclosing party or its directors, officers, employees, consultants, contractors, agents or advisors that (i) is marked or otherwise identified as “Confidential” and/or “Proprietary” (or, if disclosed verbally, is reduced to writing and marked or identified as “Confidential” and/or “Proprietary” and forwarded to the other party within thirty (30) days of oral disclosure) or (ii) should reasonably be understood from all the relevant circumstances to be of confidential or of a proprietary nature, including but not limited to, all (A) trade secrets, (B) financial information and pricing, (C) technical information, such as research, development procedures, algorithms, data, designs, and know-how, (D) Personal Data, (E) business and operational information, such as planning, marketing interests, pricing and products, (F) customer lists and all related information, and (G) the terms of this Agreement and any Ordering Document (if any). To avoid doubt, the following are considered Speedly’s Confidential Information: all non-public information related to the Platform (including without limitation, pricing information (e.g., price quotes) and the source code for the Platform and the methods, algorithms, structure and logic, technical infrastructure, techniques and processes used by Speedly in developing, producing, marketing and/or providing the Platform). The following are considered your Confidential Information: Account Data.

3.2. Each party will protect the other’s Confidential Information from unauthorized access, use or disclosure like each party protects its own Confidential Information, and no less than reasonable care. Except as otherwise permitted under these Terms of Service, the receiving party may use the disclosing party’s Confidential Information solely to exercise its respective rights and perform its respective obligations under these Terms of Service and will disclose such Confidential Information solely to those of its respective Affiliates, employees, representatives and agents (collectively, “**Representatives**”) with a need to know such Confidential Information for such purposes and who are bound to maintain the confidentiality of, and not misuse, such Confidential Information. Each party will be liable for any breach of these Terms of Service by its Representatives to whom it discloses Confidential Information.

3.3. If a party or one of its Representatives is required by any Law, rule or order of any governmental body or agency, or as otherwise necessary to maintain or comply with any regulatory certifications or requirements, to disclose any Confidential Information of the other party, such party (i) will, to the extent legally permissible, give the other party prompt notice of such request so that the other party may (at its own expense) seek an appropriate protective remedy, and (ii) will, and will cause its Representatives to, cooperate with the other party (at the other party’s expense) in its efforts to obtain any such protective remedy. If the disclosing party is unable to obtain such a protective remedy, the receiving party or its Representatives, as applicable, will furnish only that portion of the Confidential Information that it is required to disclose and exercise reasonable efforts to assist the disclosing party in obtaining assurances that confidential treatment will be accorded the Confidential Information that is required to be disclosed.

3.4. All Confidential Information will always remain the sole and exclusive property of the disclosing party and the receiving party will not acquire any rights in or to such Confidential Information by reason of its disclosure to the receiving party.

4. Data Protection and Privacy.

4.1. Speedly will implement safeguards to protect against anticipated threats or hazards to the security, confidentiality or integrity of Account Data in accordance with Speedly’s [Data Security Policies](#), which is incorporated herein by reference. You should familiarize yourself with Speedly’s Data Security Policies before using the Platform.

4.2. If Spreadly is required to collect, access, store, transfer, transmit, use, disclose or otherwise process any of Personal Data on your behalf, each party must comply with their respective obligations set forth in the [Data Processing Addendum](#), which is incorporated herein by reference.

4.3. When you provide Personal Data to Spreadly or authorize Spreadly to collect Personal Data (as part of Account Data or otherwise) you must provide all necessary notices to and obtain all necessary rights and consents from the applicable individuals sufficient to enable Spreadly to lawfully collect, use, retain and disclose the Personal Data in the ways these Terms of Service. You agree that you will comply with all data privacy and protection laws applicable to you.

5. Fees and Payment.

5.1. You will pay to Spreadly the fees and charges as described in each Ordering Document (if applicable) or Supplemental Terms (the “**Fees**”) and this section. All purchases are final, all payment obligations are non-cancelable and (except as otherwise expressly provided in these Terms of Service) all Fees once paid are non-refundable.

5.2. Spreadly reserves the right to increase or decrease the Fees at any time during the Term by giving you at least 30 days’ prior written notice. The effective date of the Fee change will be as specified in the Fee change notice. By continuing to use the Platform after a Fee change, you are agreeing to the new charges. If you are not willing to agree to the Fee change, then you must notify Spreadly of your intent not to renew at least 15 days prior to the effective date of the Fee change and discontinue the using the Platform in accordance with Section 7.4 by the end of the then-current Term.

5.3. If Spreadly is required by law to pay, withhold or deduct any taxes, levies, imports, duties, charges, fees or other amounts from your payments, those amounts will be invoiced to and paid by you in addition to the Fees, unless you provide Spreadly with a valid exemption certificate from the corresponding authority. If you are required by law to withhold or deduct any portion of the Fees due to Spreadly (a “**Required Withholding**”), Spreadly will be entitled to “gross-up” the applicable Fees in an amount equal to the Required Withholding so that it receives the same Fees it would have received but for the withheld amounts required by law. You remain liable for the payment of all Required Withholdings, however designated, that are levied or based on your use of the Platform.

5.4. You will make all payments in US dollars. Unless otherwise set forth in an applicable Ordering Document, all invoiced amounts are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information and notifying Spreadly of any changes to that information.

5.5. If you fail to make any payment when due then, in addition to all other remedies that may be available to Spreadly (including Spreadly’s rights under Section 7.2 and Section 7.3), Spreadly may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law.

6. Ownership and IP Rights.

6.1. You acknowledge and agree that Spreadly owns all interest in and to the Platform and the Documentation, including all IP Rights and all derivative works. Spreadly is not granting you any right or license to use or access the Platform or the Documentation, except as specifically provided in Section 2.1 above (and subject to the limitations and restrictions in Section 2.2 above). Spreadly reserves all rights not expressly granted to you in these Terms of Service.

6.2. As between you and Spreadly, you are and will remain the sole and exclusive owner of all interests in and to all Account Data (or have valid licenses or rights to use, grant access to and sublicense such Account Data as contemplated under these Terms of Service), including all IP Rights therein, subject to the rights you

grant to Spreadly in this section. During the Term, you hereby grant to Spreadly and its subcontractors all such rights and permissions in or relating to Account Data as are necessary to: (i) provide you with access to the Platform; (ii) enforce these Terms of Service and exercise Spreadly's rights and perform Spreadly's obligations under these Terms of Service; and (iii) improve the Platform.

6.3. During the Term, you and your Affiliates may provide Feedback to Spreadly. You grant to Spreadly, on behalf of yourself and your Affiliates, a perpetual, worldwide, non-exclusive, irrevocable, royalty-free license to exploit that Feedback for any purpose, including developing, improving, modifying, promoting, selling and maintaining the Platform. All Feedback is Spreadly's Confidential Information.

6.4. To the extent Spreadly makes any improvements to the Platform based upon your use, Spreadly exclusively owns all right, title and interest in and to such improvements, including all related IP Rights.

6.5. Spreadly may collect metadata and other statistical information regarding your use of and the performance of the Platform ("**Usage Data**"). Usage Data does not contain and is not derived from Account Data. You agree that Spreadly may use Usage Data in connection with providing you access to the Platform and for Spreadly's internal business purposes (such as monitoring, enhancing and improving the Platform), and that Spreadly may publish and share with third parties aggregated Usage Data that cannot, by itself or with other data, directly or indirectly, identify you, your customers or clients or any other individual or entity.

6.6. Spreadly may add your name to our customer list and identify you as a Spreadly customer on Spreadly's website and in other sales and marketing materials. Any further use of your name in connection with Spreadly marketing activities will require your prior approval.

7. Term, Termination and Suspension.

7.1. These Terms of Service are effective the earlier of (i) the date you first create your account or (ii) the date you commence your access and use of the Platform or (iii) the start of your service Term under an Ordering Document and will remain in effect until you or we terminate your access to the Platform. The initial term of your subscription to access the Platform will be for 30 days (unless otherwise agreed to in an Ordering Document) (the "**Initial Term**"). Unless otherwise agreed in the Ordering Document, your subscription to access the Platform (other than Professional Services) will automatically renew for successive renewal terms equal in length to the Initial Term (each, a "**Renewal Term**" and, together with the Initial Term, the "**Term**"), unless a party provides written notice of non-renewal to the other party at least 30 days prior to the expiration of the then-current Term.

7.2. Your access and use of the Platform may be terminated at any time by either party, effective when that party provides written notice to the other party if the other party materially breaches these Terms of Service and such breach remains uncured 30 days after the non-breaching party provides the breaching party with written notice regarding such breach. If your access to the Platform is under an Ordering Document, at Spreadly's option, Spreadly's termination of an Ordering Document may automatically terminate these Terms of Service and all other outstanding Ordering Documents.

7.3. Spreadly may immediately suspend or deny your access to or use of all or any part of the Platform, without any liability, if your use: (i) is or may be harmful to Spreadly or any third party; (ii) presents an unacceptable level of risk; (iii) increases, or may increase, the rate of fraud that Spreadly observes; (iv) degrades, or may degrade, the security, stability or reliability of the Platform or any third party's system (e.g., your involvement in a distributed denial of service attack); (v) enables or facilitates, or may enable or facilitate, illegal or prohibited transactions; (vi) is or may be unlawful; or (vii) breaches these Terms of Service or any Ordering Document. Spreadly's remedies in this section are in addition to, and not in lieu of, Spreadly's termination rights in Section 7.2.

7.4. If your access to the Platform is terminated or expires (other than the termination or expiration of an Ordering Document for Professional Services), then: (i) Spreadly will immediately discontinue your access to the Platform; (ii) you will complete all pending Transactions and stop accepting new Transactions through the Platform; (iii) you will promptly pay to Spreadly all amounts owing to it under these Terms of Service and all Ordering Documents; (iv) you will discontinue use of any Spreadly trademarks and immediately remove any Spreadly references and logos from your website; and (v) each party will promptly return to the other or, if so directed by the other party, destroy all originals and copies of any Confidential Information of the other party (including all notes, records and materials developed therefrom).

7.5. Sections 3 (Confidentiality), 5 (Fees and Payment), 6 (Ownership and IP Rights), 7 (Effect of Termination), 9 (Disclaimer of Warranties), 10 (Indemnification), 11 (Limitations of Liability), 14 (Miscellaneous), 15 (Definitions), and this Section 7 will survive any expiration or termination of the Terms of Service and any Ordering Document along with any provision which by its nature or express terms should survive termination.

8. Export of Payment Data. You may elect at any time to perform an automatic export of any Payment Data to a third-party endpoint for which Spreadly supports third-party vaulting. For any endpoint for which automatic export is not supported, you may request that Spreadly perform a manual export of your Payment Data and/or other Account Data to your designated recipient so long as the recipient has provided adequate evidence to Spreadly that it is PCI-DSS compliant and Spreadly determines, in its sole discretion, that the transfer is not in violation of any applicable Laws. Each manual export will incur an export charge at Spreadly's then-current rates. Spreadly reserves the right to delete all of your Account Data 30 days after the effective date of termination ("**Data Transfer Window**"). If you require additional time to arrange the export of your Payment Data to a PCI-DSS compliant third party, Spreadly may extend the Data Transfer Window for additional 30-day periods when you provide written notice to Spreadly and continuing to pay a prorated portion of the applicable Fees.

9. Representations and Warranties.

9.1. You represent as of the Effective Date, and warrant during the Term, that:

9.1.1. you have the authority to enter into and perform under these Terms of Service;

9.1.2. you are duly organized, validly existing and in good standing as a corporation or other entity under the laws of the jurisdiction of its incorporation or other organization;

9.1.3. the acceptance of these Terms of Service by your representative has been duly authorized by all necessary corporate or organizational action;

9.1.4. these Terms of Service will constitute the legal, valid and binding obligation, enforceable against you in accordance with its terms;

9.1.5. you will not use the Platform, directly or indirectly, for any fraudulent undertaking or in any manner that interferes with the use of the Platform;

9.1.6. your use of the Platform and your collection and use of all of Account Data (including your processing of Payment Data and/or any card authorization, credit, ticket only, capture or settlement request, decline Transaction, or other related Transaction, completed or submitted under your account) will comply with (i) all applicable Laws, (ii) the terms of service of the payment gateways, merchant service providers and/or API endpoints you connect with the Platform, (iii) the operating rules, bylaws, schedules, supplements and addenda, manuals, instructions, releases, specifications and other requirements, as may be amended from time-to-time, of any of the payment networks including Visa, MasterCard, American Express, Discover Financial Services, and any Affiliates thereof or any other payment network applicable to the

Platform; (iv) PCI-DSS and PA-DSS, as applicable; and (v) any regulatory body or agency having jurisdiction over the subject matter thereof;

9.1.7. you have, and comply with, all necessary rights, consents, licenses, and approvals for the operation of your business and to allow you to access and use the Platform in compliance with these Terms of Service and applicable Law;

9.1.8. your employees, contractors and agents are acting consistently with these Terms of Service;

9.1.9. your use of the Platform does not violate or infringe upon any third-party rights, including IP Rights, and you have obtained all necessary rights and permissions to enable your use of the Platform in accordance with these Terms of Service;

9.1.10. you comply with applicable Law with respect to your business, your use of the Platform, and the performance of your obligations under these Terms of Service;

9.1.11. your use of the Platform will always comply with the Documentation; and

9.1.12. all information you provide to Spreadly, including all Account Data, is accurate and complete and you own, or have all rights, permissions and consents necessary to access or process, and to permit Spreadly, its subcontractors and the Platform to access or process, all Account Data and the Transactions related thereto.

9.2. THE PLATFORM IS PROVIDED BY SPREADLY HEREUNDER ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND SPREADLY HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, NEITHER SPREADLY NOR ANYONE ASSOCIATED WITH SPREADLY REPRESENTS OR WARRANTS THAT THE PLATFORM OR SERVICE WILL BE RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED OR THAT THE PLATFORM WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

10. Indemnification. You will indemnify, defend, and hold harmless Spreadly and our processors (and our respective employees, directors, agents, Affiliates and representatives) against any claims, costs, losses, damages, judgments, tax assessments, penalties, interest, and expenses (including without limitation reasonable attorneys' fees) relating to any claim, action, audit, investigation, inquiry, or other proceeding instituted by any person or entity that arises out of or relates to: (a) any actual or alleged breach of your representations, warranties, or obligations in these Terms of Service or any third-party terms and conditions related to Third-Party Integrations; (b) your wrongful or improper use of the Platform; (c) your violation of any third-party right, including without limitation any right of privacy, publicity rights or IP Rights; (d) your violation of any Law; (e) any inaccuracy in any tax information provided; (e) any third-party claims made by your customers regarding Spreadly's processing of your customer's Personal Data in connection with providing you with the Platform; and (f) any other party's access and/or use of the Platform through your account.

11. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SPREADLY WILL NOT BE LIABLE TO YOU OR ANY OF YOUR AFFILIATES IN RELATION TO PLATFORM ACCESS OR ANY SERVICES GOVERNED BY THESE TERMS OF SERVICE OR THE ORDERING DOCUMENTS FOR ANY LOST PROFITS, LOSS OF ANTICIPATED SAVINGS, WASTED EXPENDITURE, LOSS OF BUSINESS OPPORTUNITIES, REPUTATION OR GOODWILL, LOSS OR CORRUPTION OF DATA, OR ANY INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF BUSINESS PROFITS) ARISING OUT OF OR RELATING TO THE PLATFORM OR SERVICES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE TOTAL AND CUMULATIVE LIABILITY OF SPREADLY ARISING UNDER OR IN CONNECTION WITH PLATFORM ACCESS OR SERVICES PROVIDED UNDER THESE TERMS OF SERVICE WILL NOT EXCEED THE TOTAL FEES PAID BY YOU TO SPREADLY DURING THE 3-MONTH PERIOD

IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY. THE LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF YOU OR SPREEDLY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

12. Choice of Law. The laws of the State of North Carolina govern the access to the Platform and services under these Terms of Service, as well as all related disputes, without giving effect to its conflict of law provisions, regardless of from where you access the Platform or services. You agree that the exclusive place of jurisdiction for all disputes or claim relating to the Platform or services and/or these Terms of Service is Raleigh, North Carolina, or the United States District Court for the Eastern District of North Carolina.

13. Dispute Resolution; Agreement to Arbitrate. **Please read this section carefully, as it affects your legal rights, including your right to file a lawsuit in court. Every controversy or claim arising out of or relating to this Agreement, or the breach thereof (a "Dispute") will be resolved in accordance with this section.**

13.1. If a Dispute arises, the parties agree to discuss (in good faith) the Dispute informally for at least 60 days before commencing an arbitration action, as described in this section. If the parties are unable to resolve the Dispute within such 60-day period, such Dispute will be resolved by final and binding arbitration instituted and conducted pursuant to the Commercial Arbitration Rules of the American Arbitration Association (the "**AAA Rules**"). All arbitration hearings will be conducted in Raleigh, North Carolina. The statute of limitations applicable to any claim will be determined as if such claim were being asserted in a state court in the State of North Carolina, for all state law claims, and in a federal court in the State of North Carolina, for all federal law claims, and such statute of limitations will apply to preclude arbitration of any claim hereunder not brought within the applicable limitation period. The arbitrators will have the authority to award interest on any damages and to award attorneys' fees and costs to the prevailing party or parties, if any, or to allocate such fees and costs as the arbitrators will determine to be equitable. A judgment upon the award rendered by the arbitrators may be entered in any court having competent jurisdiction. Notwithstanding anything herein to the contrary, any Dispute concerning whether a matter is subject to arbitration hereunder, including a Dispute caused by the refusal of a party hereto to arbitrate, will be resolved in a judicial proceeding commenced in a state court in the State of North Carolina, for all state law claims, and in a federal court in the State of North Carolina, for all federal law claims. Further, notwithstanding anything herein to the contrary, the parties reserve the right to proceed at any time in any court having jurisdiction to exercise any equitable remedies. Preservation of these remedies does not limit the power of the arbitrators to grant similar remedies that may be requested by a party in a Dispute. The agreement to arbitrate set forth in this section may only be enforced by the parties to this Agreement and their permitted successors and assigns, will survive the termination or breach of this Agreement, and will be construed pursuant to and governed by the provisions of the Federal Arbitration Act, 9 U.S.C. §1, et seq.

13.2. PLEASE BE AWARE THAT YOU ARE GIVING UP THE RIGHT TO LITIGATE A DISPUTE IN COURT BEFORE A JUDGE OR JURY. YOU AND SPREEDLY AGREE TO ARBITRATE IN EACH OF OUR INDIVIDUAL CAPACITIES ONLY, NOT AS A REPRESENTATIVE OR MEMBER OF A CLASS, AND EACH OF US EXPRESSLY WAIVES ANY RIGHT TO FILE A CLASS ACTION OR SEEK RELIEF ON A CLASS BASIS.

13.3. If any portion of this agreement to arbitrate is found to be unenforceable or unlawful for any reason, (i) the unenforceable or unlawful provision will be severed from the Terms of Service; (ii) severance of the unenforceable or unlawful provision will have no impact on the remainder of the agreement to arbitrate or the parties' ability to compel arbitration of any remaining claims individually under this section; and (iii) if any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims will be stayed pending the outcome of any individual claims in arbitration.

14. Miscellaneous.

14.1. This Agreement (including, for avoidance of doubt, the Supplemental Terms) constitutes the entire agreement, and supersedes all prior negotiations, understandings or agreements (oral or written), between the parties regarding the subject matter of this Agreement (and all past dealing or industry custom). If any term in these Terms of Service conflicts with a term in any Supplemental Terms, then unless terms of lower precedence expressly state to the contrary, the order of precedence is: (i) the Ordering Document (if any); (ii) these Terms of Service; and (iii) the other Supplemental Terms and any terms and conditions set forth in any policy, addenda, exhibit, document or other terms incorporated herein by reference, including any such terms identified and maintained at a URL referenced herein. However, nothing in an Ordering Document may modify or supersede anything in Sections 3, 4, 6, or sections 9-13 of this Agreement.

14.2. Any delay or failure of either Spreadly to enforce its rights, powers or privileges under this Agreement, at any time or for any period, will not be construed as a waiver of such rights, powers and privileges, and the exercise of one right or remedy will not be deemed a waiver of any other right or remedy. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

14.3. Under these Terms of Service, notices to you will be sent to the e-mail address designated by you in your account and notices to Spreadly must be sent to: support@spreadly.com. Notice to you will be treated as received when the email is sent. You are responsible for keeping your email address designated in your account accurate and current throughout the Term.

14.4. You may not assign or otherwise transfer your rights or obligations under this Agreement without the prior written consent of Spreadly. Any attempt to assign or transfer in violation of the previous sentence will be void in each instance. Notwithstanding the foregoing, this Agreement will be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties.

14.5. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties and neither party will have authority to contract for or bind the other Party in any manner whatsoever.

14.6. Spreadly will not be liable for any losses, damages, or costs you suffer, or delays in Spreadly performance or non-performance, to the extent caused by a Force Majeure Event.

14.7. Each party agrees that a breach or threatened breach by such party of any of its obligations under Sections 3, 4 or 6 of this Agreement would cause the other party irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, the other party will be entitled to equitable relief, including in a restraining order, an injunction, specific performance and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

14.8. You certify that you will not, directly or indirectly, export, re-export, transfer, or otherwise provide access to the Platform or any data, information, software programs, and/or materials resulting from the Platform (or direct product thereof) to any Sanctioned Person (as defined below) or to a Sanctioned Jurisdiction or otherwise in violation of, or for any purpose prohibited by, Sanctions and Export Control Laws. You will not conduct business with any company, individual, organization or country subject to trade sanctions, embargoes, or other restrictions under Sanctions and Export Control Laws, nor any entity involved in an end use prohibited under U.S. law, including but not limited to, chemical or biological weapons proliferation or

nuclear or missile technology proliferation. You understand and acknowledge that we may share Account Data with certain service providers to comply with Sanctions and Export Control Laws, including for sanctions screening and geo-blocking. The parties will cooperate with each other to provide all necessary information needed to facilitate full compliance with all applicable laws and regulations.

14.9. Further, you acknowledge that you are responsible for ensuring that the Platform are used, accessed, and disclosed in compliance with all Sanctions and Export Control Laws. You certify that you and your beneficial owners, principals, employees, and agents are not, and will not be, acting on behalf of: (i) any person or entity located in a Sanctioned Jurisdiction, or uses the Platform in a Sanctioned Jurisdiction, or is a national of a Sanctioned Jurisdiction; (ii) an individual or entity on the Consolidated List of Persons, Groups, and Entities Subject to the U.S. Department of the Treasury's List of Specially Designated Nationals and Blocked Persons or Foreign Sanctions Evaders List, the U.S. Department of Commerce's Denied Persons List or Entity List, or any other sanctions or restricted persons lists maintained by applicable Sanctions and Export Control Laws; or (iii) the target or subject of any Sanctions and Export Control Laws (collectively, "**Sanctioned Persons**").

14.10. If you are the U.S. government (including any department or agency) or contracting on the U.S. government's behalf, then the Platform (including the software and other components) are "**Commercial Items**", 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 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4 the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. government end users (i) only as Commercial Items and (ii) with only those rights as granted to all other end users under this Agreement. All unpublished rights are reserved under the copyright laws of the United States.

15. Definitions. As used in this Agreement, the following terms will have the meanings set forth below:

"**Account Data**" means Payment Data and any other data or information that is uploaded or otherwise received from you by or through the Platform for the purposes of being processed within your account.

"**Affiliate**" means any entity that is now or in the future directly or indirectly controlled by, controlling, or under common control with a party.

"**API**" means all instances of the Spreadly application program interface, including all endpoints that enable you to use Spreadly's Platform (available via "API Reference" section of Spreadly's Documentation website).

"**API call**" means any query to a Spreadly API including all endpoints that enable you to access and use the Spreadly Platform.

"**Data Processing Addendum**" means Spreadly's Data Processing Addendum located at: <https://www.spreadly.com/gdpr>, including all Standard Contractual Clauses, appendices and attachments thereto, as Spreadly may update from time-to-time in Spreadly's discretion.

"**Data Security Policies**" means Spreadly's data security policies described at: <https://www.spreadly.com/security-compliance>, as Spreadly may update from time-to-time in Spreadly's discretion.

"**Documentation**" means the then-current online, electronic and written user documentation and guides, and instructional videos that Spreadly makes available to you at: <https://developer.spreadly.com/>, which describe the functionality, components, features or requirements of the Platform, as Spreadly may update from time-to-time in Spreadly's discretion.

"**Effective Date**" means the earlier of (i) the date you first create your account or (ii) the date you commence your access and use of the Platform or (iii) the start of your service Term under an Ordering Document.

"Feedback" means ideas, suggestions, comments, observations and other input you provide to Spreadly regarding the Platform, especially Trial Features.

"Force Majeure Event" means an event beyond the control of Spreadly or its subcontractors, including a strike or other labor dispute; labor shortage, stoppage or slowdown; supply chain disruption; embargo or blockade; telecommunication breakdown; power outage or shortage; inadequate transportation service; inability or delay in obtaining adequate supplies; weather; earthquake; fire; flood; act of God; riot; civil disorder; civil or government calamity; epidemic; pandemic; state or national health crisis; war; invasion; hostility (whether war is declared or not); terrorism threat or act; Law; or act of a governmental body or agency.

"IP Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the Laws of any state, country, territory or other jurisdiction.

"Merchant Aggregator" means a Spreadly customer that is the non-merchant of record facilitating its merchant partners to sell to downstream consumers or customers while providing payment and non-payment services on behalf of their merchants.

"Laws" means all laws, directives, rules and regulations.

"Ordering Document" means each document ordering Spreadly services that is expressly governed by these Terms of Service.

"Payment Data" means any personal or financial information collected from a credit card, debit card or other payment method, including but not limited to a cardholder's account number, card expiration date, and CVV2 uploaded or otherwise received from you by or through the Platform for the purposes of being processed within the Platform.

"Payment Method" means a payment method that Spreadly accepts through a Spreadly Transaction API including but not limited to for processing, vaulting and tokenization.

"PCI-DSS" means the Payment Card Industry Data Security Standard.

"Personal Data" means any information relating to an identifiable natural person that is "processed" (as defined in the [Data Processing Addendum](#)) in connection with Spreadly Platform, and includes "personal data" as defined under EU Regulation (EU) 2016/679 (General Data Protection Regulation) and "personal information" as defined under the CCPA.

"Professional Services" means the implementation, integration, migration, and/or consulting services provided by Spreadly and described in an Ordering Document.

"Sanction and Export Control Laws" means U.S. export control and economic sanctions laws and regulations, including without limitation, the Export Administration Regulations ("EAR") administered by the Bureau of Industry and Security ("BIS") of the U.S. Department of Commerce and economic sanctions administered by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of Treasury or such sanctions imposed and implemented where the Platform is being used and/or accessed or where you and/or your merchant is located, a resident or a national.

"Sanctioned Jurisdictions" means any country subject to comprehensive U.S. sanctions, including without limitation, Iran, Syria, North Korea, Cuba and Crimea and the Donbass regions of Ukraine.

"Supplemental Terms" means (i) the terms and conditions set forth in any policy, addenda, exhibit, document or other terms incorporated herein by reference, including any such terms identified and maintained at a URL referenced herein.

"Support Services Terms" means Spreadly's technical support terms located at: <https://www.spreadly.com/support-services-terms>, as Spreadly may update from time-to-time at Spreadly's discretion.

"Term" means the period beginning on the Effective Date through the termination of access to the Platform or the period of access under an Ordering Document (if any).

“Transaction” means any request of a Spreedly API endpoint. Multiple Transactions may be necessary to effect one payment (such as storing a payment method or, authorizing a payment, and then capturing the payment amount).

“Transaction APIs” means Spreedly’s core APIs responsible for processing payment transaction requests excluding non-payment related features or services as part of the Platform.

“Trial Services” means the Platform services that Spreedly provides on a free- or trial-basis during the applicable trial period.

