



BETA SERVICE PARTICIPATION AGREEMENT

(Smart Routing Recommendation API)

Spreadly, Inc. ("**Spreadly**") has designed and developed an application to recommend an optimal payment gateway based on aggregated transaction success rate data collected by Spreadly (the "**Beta Service**") and now desires to allow the undersigned participant ("**Evaluator**") to test pre-release versions of the Beta Service, and to provide feedback and comments to Spreadly regarding its use and utility.

By signing below, Evaluator agrees to be bound by the terms and conditions in these Beta Service Participation Agreement ("**Agreement**").

1. Access. The Beta Service will be made available to Evaluator through an API key provided by Spreadly. Except as permitted under a separate written authorization from Spreadly, Evaluator is prohibited from allowing third parties to access the Beta Service. The Beta Service is provided as-is, and may be updated, modified, or terminated at any time. Spreadly does not make any promises or claims as to the availability or uptime of the Beta Service. The primary purpose of this Agreement is to obtain feedback on the performance of the Beta Service and identify defects.

2. No Transaction. The Beta Service does not initiate any transaction and no money is transferred.

3. Third-Party Data. In order to make use of the Beta Service, Evaluator acknowledges and agrees that it may need to provide Spreadly with certain data and information provided by third parties ("Third-Party Content"). Evaluator shall be solely responsible for ensuring it has all necessary rights to such Third-Party Content in connection with the use of the Beta Service. Evaluator shall defend, indemnify and hold Spreadly harmless for any claims, losses and expenses incurred by Spreadly and arising from any third party claim relating to the use of the Third Party Content to provide the Beta Service to Evaluator. In order to claim indemnification from Evaluator Spreadly must (i) promptly notify Evaluator of any claim, demand letter, Summons, Complaint, or other notice of proceeding; (ii) allow Evaluator to control the settlement and/or defense of any such claims, including selection of counsel; and (iii) reasonably cooperate with Evaluator in the settlement and/or defense of any such matter.

4. Aggregate Data. Evaluator acknowledges and agrees that Spreadly may use aggregated and anonymous data based on Evaluator's use of the Beta Service, including data on Evaluator's usage to produce reports, analyses, data, and other similar materials; provided that none of the foregoing identifies Evaluator or its customers. Any such materials produced using such aggregate data are the sole and exclusive property of Spreadly.

5. Usage. Evaluator agrees that all use of the Beta Service will be in accordance with the documentation and policies provided by Spreadly, which are subject to change from time to time. Spreadly may post information and documentation for the Beta Service at www.spreadly.com or other website shall send an email to Evaluator with documentation and notices of any changes to the Beta Service.

6. No Warranty. The Beta Service is provided WITHOUT ANY WARRANTY, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. SPREADLY SPECIFICALLY DOES NOT WARRANT THAT THE BETA SERVICE WILL BE ERROR-FREE, ACCURATE, RELIABLE, COMPLETE OR UNINTERRUPTED.

7. Feedback. Evaluator will be invited to provide suggestions, ideas and other data ("**Feedback**") to Spreadly regarding Evaluator's use of the Beta Service, but Spreadly is not obligated to take any action in response to such Feedback. In addition, Evaluator agrees that: (i) all Feedback will be given voluntarily; (ii) Spreadly will be free to anonymously use, disclose, reproduce, distribute, implement or otherwise commercialize all Feedback provided by Evaluator without any other obligation or restriction (except that Spreadly shall not identify Evaluator or its customers); (iii) Evaluator waives all rights to be compensated or to seek compensation from Feedback; (iv) Spreadly owns all right, title and interest in and to the Beta Service, including all Intellectual Property Rights (defined below), even if Spreadly incorporates any Feedback into subsequent versions of the Beta Service, and Evaluator will not earn or acquire any rights or licenses in the Beta Service or in any Spreadly Intellectual Property Rights by virtue of providing Feedback to Spreadly.



8. License Grant. Subject to this Agreement, Spreadly grants to Evaluator a limited, non-exclusive, non-transferable, revocable, right and license to access and use the Beta Service during the Evaluation Period (defined below), in accordance with this Agreement and the Beta Service documentation provided by Spreadly (if any), solely for purposes of internal testing and evaluation. The Beta Service is made available to Evaluator for testing purposes only and has not been released for sale, distribution or usage for the general public. If Spreadly publicly releases any services or products with features or functionality similar to the Beta Service they will require an additional and separate license.

9. Intellectual Property. Spreadly retains all rights, title and interest in the Intellectual Property Rights embodied in or associated with the Beta Service (including but not limited to documentation and APIs), Spreadly technology and any content derived therefrom. There are no implied licenses under this agreement, and any rights not expressly granted are reserved by Spreadly. Except as licensed expressly herein, this Agreement does not transfer any Intellectual Property Rights between the parties. "**Intellectual Property Rights**" means any and all intellectual property or proprietary rights under any jurisdiction including without limitation (i) marks, and all goodwill associated therewith and symbolized thereby; (ii) inventions, discoveries and ideas, whether patentable or not, and all patents, registrations, and applications thereof; (iii) published and unpublished works of authorship, whether copyrightable or not (including without limitation databases and other compilations of information), copyrights therein and thereto, and registrations and applications thereof; (iv) trade secrets; (v) all moral rights in the foregoing (that is, the right to claim authorship of or object to the modification of any work); and (vi) all applications, renewals, extensions, restorations and reinstatements of the foregoing.

10. Term; Termination. The term of this Agreement shall be for a 90 day period to commence on November 1, 2021 and expiring on January 30, 2022 (the "**Evaluation Period**"). Either party may terminate this Agreement upon written notice delivered to the other party at any time, for any reason or no reason.

11. Fees. The Beta Service will be provided during the Evaluation Period at no cost. Each party is responsible for all costs and expenses that such party incurs in connection with its performance under this Agreement.

12. Confidentiality. Except as expressly provided in this Agreement, each party shall not possess, access, use or disclose any of the other party's Confidential Information except to perform its obligations or exercise its rights under the Agreement. Each party shall use reasonable care to protect the other party's Confidential Information, but in no event less care than it employs in protecting its own Confidential Information. Each party shall be responsible for any breach of confidentiality by its employees and contractors. Promptly after any termination of this Agreement (or at the disclosing party's request at any other time), each party shall return or destroy all of the other party's tangible Confidential Information. The restrictions herein will not prevent either party from complying with any law, regulation, court order or other legal requirement that purports to compel disclosure of any Confidential Information; provided that such party promptly notifies the disclosing party upon learning of any such legal requirement, and cooperates with the disclosing party in the exercise of its right to protect the confidentiality of the Confidential Information before any tribunal or governmental agency. "**Confidential Information**" means all financial, business or technical information that is disclosed by or for a party in relation to this Agreement (including all copies and derivatives thereof) and which are marked or otherwise identified as proprietary or confidential at the time of disclosure, or which by their nature would be understood by a reasonable person to be proprietary or confidential but not including any information that a receiving party can demonstrate is provided by a third party without breach of any obligation to the disclosing party, is generally available to the public without breach of this Agreement or is independently developed by it without reliance on such information. All benchmarking and performance information relating to the Beta Service shall be Spreadly's Confidential Information.

13. Notice. Evaluator agrees that Spreadly may provide notice to Evaluator by email to us-legal@hellofresh.com. Spreadly agrees that Evaluator may provide notice to Spreadly by email to product@spreadly.com with copy to legal@spreadly.com.

14. Publicity. Neither party shall publicly announce the existence of this Agreement, or advertise or release any publicity regarding the Beta Service or Evaluator's use of the Beta Service without the prior written consent of the other party.



15. Limitation on Liability. IN NO EVENT SHALL SPREEDLY OR EVALUATOR BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE BETA SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION IN THE BETA SERVICE. EVALUATOR ACKNOWLEDGES THAT SPREEDLY NOT SHALL HAVE ANY LIABILITY TO EVALUATOR FOR ANY CLAIM OR DAMAGES THAT ARISE FROM OR IN RELATION TO ANY DECISION BASED ON INFORMATION RECEIVED THROUGH THE BETA SERVICE. EXCEPT FOR BREACHES OF SECTION 12, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT EXCEED \$1000.00.

16. Relationship of the Parties. No joint venture, partnership, employment, or agency relationship exists between Evaluator and Spreadly as a result of this Agreement.

17. Assignment. Evaluator may not transfer or assign this Agreement.

18. Severability. If any provision of this Agreement is found 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.

19. Entire Agreement. This Agreement is the only agreement between Spreadly and Evaluator governing Evaluator's use of the Beta Service and will not be construed to amend or incorporate or be made a part of other agreement(s), if any, between Spreadly and Evaluator for other products or services.

20. Amendment. Any modification or amendment of this Agreement shall be in writing signed by the parties.

[Signatures on next page]



CONFIDENTIAL

The parties have executed this Agreement by their duly authorized representatives in one or more counterparts, each of which will be deemed an original.

Spreedly, Inc.

("Spreedly")

DocuSigned by:

Kimberly C. Vail

E7C3632005AC4CD...

Authorized Signature

kimberly C. Vail

Print Name

VP of Finance

Title

10/26/2021

Date

Grocery Delivery E-Services USA, Inc.

("Evaluator")

DocuSigned by:

Felix Helms

470CD2FCB0DC462...

Authorized Signature

Felix Helms

Print Name

SVP Finance HelloFresh US

Title

10/26/2021

Date