



SERVICE AGREEMENT

Part A: Parties

SPREEDLY		CUSTOMER	
Name:	Spreedly, Inc.	Name:	Utility Warehouse, Ltd.
Address:	733 Foster Street, Suite 100	Address:	Network HQ, 508 Edgware Road, The Hyde
City/State:	Durham, NC 27701	City/State:	London, NW9 5AB
PRIMARY SPREEDLY CONTACT		PRIMARY CUSTOMER CONTACT	
Name:	Justin Benson	Name:	Damon Petta
Title:	CEO	Title:	CTO
Phone:	919-432-5008	Phone:	02089555493
Email:	sales@spreedly.com	Email:	dpetta@utilitywarehouse.co.uk

Part B: Terms

1. This Service Agreement (including its exhibits, the "**Agreement**") is effective as of the last date of signing below ("**Effective Date**") and is between Spreedly, Inc. ("**Spreedly**", "**we**" or "**us**"), and the Customer listed above (the "**Customer**" or "**you**"). Except as otherwise provided herein, this Agreement is subject to the Spreedly Terms of Service ("**Terms of Service**"), which are incorporated herein by reference, and which can be viewed at <https://spreedly.com/terms>. Together, this Agreement and the Terms of Service constitute a binding agreement between the Customer and Spreedly. To the extent that any term in the Terms of Service conflicts with the terms of this Agreement or any inconsistency between such Terms of Service and this Agreement exists, the terms of this Agreement shall prevail.
2. **Provision of Services.** Spreedly hereby grants the Customer a worldwide, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to electronically access and use the Spreedly API for the term of this Agreement. Spreedly shall provide to Customer access to Spreedly's website, any software, programs, documentation, tools, internet-based services, components and any updates thereto provided by Spreedly ("**Services**"). The foregoing shall include the right to permit Customer's employees, consultants, contractors, interns and outsourced workers to access and use the Spreedly API as set forth in this Agreement.
3. **Term:** The initial term of this Agreement shall be three years from the Effective Date (the "**Initial Term**"), unless otherwise terminated in accordance with the provisions of Section 4. This Agreement shall automatically renew at the expiry of the Initial Term (and each successive Renewal Term) for future periods equal to one year (each a "**Renewal Term**") unless either party gives written notice of its intent to terminate the Agreement no less than 60 days prior to the end of the then current term. The "**Term**" shall refer to the Initial Term and any Renewal Terms.
4. **Termination:** If either party (a) commits a material breach or material default in the performance or observance of any of its obligations under this Agreement, and (b) such breach or default continues for a period of 30 days after delivery by the other party of written notice reasonably detailing such breach or default, then (c) the non-breaching or non-defaulting party shall have the right to terminate this Agreement, with immediate effect, by giving written notice to the breaching or defaulting party. Upon termination, Customer shall remain liable for fees owing through the effective date of termination.
5. **Pricing:** Spreedly will charge Customer the fees outlined on Exhibit A for use of the Services.
6. **Confidential Information.**
 - a. For the purposes of this Agreement, "**Confidential Information**" means any and all technical and non-technical information, whether in graphic, electronic, written or oral form, disclosed by either Spreedly or the Customer, including the Spreedly API or any API owned or otherwise controlled by the Customer, any ideas, techniques, drawings, designs, descriptions, specifications, works of authorship, patent applications or other filings, models, inventions, know-how, processes, algorithms, software source documents, and formulae related to the current, future, and proposed technologies, products and services of each of the parties, and also any information concerning research, experimental work, development, engineering, financial information, purchasing, customer lists, pricing, investors, employees, business and contractual relationships, business forecasts, business plans, personally-identifiable information, sales and merchandising, marketing plans of or related to Spreedly or the Customer and information either party provides to the other regarding or belonging to third parties, whether or not labeled or marked as "Confidential," "Proprietary" or with a similar proprietary legend, and which may also be disclosed verbally. "Confidential Information" does not include any information which: (i) now or hereafter enters the public domain through no breach of an obligation of confidentiality or other fault of a party; (ii) the receiving party independently knows free of any obligation of confidentiality at the time of receiving such information; (iii) a third party hereafter furnishes to the

receiving party without restriction on disclosure and without breach of any confidentiality obligations; or (iv) employees or agents of a receiving party have independently developed without any use of or reference to any Confidential Information or breaching this Agreement.

- b. Each party shall: (i) only disclose Confidential information to those employees with a need to know and who have agreed to terms at least as restrictive as those stated in this Agreement; (ii) hold in strict confidence and not disclose any Confidential Information to any third party; (iii) protect and safeguard any and all Confidential Information using the same standard of care as it uses to protect and safeguard its own confidential and/or proprietary information, but in no event less than a reasonable standard of care; (iv) use such Confidential Information only to the extent required for the purposes of this Agreement; (v) not reproduce Confidential Information in any form except as required for the purposes of this Agreement; (vi) not reverse-engineer, decompile, or disassemble any software or devices disclosed by the other party; (vii) not directly or indirectly export or transmit any Confidential Information to any country to which such export or transmission is restricted by regulation or statute; and (viii) promptly provide the other party with notice upon discovery of any loss or unauthorized disclosure of the Confidential Information or any actual or threatened breach of the terms of this Agreement.
 - c. Notwithstanding the foregoing, either party may disclose Confidential Information (i) to the extent required by a court of competent jurisdiction or other governmental authority or otherwise as required by law; or (ii) on a "need-to-know" basis and under an obligation of confidentiality to its legal counsel, accountants, banks and other financing sources and their advisors, or to a Qualified Security Assessor ("QSA") for the purpose of assessing compliance with the Payment Card Industry Data Security Standards ("PCI-DSS").
 - d. All Confidential Information (including all copies thereof) shall remain the property of the disclosing party. Upon the request of the disclosing party, the receiving party shall either (a) return such materials to the disclosing party; or (b) certify in writing as to the destruction thereof.
7. Non-solicitation. During the term of this Agreement and for 12 months after any termination of this Agreement, neither party will, without the prior consent of the other party, either directly or indirectly, solicit or attempt to solicit, divert or hire away any person employed by the other party. Notwithstanding the foregoing, if such person initiates contact with a party, rather than such party soliciting such person, the party may respond to and hire such person as an employee or independent contractor.
8. References to Relationship. You agree that, from the Effective Date, we may identify you as a customer of Spreedly and use your logo on our customers page (<https://spreedly.com/customers>) for the Term of this Agreement.
9. PCI-DSS. Spreedly represents and warrants that, at all times during the duration of this Agreement, it shall be fully compliant with PCI-DSS and all other applicable standards and guidelines issued by the PCI Security Standards Council, LLC, (the "Council") as modified from time to time, and shall, on request or on a periodic basis in accordance with the Card Rules (as defined below), provide proof thereof. In addition:
- a. Spreedly covenants, represents and warrants that, at all times during the duration of this Agreement, it complies with and will comply with all applicable rules and guidelines regarding service providers, third-party agents and processors as issued by the Card Associations (the "Card Rules"), as updated from time to time, and including Card Rules applicable to U.S. and international credit card transactions. The term "Card Associations" means MasterCard, VISA, American Express, Discover, JCB or any other credit card brand or payment card network for or through which Spreedly Processes payment card transactions. "Processes," "Processed" or "Processing" shall mean any operation in relation to Personal Information irrespective of the purposes and means applied including, without limitation, access, collection, retention, storage, transfer, disclosure, use, erasure, destruction, and any other operation. "Personal Information" means any information that identifies or could reasonably be used to identify an individual person, including but not limited to names, cardholder data social security numbers, driver's license numbers, tax identification numbers, addresses and telephone numbers), any information that identifies characteristics (such as qualities, likes, dislikes, propensities or tendencies) of any person, or any information which is compiled or derived from any of the foregoing.
 - b. Spreedly represents and warrants that it validates its PCI-DSS compliance as required by the applicable Card Rules, and, as of the effective date of this Agreement, Spreedly has complied with all applicable requirements to be considered compliant with PCI-DSS, and has performed all necessary steps to validate its compliance with the PCI-DSS. Without limiting the foregoing, Spreedly represents and warrants: (i) that it undergoes an Annual On-Site PCI Data Security Assessment ("Annual Assessment") by a QSA and pursuant to its most recent Assessment, it is currently certified as compliant with the current version of PCI-DSS by the QSA; (ii) that it undergoes a quarterly network scan ("Scan") by an approved scanning vendor ("ASV") and that it has passed its most recent scan.
 - c. Spreedly will notify Customer within seven (7) days if it (i) receives a non-compliant Annual Assessment from a QSA; (ii) fails to undergo or complete any Annual Assessment prior to the expiration of the previous year's Annual Assessment; (iii) is unable to pass any of its Scans; or (iv) is no longer in compliance with PCI-DSS.
 - d. Spreedly agrees to supply evidence of its most recent Annual Assessment prior to or upon execution of this Agreement. Thereafter, Spreedly shall annually supply to Customer, or make available on www.spreedly.com, evidence of Spreedly's successful completion of its Annual Assessment and will, upon reasonable request, supply Customer with additional evidence of its overall PCI-DSS compliance status.

- e. Spreedly shall, with respect to the Customer's data, use only validated third-party payment applications that have been certified as compliant with the Council's Payment Application Data Security Standards ("PA-DSS"), as updated from time to time.
- f. Customer may elect at any time to perform an automatic export of any Card Data or other credit card or user information associated with Customer's account to a third party endpoint for which Spreedly supports Third Party Vaulting (a "Supported TPV Endpoint") as set forth at: <https://docs.spreedly.com/guides/third-party-vaulting/>. For any endpoint that is not a Supported TPV Endpoint, Customer may request that Spreedly perform one (1) free-of-charge manual export during the Initial Term and each Renewal Term thereafter, of any Card Data or other credit card or user information associated with Customer's account to a recipient designated by Customer, provided the recipient has proven that it is PCI-DSS compliant and the transfer is not in violation of any applicable rules, laws or regulations. If Customer requires additional manual exports during a given contract term, each additional manual export shall incur a \$1,000 charge. Spreedly reserves the right to delete all of Customer's Card Data and any other account data stored on its servers 30 days after the termination of this Agreement (the "**Data Transfer Window**"). If Customer requires additional time to arrange the export of its Card Data to a PCI compliant third party, it may extend the Data Transfer Window for additional 30 day periods by paying the relevant storage fees determined in accordance with Exhibit A of this Agreement.

10. **Security.** Without limiting the requirements of this Agreement, Spreedly agrees that all Customer Confidential Information (including Personal Information) will be secured from unauthorized access, use, disclosure, loss, theft and Processing using industry standard security practices and technologies. Without limiting the foregoing, Spreedly represents and warrants the following:

- a. Spreedly has in place a comprehensive, written information security program designed to protect the information under its custody, management or control, including all Customer Confidential Information. Spreedly's information security program satisfies the requirements of all data security laws and regulations applicable to Spreedly, and includes the following safeguards: (i) secure business facilities, data centers, servers, back-up systems and computing equipment including, but not limited to, all mobile devices and other equipment with information storage capability; (ii) network, device application, database and platform security; (iii) secure transmission, storage and disposal; (iv) authentication and access controls within media, applications, operating systems and equipment; (v) encryption of Customer Confidential Information placed on any electronic notebook, portable hard drive or removable electronic media with information storage capability, such as compact discs, USB drives, flash drives, tapes; (vi) encryption of Personal Information in transit and at rest; (vii) Personal Information must not be Processed in test, development or non-production environments; and (viii) Personnel security and integrity including, but not limited to, background checks consistent with applicable law and the requirements of this Agreement. "**Personnel**" means a party's officers, directors, employees and authorized agents who contribute to the performance of such party's obligations under this Agreement. For purposes of the foregoing, a party and its officers, directors, employees and authorized agents shall not be deemed Personnel of the other party.
- b. Spreedly shall regularly, but in no event less than annually, evaluate, test and monitor the effectiveness of its information security program and shall promptly adjust and/or update such programs as reasonably warranted by the results of such evaluation, testing, and monitoring.
- c. All Spreedly Personnel with access to Customer Confidential Information are provided appropriate information security and privacy training to ensure their compliance with Spreedly's obligations and restrictions under this Agreement, with applicable laws and with Spreedly's information security program.

11. **Breaches of Security.**

- a. "**Breach of Security**" shall mean any loss, misuse, compromise, or unauthorized access to Personal Information or Confidential Information that Spreedly collects, generates, or obtains from or on behalf of Customer, or any act or omission that compromises or undermines the physical, technical, or organizational safeguards put in place by Spreedly in processing such information or otherwise providing services under this Agreement.
 - b. If there is an actual or suspected Breach of Security involving Personal Information that is stored, managed or received by, or transmitted to Spreedly, Spreedly will notify Customer within 24 hours of becoming aware of such occurrence and will provide such notice to Customer by contacting the primary Customer Contact set forth above.
 - c. In the event of an actual or suspected Breach of Security, Spreedly will cooperate with the Customer to mitigate any harm, will consult with Customer in good faith about remediation and mitigation plans, and will take all steps reasonably necessary to investigate and remediate the effects of such occurrence, ensure the protection of those data subjects that are affected or likely to be affected by such occurrence, prevent the re-occurrence, and comply with applicable laws. Spreedly will, at its own cost, make all notifications to data subjects that are required by law or any Card Association or Acquirer, subject to Customer's approval of the content, form and delivery of such notices to Customer's end users. Spreedly shall not inform any third party of any Breach of Security, except other affected Spreedly customers or as may be strictly required by applicable law, without first obtaining Customer's prior written consent.
12. **Insurance.** At all times during the Term, Spreedly shall maintain (i) commercial general liability insurance with at least \$1,000,000 per occurrence and (ii) "errors and omission" (tech and cyber coverage) insurance in an amount not less than \$3,000,000. Customer shall be named as an additional insured under each policy and, upon Customer's request, Spreedly shall provide

Customer with a copy of such policy or policies or a certificate of insurance evidencing the same. Spreadly shall provide Customer with sixty (60) days advance notice of any material change in such policy or policies.

13. **Indemnification.** (a) Spreadly shall indemnify, defend and hold harmless Customer against any loss or damage that Customer may sustain or incur (including attorneys' fees and costs), in relation to any claim or action by third party (including, without limitation, any regulatory or government authority), arising out of or related to any breach by Spreadly of Section 6 (Confidential Information), Section 9 (PCI-DSS), Section 10 (Security), or Section 11 (Breach of Security) of this Agreement, or from any negligent or willful act or omission by Spreadly, or arising out of any claim of infringement or similar proprietary right violation; (b) Customer shall indemnify, defend and hold harmless Spreadly against any loss or damage that Spreadly may sustain or incur, in relation to any claim or action by a third party arising out of or related to any breach by Customer of any provision of this Agreement or the amended Terms of Service incorporated by reference into this Agreement.
14. **Limitation of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOST PROFITS, OR ANY INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF BUSINESS PROFITS) ARISING OUT OF OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
15. **Miscellaneous.** This Agreement shall be governed by the laws of the State of Delaware (without regard to its choice of law provisions). The parties agree that the exclusive venue for any actions or claims arising under or related to this Agreement shall be in the appropriate state or Federal court located in Wake County, North Carolina. Each party irrevocably waive any and all rights they may have to trial by jury in any judicial proceeding involving any claim relating to or arising under this Agreement. This Agreement contains the final, complete and exclusive agreement of the parties relative to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements relating to its subject matter and may not be changed, modified, amended or supplemented except by a written instrument signed by both parties. If any provision of this Agreement is found by a proper authority to be unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole and in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such provision within the limits of applicable law or court decisions.

IN WITNESS WHEREOF, authorized representatives of the parties have executed this Agreement as of the last date of signature below:

Spreadly, Inc.

By:

Name:

Title:

Date:


Justin Benson
CEO
May 9th 2017

Customer

By:

Name:

Title:

Date:


Utility Warehouse

Damon Petta
CTO
04/05/2017

EXHIBIT A

PRICING

Customer shall pay Spreadly \$144,000 for 36 months of service, which shall entitle Customer to the following for the duration of the Term:

Maximum number of endpoints	Maximum number of stored payment methods	Maximum number of monthly transactions	Endpoint monthly overage fee	Stored payment method monthly overage fee	Transaction monthly overage fee
2	300,000	2,500,000	\$100 per endpoint	\$222 per 30,000 card block	\$363 per 250,000 transaction block

Customer will pay \$96,000 for the first 24 months of the Initial Term in full within 15 days of the Effective Date. Spreadly shall invoice Customer \$48,000 for the final 12 months of the Initial Term 30 days prior to the second anniversary of the Effective Date ("**Annual Renewal Date**"), with such amount due and payable prior to the relevant Annual Renewal Date. Each subsequent annual renewal payment shall be invoiced 30 days prior to the Annual Renewal Date at the then-current applicable annual pricing rates.

In the event Customer's actual usage of the Service exceeds the volumes used to determine the Base Annual Fee, Spreadly will bill Customer monthly in arrears for overages determined in accordance with the above pricing schedule.

Customer may elect to participate in Spreadly's Account Updater program (<https://www.spreadly.com/update-customer-card-details>), at a cost of \$.15 cents per successfully updated card, at any time during the course of this agreement by providing email notification to enterprise@spreadly.com. Customer may also subsequently opt-out of the Account Updater program at any time, no more than once in a 12-month period, again via email notification, with no impact on the length or terms of this agreement.

All payments to be made under this Agreement shall be made in cleared funds, without any deduction or set-off and free and clear of and without deduction for or on account of any taxes, levies, imports, duties, charges, fees and withholdings of any nature now or hereafter imposed by any governmental, fiscal or other authority save as required by law. If Customer is compelled to make any such deduction, it will pay Spreadly such additional amounts as are necessary to ensure receipt by Spreadly of the full amount which Spreadly would have received but for the deduction.

Customer may elect to pay all amounts due under this Agreement either by:

- (a) by wire transfer to the following account:

Receiver: Silicon Valley Bank
ABA/Routing #: 121140399
Beneficiary: 3301451580
Spreadly, Inc.
733 Foster Street, Suite 100
Durham, NC 27701
USA

- (b) by check delivered to the address specified in the relevant invoice.

EXHIBIT B

SUPPORT; SERVICE LEVEL AGREEMENT

The Transaction Processing Service (as defined below) shall be available 99.95%, measured monthly, excluding scheduled maintenance. Availability means that the services are up and running, accessible by Customer and its end users, without interruption or undue delay. Any downtime resulting from outages of third party connections or utilities or other reasons beyond Company's control will be excluded from any such calculation. For each period of downtime lasting longer than 30 minutes, Company will credit Customer 5% of Service fees for each period of (i) 30 or more consecutive minutes of downtime, or (ii) 30 or more minutes of downtime in any 24 hour period; provided that no more than two such credits will accrue per day. "**Transaction Processing Service**" means Spreadly's core API responsible for processing Customer's payment transaction requests, and does not include any beta features or non-payment transaction Spreadly services such as dashboard reporting.

Downtime shall begin to accrue as soon as the Transaction Processing Service is unavailable to Customer and/or its end users, and continues until the availability of the Transaction Processing Service is restored. Credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of Service Fees in any one (1) calendar month in any event. Company's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Company to provide adequate service levels under this Agreement.

Spreadly shall give no less than 5 business days prior written notice to Customer of all scheduled maintenance. Spreadly shall perform scheduled maintenance in such a way that any interruption of the Transaction Processing Service is kept to a minimum and will provide a maintenance window during which the scheduled maintenance will be carried out (which shall not exceed 60 minutes individually or 24 hours in the aggregate in any month).

Spreadly will provide email support between 8.30 am and 8.00 pm (US Eastern timezone). Customer and its employees and consultants can contact Spreadly at support@spreadly.com with questions about the Transaction Processing Service, to report errors or other problems with the Transaction Processing Service, or to otherwise request support or assistance with respect to the Transaction Processing Service. Spreadly will maintain a sufficient number of Spreadly Support Contacts to ensure timely responses to emails from Customer and to otherwise satisfy Spreadly's obligations under this Exhibit B.

Spreadly shall make updates to the Transaction Processing Service available to Customer on a regular basis. In addition, Spreadly shall troubleshoot and resolve errors related to the Transaction Processing Service in accordance with the following table:

Category	Definition	Spreadly Acknowledgement time	Resolution
Low	End-user or Customer complaint that requires investigation by Company (including bugs not impacting API uptime)	Up to 48 hours	Next update
Serious	Customer's use of Transaction Processing Service is severely impaired due to Spreadly-side issue	Up to 4 hours	Within 3 days
Critical	Transaction Processing Service is unavailable due to Spreadly-side issue	Up to 60 minutes	Within 1 day

Spreadly has internal systems and procedures in place to notify support personnel of critical issues with the Transaction Processing Service 24 hours a day, 7 days a week.