spreedly

AMENDMENT #1 TO SERVICE AGREEMENT

This Amendment #1 (the "**Order Form Amendment**") is effective as of the last date of signing below (the "**Amendment Effective Date**"), pursuant to the Enterprise Service Agreement, dated May 8th, 2020 (the "**Agreement**"), between Spreedly, Inc., ("**Spreedly**") and Priceline.com LLC, ("**Customer**"). Capitalized terms not otherwise defined herein will have the meanings given to such terms in the Agreement.

Pursuant to Section 19 of the Agreement the parties hereby agree as follows:

1. Section 6 and the corresponding pricing Exhibit A is hereby deleted in its entirety and replaced with the following:

    6. Fees and Payment.

        a. Fees. Customer will pay to Spreedly the fees and charges described in each Order Form entered into by Customer and Spreedly (the "Fees") in accordance with such Order Form and this Section 6. All purchases are final, all payment obligations are non-cancelable and (except as otherwise expressly provided in this Agreement or in the applicable Order Form) all Fees once paid are non-refundable.

            "Order Form" means each order executed by Customer and Spreedly (in a form substantially similar to the Schedule A) that references this Agreement. All terms and conditions set forth in this Agreement are automatically incorporated in and deemed part of each such Order Form. Unless otherwise stated in the applicable Order Form, the terms and conditions are independent of the provisions of any other Order Form. In the event of a conflict, inconsistency or ambiguity between the terms of any Order Form or any supplements or amendments thereto, and the terms of this Agreement or any supplements or amendments thereto, the terms of this Agreement or any supplements or amendments thereto are of general application and shall prevail unless expressly stated otherwise in a specific Order Form, supplement or amendment thereto.

        b. Taxes. All payments to be made under this Agreement will 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 government, fiscal or other authority, save as required by law. If Customer is compelled to make any such deduction, it will pay Spreedly such additional amounts as are necessary to ensure receipt by Spreedly of the full amount which Spreedly would have received but for the deduction.

        c. Payment. Customer will make all payments in US dollars. Unless otherwise set forth in an applicable Order Form, all accurately invoiced amounts are due net forty-five (45) days from the invoice receipt date. Customer is responsible for providing complete and accurate billing and contact information and notifying Spreedly of any changes to that information. If Customer disputes the amount of a given invoice in good faith, it shall promptly notify Spreedly of such dispute in writing and attempt to resolve such dispute promptly and amicably. Customer may withhold payment of invoice amounts disputed in good faith until the billing dispute is resolved and such amounts shall not be subject to the late payment fees in Section 6.d.

        d. Late Payment. If Customer fails to make any payment when due then, in addition to all other remedies that may be available under this Agreement, Spreedly 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 only after Spreedly has provided Customer with five (5) days written notice of such late payment and if Customer has not made such payment during prior to the end of the aforementioned notice period.

2. As of the Amendment Effective Date, all other references in the Agreement to Exhibit A will refer to the pricing under the applicable Order Form.

3. Section 4 is hereby deleted in its entirety and replaced with the following:

    4. Term and Termination.

        a. Term and Termination. This Agreement will continue until otherwise terminated. In addition to any other termination rights described herein, this Agreement may be terminated at any time by either

party, effective when that party provides thirty (30) days written notice to the other party: (i) at any time that there are no active and outstanding Order Forms; and (ii) if the other party materially breaches the terms of this Agreement (including, for avoidance of doubt, the terms of any Order Form incorporated herein) and such breach remains uncured thirty (30) days after the non-breaching party provides the breaching party with written notice regarding such breach. Without limiting the foregoing, in the event of a breach that gives rise to the right by Spreedly or Customer to terminate this Agreement in accordance with this Section 4, Spreedly or Customer (as applicable) may elect, as an interim measure, to suspend the Service, immediately upon notice to the other party, until the breach is cured. In the event that Spreedly elects to suspend the Service, all obligations to pay fees that would otherwise be payable by Customer but for such suspension of the Service shall be suspended for the same duration of any such suspension of the Service by Spreedly. Either party's election to exercise of its right to suspend performance shall be without prejudice to its right to terminate this Agreement upon written notice to the other party.

b. Customer may also immediately terminate this Agreement upon written notice to Spreedly in the event that: (i) Customer becomes aware that Spreedly has become subject to a Breach of Security that is caused by Spreedly's breach of its security obligations set forth in Section 10, (ii) as provided in the Service Level Agreement attached hereto as Exhibit B, or (iii) if Spreedly is no longer in compliance with PCI-DSS; provided that Customer must exercise its right to terminate this Agreement pursuant to any of the foregoing clauses within thirty (30) days after the later of: (x) Customer having actual knowledge of the occurrence of, or (y) the written notification by Spreedly to Customer of the event triggering such right, or otherwise Customer shall be deemed to have waived such right to terminate.

c. <u>Effect of Termination</u>. The exercise of any right of termination under this Agreement will not affect any rights of either party (including rights to payment or reimbursement) that have accrued prior to the effective date of termination and will be without prejudice to any other legal or equitable remedies to which a party may be entitled. If this Agreement is terminated or expires, then, subject to Section 4.d below: (i) Spreedly may immediately discontinue Customer's access to the Service; (ii) Customer shall continue to have access to the Service to complete all pending transactions and stop accepting new transactions through the Service as of the effective date of such termination or expiration; (iii) Customer will discontinue use of any Spreedly trademarks and as soon as practicable remove any Spreedly references and logos from Customer's website; and (iv) 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).

d. <u>Transition Assistance</u>. Upon termination or expiration of this Agreement or an Order Form for Services, for any reason, then upon request by Customer (email to suffice) made prior to the expiration date, or no later than five (5) days after the issuance of a notice of termination in accordance with the terms of this Agreement, Spreedly will continue to provide the Service and provide reasonable cooperation to Customer in order for Customer to export or arrange export of its card data or other credit card or user information associated with Customer's account and/or other services necessary for such export, including without limitation, an export made in connection with Section 9.g, (the "**Transition Services**") for a period up to 180 days after the expiration or termination date or as otherwise agreed by the parties in writing (the "**Transition Period**"). The terms of this Agreement will continue to govern Spreedly's provision of the Transition Services during the Transition Period as if it had not been terminated. Unless otherwise provided in an Order Form, if Customer continues to use the Service in production, then the Fees for services covered by an Order Form during the Transition Period will be the same as those charged under the relevant Order Form in effect immediately preceding the termination date and prorated for the duration of the Transition Period or other such fees as the parties may agree to in writing. For the avoidance of doubt, Customer shall not have committed API usage during the Transition Period and Fees for API calls made will be billed monthly in arrears. If Customer uses only the Transition Services and does not use the Service in production during the Transition Period and does not make API calls, then the access Fees (e.g., platform fee) will not be payable by Customer. There shall be no additional charge to Customer for Transition Services.

4. Section 16 is hereby deleted in its entirety and replaced with the following

Any notices required to be delivered in writing hereunder shall be sent either (A) by electronic mail to all email addresses listed on Part A for the non-notifying party with a copy to commerciallegal@priceline.com if such notice is being sent by Spreedly to Customer or (B) by electronic mail to all email addresses listed on Part A for the non-notifying party with copy to legal@spreedly.com if such notice is being sent by Customer to Spreedly and shall be deemed delivered when (i) by personal delivery (when actually delivered); (ii) by overnight courier (upon written verification of receipt); or (iii) by certified or registered mail, return receipt requested (upon verification of receipt). Either party may change its address at any time by giving written notice of the change to the other party.

5. Except as expressly set forth in this Amendment, the Agreement will remain unchanged and in full force and effect. In the event of a conflict between the terms of this Amendment and the Agreement, this Amendment will govern the relationship between the parties.
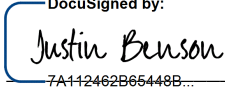
[Signatures on Next Page]

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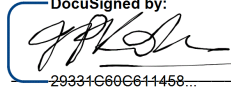
Spreedly, Inc.

By: _Justin Benson_
7A112462B65448B...

Name: Justin Benson

Title: CEO

Date: 27 May 2022

Priceline.com LLC

By: _(signature)_
29331C60C611458...

Name: Jacobus Kok

Title: VP, Product Management

Date: 26 May 2022

spreedly

SCHEDULE A

ORDER FORM [#]

Spreedly, Inc.
300 Morris Street
Suite 400
Durham, NC 27701

To: **Order Form Issued:**
Customer Legal Name:
Tax ID: **Offer Valid Until:**
Billing Address:
Sales Rep:

This Order Form is entered into between the entity identified above as "Customer" and Spreedly, Inc. (each a "Party" and collectively, the "Parties") as of the last day it is signed (the "Order Form Effective Date") and is subject to the Agreement (defined below) which is hereby incorporated by reference. For purposes of this Order Form, "Agreement" means the enterprise services agreement (an "ESA") currently in force between the Parties.

In the event of any conflict between the terms of the Agreement and this Order Form, this Order Form will govern. Capitalized terms used but not defined in this Order Form have the meanings set forth in the Agreement or in the Documentation.

1) Order Form Term

2) Platform Fees:

3) API Usage Fees:

4) Account Updater:

5) Payments:

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

(a)   ACH payment or wire transfer to the following account:

         Receiver: Silicon Valley Bank
         ABA/Routing #:   121140399
         SWIFT Code: SVBKUS6S
         Beneficiary: 3301451580
                            Spreedly, Inc.
                            300 Morris Street, Suite 400
                            Durham, NC 27701
                            USA

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

SAMPLE ONLY DO NOT SIGN