MASTER SERVICES AGREEMENT

This Master Services Agreement ("**Agreement**") dated **March 15, 2021** ("**Effective Date**"), is made and entered into by and between Warner Media, LLC, with offices at 30 Hudson Yards, New York, New York 10001 ("**Customer**"), and Spreedly, Inc., a Delaware corporation with its principal place of business located at 300 Morris Street, Suite 400, Durham, NC 27701 ("**Service Provider**"). Service Provider and Customer shall collectively be referred to herein as the "**Parties**", and individually as a "**Party**".

WHEREAS, Customer desires certain services and/or solutions from Service Provider, and Service Provider desires to provide such services and solutions to Customer, and

WHEREAS, Customer and Service Provider desire to set forth the terms and conditions pursuant to which Service Provider shall provide to Customer, and Customer shall acquire from Service Provider, such services and solutions.

NOW, **THEREFORE**, in consideration of the premises, promises, representations, and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Customer and Service Provider, intending to be legally bound, hereby agree as follows:

Unless otherwise provided herein, all capitalized terms used in this Agreement shall have the meaning ascribed to them in **Exhibit A** (*Definitions*).

1.0   SCOPE OF SERVICES

1.1   Services. In accordance with the terms and conditions of this Agreement and each applicable Order Form and SOW, Service Provider (i) shall provide the Hosted Services and such other Services set forth in an Order Form and/or SOW and (ii) hereby grants to Customer, the Customer Affiliates and their Authorized Users a non-exclusive, non-transferable (except as set forth in **Section 12.10** (*Assignment*)), fully paid, royalty-free, and worldwide right and license during the applicable Order Term to (a) access, use, integrate and receive the Hosted Services, (b) install, host, run and use any Service Provider Materials (defined below), and (c) reproduce and use the Documentation (defined in **Section 1.3**) in support of Customer's and Customer Affiliates' authorized use of the Hosted Services. Customer's and Customer Affiliates' agents, independent contractors, consultants, and third-party service providers are authorized to exercise the rights and licenses granted to Customer and Customer Affiliates hereunder on Customer's and Customer Affiliates' behalf. Service Provider shall make available and hereby licenses to Customer and Customer Affiliates all SDKs, APIs materials, software (including Service Software), and applications, (collectively, "**Service Provider Materials**"), necessary for Customer and Customer Affiliates to fully exercise the rights and licenses granted hereunder to the Hosted Services. In the event of a conflict between any term or condition in this Agreement and any terms or conditions that may accompany an SDK, the terms and conditions of this Agreement shall govern and control. Service Provider will be solely responsible for the hosting and operations of the Hosted Services (including but not limited to any Service Software and any other software, technology, hardware, and/or equipment contained, made part of and/or used to provide the Hosted Services) on behalf of Customer. Service Provider shall also provide Customer with all necessary passwords, security protocols, policies and network links or connections to allow Customer, Customer Affiliates and their Authorized Users to access and use the Hosted Services as provisioned in the relevant Order Form. At no additional cost or expense to Customer, Service Provider will provide all standard training, set-up, and implementation services included as part of Service Provider's onboarding process to enable Customer, Customer Affiliates and their Authorized Users to access and use all of the features and functionality of the Hosted Services set forth herein and in the applicable Order Forms. Additional implementation and training services may be offered as paid services upon mutual agreement, as reasonably requested by Customer.

1.2   Order Forms. During the Term, Customer shall be entitled, but not obligated, to submit Order Forms to receive Hosted Services and/or Support under this Agreement. Once the Order Form is signed by both Parties, it shall be incorporated herein by reference and made a part of this Agreement and subject to and governed by its terms and conditions. No Order Form will become effective until it has been executed by an authorized representative of both Service Provider and Customer. In the event of a conflict between any terms and conditions in this Agreement and any terms and conditions in an Order Form, the terms and conditions of the Agreement shall govern and control, except to the extent, if any, that the Order Form explicitly states the Parties' intent to supersede any particular term(s) of this Agreement with specific reference to the affected term(s).

1.3   Documentation. Service Provider shall make electronically available to Customer any and all documentation generally made available by Service Provider to its customers in connection with use of the Services,

including without limitation, users' manuals, installation and configuration guides, and specifications, and any revisions or supplements thereto (collectively, "**Documentation**"). The Documentation shall be sufficient to enable Customer and Customer Affiliates to fully use the Services and exploit the licenses granted to Customer and Customer Affiliates hereunder. In the event of a conflict between any terms in this Agreement and any terms in the Documentation, the terms of this Agreement shall govern and control.

1.4   Upgrades. Service Provider may from time to time modify or upgrade the Hosted Services to enhance security, usability and/or add features and functionality; provided, however, that the functionality and features of the Hosted Services and the level of security in effect as of the Effective Date will not be decreased during the Term. All such upgrades and enhancements made available to Service Provider's other customers shall be made available to Customer and Customer Affiliates. Service Provider will use commercially reasonable efforts to provide Customer and Customer Affiliates with advance written notice of such modifications or upgrades to the Hosted Services.

1.5   Third Party Materials. In the event that any of the Hosted Services include Third Party Materials, such Third Party Materials shall constitute "Hosted Services" hereunder, and Service Provider shall remain primarily responsible and liable to Customer for all of Service Provider's obligations under this Agreement and any Order Form, notwithstanding the terms of any third-party license agreements with Service Provider. In addition, the terms in such third-party license agreements that may be inconsistent with the provisions of this Agreement and/or an Order Form shall in no way limit Service Provider's obligations hereunder. Accordingly, except as otherwise expressly provided herein, such license agreements may not be used by Service Provider to: (i) reduce or otherwise limit any of the provisions of this Agreement or an Order Form; or (ii) relieve Service Provider from any of its obligations under this Agreement or an Order Form.

1.6   No Subcontracting. Service Provider shall not subcontract or delegate all or any portion of the Services and/or any of its obligations under this Agreement to any third parties, entities and/or individuals (collectively, "**Subcontractors**") without Customer's prior express written consent. In the event that Customer provides such approval, (i) any such Subcontractors shall be deemed subcontractors of Service Provider; (ii) Service Provider shall not be relieved of any obligations or liability hereunder; (iii) Service Provider will ensure that all such Subcontractors are subject to and comply with the applicable terms and conditions of this Agreement and any applicable Order Form and/or SOW; and (iv) Service Provider shall be responsible and liable for all acts and omissions of such Subcontractors as if such acts and omissions were committed by Service Provider.

1.7   Professional Services. In the event Service Provider provides Professional Services to Customer or Customer Affiliates, then the Parties shall also comply with the provisions set forth in **Exhibit C** (*Additional Terms for Professional Services*).

2.0   SUPPORT; SERVICE LEVELS

Service Provider shall provide the Hosted Services in accordance with the service levels and other terms and conditions (the "**SLAs**") set forth in **Exhibit D** (*Services Levels and Support*). Service Provider shall provide maintenance and technical support to Customer and Customer Affiliates for the Hosted Services as set forth in **Exhibit D** ("**Support**") to ensure their availability and access in accordance with the SLAs. **Exhibit D** (*Service Levels and Support*) shall also contain error and issue classifications, response times and resolution of error procedures.

3.0   OWNERSHIP

3.1   Ownership of Services. The Services and all Intellectual Property Rights therein or relating thereto, but excluding any and all Customer Materials, are and shall remain the exclusive property of Service Provider.

3.2   Intentionally omitted.

3.3   Customer Data. As between Customer and Service Provider, Customer and/or Customer Affiliates have and shall retain all right, title and interest in and to the Customer Data, and Customer Data shall constitute "Customer Materials" under **Section 3.6** (*Customer Materials*) and the Proprietary Information of Customer under **Section 10.0** (*Confidential Information*).

3.4   License to Customer Data. Customer agrees that if, in the course of performing the Services, it is necessary for Service Provider to use any of the Customer Data, then, subject to the terms and conditions of this Agreement, Customer hereby grants to Service Provider a limited, non-exclusive, non-transferable, non-assignable, non-sublicensable, cancelable, revocable, and royalty-free license, solely during the Term and only in the United States, to use,

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display, store, and host the Customer Data, solely to the extent necessary to provide the Services to Customer and Customer Affiliates pursuant to this Agreement. For the avoidance of doubt, Service Provider shall not retain, disclose or use the Customer Data, for any purpose other than delivering the Services in accordance with the terms of this Agreement, and other Service Provider customers shall be unable to access any Customer Data.

Without limiting and in addition to **Exhibit E** (*Data Security Addendum*) hereto, Service Provider shall not collect any Personal Information or unique identifiers or information from Customer, Customer Affiliates, Authorized Users, and/or End Users. Without limiting the generality of the obligations stated elsewhere in this Agreement, Service Provider shall not: (i) collect any or use any Customer Data or other data in a manner not expressly permitted under this Agreement, (ii) use Customer Data to create and/or compile profiles of Authorized Users, (iii) aggregate, commingle or otherwise combine Customer Data with any other data, (iv) disclose Customer Data in a manner that identifies Authorized Users as End Users, or (v) use Customer Data to market another service. Service Provider and its employees, agents and Subcontractors shall not make any other use whatsoever of the Customer Data, and they shall not disclose, sell, assign, rent, lease, reproduce, distribute or otherwise disseminate or provide the Customer Data or any derivatives thereof to any third party or commercially exploit the Customer Data on behalf of itself, its employees, Subcontractors or agents, or use the Customer Data in any manner or for any purpose except as set forth in this Section. The delivery or provision of Customer Data to Service Provider hereunder does not transfer, confer or grant any rights of ownership or other license in the Customer Data to Service Provider, other than the limited license set forth in this **Section 3.4**, and all such rights shall remain exclusively in Customer and/or Customer Affiliates.

3.5   Extraction of Customer Data. Customer and Customer Affiliates shall, at any and all times during the Term and the Transition Period, if applicable, be able to access, download, retrieve, extract, export, delete and/or replace Customer Data from the Hosted Services and/or otherwise stored/hosted by Service Provider at its sole discretion, and in the event that Customer and Customer Affiliates are unable to do so, Service Provider will (i) provide Customer with the means and tools to do so or (ii) provide Customer with reasonable assistance to extract and/or delete such Customer Data.

3.6   Customer Materials. As between the Parties, Customer and/or Customer Affiliates have and shall retain all right, title and interest in and to Customer Materials. With respect to all reports delivered or made available to Customer or Customer Affiliates (whether through physical or electronic delivery or through a web-based dashboard or portal) in connection with Customer's and/or Customer Affiliates' use of the Services ("**Reports**"), such Reports and all data contained therein shall constitute "Customer Materials", provided that the template, design, and "look and feel" of the Reports (the "**Report Templates**") shall remain the sole and exclusive property of Service Provider. Service Provider hereby grants to Customer and Customer Affiliates a royalty-free, perpetual, worldwide right and license to use and distribute the Report Templates for Customer's and Customer Affiliates' business purposes. Except where Customer Materials must be retained as provided for in **Section 5.6** (*PCI-DSS*) or **Section 9.6** (*Transition Period*), upon the earlier of Customer's or a Customer Affiliate's request or the termination of this Agreement and/or the applicable Order Form, Service Provider shall, at Customer's or a Customer Affiliate's option, promptly destroy all Customer Materials in its possession, or return all such copies to Customer and applicable Customer Affiliates, and in either event provide a written certification confirming the same. Any and all return of the Customer Materials to Customer and the applicable Customer Affiliates shall be done in a format agreed to by the Parties and in a secure manner to ensure and protect against unauthorized access.

3.7   Reservation of Rights. Customer expressly reserves all rights not expressly granted under this Agreement.

4.0   FEES; INVOICES; PAYMENTS TERMS; TAXES; AUDIT

4.1   Payment. Subject to any Service Credits (as defined in **Exhibit D**) set forth in the SLA, Customer shall make payment to Service Provider for the amounts set forth in the applicable Order Form and/or SOW, as applicable, for which Service Provider submits valid invoices to Customer in accordance with the terms and conditions of this Agreement, and pursuant to any payment or invoice schedule set forth in such Order Form and/or SOW. Service Provider shall not invoice Customer for services or expenses in excess of the maximum compensation amount set forth in the applicable Order Form or SOW. All fees, pricing, expenses and cost are and shall be stated in United States dollars. Except as provided in an Order Form or SOW, all undisputed amounts invoiced to Customer by Service Provider in accordance with this **Section 4.0** shall be payable within ninety (90) days of the date Customer receives such invoice. In case of a dispute between Customer and Service Provider over charges that have been billed to Customer, Customer may withhold amounts equal to the disputed amount until the Parties settle such dispute. Service Provider shall continue to perform all of its obligations under this Agreement notwithstanding such dispute, provided that the dispute is resolved in good faith in no

more than sixty (60) days unless otherwise agreed by the Parties. The Parties shall seek to resolve any such dispute diligently and in good faith.

4.2   Invoices. Service Provider shall invoice Customer in accordance with the schedule set forth in the applicable Order Form or SOW. For avoidance of doubt, Service Provider shall ensure that all invoices shall be issued by Service Provider and no other entity or person, and all fees and charges shall be received by Service Provider and no other entity or person. All invoices shall be sent to the address and invoice contact listed in the applicable Order Form and/or SOW and shall include Service Provider's tax identification number and a detailed description of Services rendered. If Service Provider fails to include the foregoing required invoice contact, Customer may reject the invoice until an invoice with the applicable invoice contact is provided to Customer in accordance with the invoice instructions set forth in the applicable Order Form or SOW, and any delay or failure in paying such invoice due to the deficient invoice shall not be a breach of this Agreement. Prior to submitting the first invoice, Service Provider shall submit a completed W-9 form to Customer.

4.3   Taxes. Each Party shall be responsible for any personal property taxes on property it owns or leases, for franchise and privilege taxes on its business, and for taxes based on its net income or gross receipts. Service Provider shall be responsible for any sales, use, excise or similar taxes payable by Service Provider on any goods or services used or consumed by Service Provider in providing the Services hereunder. Customer shall be responsible for any sales, use, excise or similar taxes that are imposed on any fees paid by Customer to Service Provider under the terms of this Agreement unless Customer issues Service Provider with any fully executed applicable exemption certificate. If Service Provider proposes to collect any taxes from Customer, such taxes will be separately identified on the applicable invoice. Service Provider shall timely remit any and all taxes collected from Customer to the proper taxing authority and, indemnify and hold Customer and Customer Affiliates harmless against any claim by any state and/or local taxing authority arising from Service Provider's failure to timely remit such taxes paid by Customer including any interest and penalties assessed thereon. 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 government, fiscal or other authority, save as required by law. If Customer is compelled to make any such deduction, it will pay Service Provider such additional amounts as are necessary to ensure receipt by Service Provider of the full amount which Service Provider would have received but for the deduction. In the event Customer's use of the Services expands internationally, Service Provider agrees to come together at Customer's request to renegotiate in good faith the foregoing gross-up requirement in light of such expansion.   Each Party shall provide and make available to the other Party any resale certificates, treaty certification and other exemption information reasonably requested by the other Party. In the event Hosted Services are intended for use at multiple locations, Customer will provide Service Provider with the allocation of such use between Customer locations. Such allocations will be reflected on the related invoice or separate invoices will be provided for each allocated Customer location. Customer will assume responsibility for the allocations provided to Service Provider and hold Service Provider harmless for such determinations.

4.4   Records. Service Provider shall maintain complete and accurate records, in a form in accordance with generally accepted accounting principles, to substantiate Service Provider's charges under any invoice. Service Provider shall retain such records for a period of three (3) years from the date of completion of all Services under the applicable Order Form.

4.5   Audit. Service Provider shall maintain and preserve at its principal place of business, during the Term of this Agreement and for at least two (2) years thereafter, complete and accurate records of accounts and other records pertaining to its obligations hereunder. Service Provider agrees to permit Customer, at Customer's sole expense (other than as set forth below in this **Section 4.5**) and upon reasonable advance notice (which in no event shall be less than thirty (30) days), access to all pertinent records of Service Provider, including all support documentation, for the purpose of verifying Service Provider's compliance with the terms and conditions of this Agreement, its exhibits and any Order Form, provided that (i) except as otherwise set forth in this **Section 4.5**, Customer may not request more than one (1) audit per calendar year (other than additional audits requested by Customer as a result of Service Provider's material failure to comply with an SLA or a Security Incident under **Exhibit E** (*Data Security Addendum*)). In the event an audit reveals charges or overpayment in excess of 10% of the fees actually owed under the applicable Order Form Service Provider agrees to reimburse Customer for those reasonable out-of-pocket expenses that are documented and actually incurred to conduct the audit, and, in such event, Customer shall be entitled to conduct an additional audit during that calendar year. Service Provider shall cooperate with Customer by providing Customer with access to Service Provider's records within thirty (30) days of Customer's written request. The examination of such records shall be conducted at a mutually agreeable time and place. In the event an audit finding reveals any overpayment by Customer, Service Provider shall immediately

pay Customer the difference between the amounts paid and those actually owed as revealed by the audit, as well as reasonable costs of the audit.

5.0   SECURITY; PRIVACY; DISASTER RECOVERY; PCI-DSS

5.1   Safety and Security Rules.   Service Provider's employees, Subcontractors and other personnel ("**Service Provider Personnel**") who will have access to Customer's facilities shall abide by applicable Customer safety, security and similar work-related policies, procedures, controls and rules (which are disclosed to Service Provided in writing in advance of such access); provided that nothing in this Agreement shall be construed as entitling Service Provider Personnel to any benefits or privileges provided by Customer to its employees.   Compliance with safety and security policies applicable to persons onsite at Customer's or Customer Affiliates' premises shall only apply when such Service Provider Personnel are providing Services onsite at Customer's locations.   Additionally, any such policies must be provided in writing to the Service Provider Personnel in advance.   Service Provider and Service Provider Personnel shall also comply with the security provisions set forth in **Exhibit E** (*Data Security Addendum*), provided, however, that any given Order Form and/or SOW may, based on its circumstances and the particular Services provided thereunder, include additional or more stringent data security or privacy requirements to which Service Provider and/or the Services will be subject.

5.2   Data Privacy.   The DPA attached hereto as **Exhibit F** (*Global Data Processing Addendum*) describes the Parties' respective roles for the processing and control of Personal Information under this Agreement.   In the event that the Parties enter into an Order Form and/or SOW whereby Service Provider collects, accesses, processes, stores, transfers, transmits, uses, discloses or otherwise handles any Customer Data that includes Personal Information that is not already identified or included in the data categories set out **Appendix 1** to **Exhibit F** (*Global Data Processing Addendum*), the Parties will amend **Exhibit F** (*Global Data Processing Addendum*) to reflect the data categories of Personal Information to be collected, accessed, processed, stored, transferred, transmitted, used, disclosed or otherwise handled by Service Provider in connection with the Services.   In the event of a conflict between the terms and conditions of the DPA and the terms and conditions of this Agreement, including exhibits attached thereto, and/or any Order Form or SOW, the DPA shall govern and control.   Service Provider agrees that by providing the Services under this Agreement, it is not accessing or acquiring any personal information as defined by an applicable law, outside the scope of which the DPA in **Exhibit F** (*Global Data Processing Addendum*)applies.

5.3   Disaster Recovery and Business Continuity.

5.3.1   Disaster Recovery.   Service Provider shall utilize redundant facilities, systems, networks, hardware, and software to provide the Service Provider Service and shall develop, maintain and comply with a business continuity or disaster recovery plan ("**DRP**") to minimize the unavailability of the Hosted Services, including in the event of a Force Majeure Event. Service Provider shall provision instances of its Hosted Service across at least two (2) geographically separate data centers in at least two (2) AWS Availability Zones (as defined by AWS) (or such other equivalent if a different cloud provider is used). Service Provider is currently (as of the Effective Date) pursuing a strategy that includes provisioning of additional cloud architecture across multiple AWS Regions (as defined by AWS). Upon Customer's request, Service Provider shall provide updates on the status of such strategy and provisioning of cloud architecture across multiple regions. Upon such occurrence, the Parties agree to amend this Agreement to include such additional infrastructure as a requirement of this **Section 5.3.1**. Service Provider's DRP will ensure the Hosted Services can be recovered to fully operational state within twenty-four (24) hours with a data recovery point of four (4) hours or less. Service Provider shall, upon request and at no cost to Customer: (i) submit for Customer's review a DRP acceptable to Customer; (ii) update and test the operability of the DRP to ensure that the DRP is fully operational; (iii) certify to Customer at least once every year during the Term or upon request by Customer that the DRP is fully operational; and (iv) implement the DRP upon the occurrence of a material business change, disaster or Force Majeure Event. The DRP must consider the integration of the Hosted Services with any Customer Systems or the systems, networks, hardware, or software of Customer's and/or Customer Affiliates' third-party service providers (as applicable). In the event of an inconsistency or conflict between Service Provider's DRP and this Agreement, the most stringent requirements with respect to such inconsistency or conflict shall govern and control.

5.3.2   Back Up Services. Consistent with the security requirements of this Agreement, Service Provider shall use industry standard best practices to capture and maintain multiple redundant online copies of all relevant information relating to the Hosted Services, including all Customer Data (provided it has not been marked for deletion within the Hosted Services by Customer), transaction histories, software, and other relevant information necessary to the restoration of service in the event of catastrophic failure such as data loss, an Information Security Incident, a major outage or a Force Majeure Event. Service Provider shall (i) maintain such records for

a period of at least twelve (12) months in the case of audit trails and logs and sixty (60) days for all other records and information; (ii) maintain records in a manner to permit rapid replacement in two hours or less; and (iii) make such records available to Customer upon request at no cost. At a minimum, all transactions and other activities occurring on the Hosted Services relating to this Agreement will be replicated every four (4) hours to at least one (1) distinct availability zone.

5.4 <u>Intentionally omitted.</u>

5.5 <u>Code of Conduct</u>. Service Provider shall comply with the *Ethical Sourcing Guidelines* located at https://www.warnermediagroup.com/company/corporate-responsibility/creating-responsibly-and-sustainably/ethical-sourcing-and-supply-chain/ethical-sourcing-guidelines, as may be amended and updated from time to time by Customer.

5.6 <u>PCI-DSS</u>. Service Provider covenants, represents and warrants that, at all times during the Term of this Agreement and through the Transition Period, it shall be fully compliant with the Payment Card Industry Data Security Standard ("**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 by the Council, and shall, on Customer's request or on a periodic basis in accordance with the Card Rules (as defined below), provide proof thereof. In addition:

(i) Service Provider covenants, represents and warrants that, at all times during the Term of this Agreement and through the Transition Period, 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 Service Provider processes payment card transactions.

(ii) Service Provider covenants, represents and warrants that it validates and will validate its PCI-DSS compliance as required by the applicable Card Rules during the Term of this Agreement and through the Transition Period, and, as of the Effective Date, Service Provider 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, Service Provider represents and warrants: (a) that it undergoes an annual on-site PCI Data Security assessment ("**Annual Assessment**") by a qualified security assessor ("**QSA**") and pursuant to its most recent Annual Assessment, it is currently certified as compliant with the current version of PCI-DSS by the QSA; (b) that it undergoes a quarterly network scan ("**Scan**") by an approved scanning vendor ("**ASV**") using a scanning solution approved by the Council and that it is has passed its most recent scan.

(iii) Service Provider will provide written notice to Customer within seven (7) days if it (a) receives a non-compliant Annual Assessment from a QSA; (b) fails to undergo or complete any Annual Assessment prior to the expiration of the previous year's Annual Assessment; (c) is unable to pass any of its Scans; or (d) is no longer in compliance with PCI-DSS. In the event of any of the foregoing, Service Provider will promptly take all necessary steps to remediate its non-compliance with PCI-DSS, and Service Provider will include in its written notice to Customer what steps Service Provider has taken to remediate its non-compliance. Additionally, upon receipt of notice from Service Provider indicating that it is no longer PCI-DSS compliant, Customer shall have the option, at its sole discretion, to terminate this Agreement and/or the applicable Order Form upon written notice to Service Provider with termination effective as of the date set forth in said notice. Upon any such termination, Service Provider shall provide a pro rata refund of any prepaid fees for Services not yet received.

(iv) Service Provider agrees to supply Customer with evidence of its most recent Annual Assessment prior to or upon execution of this Agreement. Thereafter, Service Provider shall annually supply to Customer, or make available on www.spreedly.com, evidence of Service Provider's successful completion of its Annual Assessment and will, upon reasonable request, supply Customer with additional evidence of its overall PCI-DSS compliance status.

(v) Service Provider shall, with respect to Customer Data, use only validated third-party payment applications that have been certified by the Council as compliant with the Council's Payment Application Data Security Standards ("**PA-DSS**"), as updated from time to time by the Council.

(vi) Customer may elect at any time to perform an automatic export of any Cardholder Data (as defined in the PCI-DSS) or other credit card or user information associated with Customer's account to a third party endpoint for which Service Provider 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 Service Provider perform one (1) free-of-charge manual export during the Term and any Transition Period, of any Cardholder 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 through the submission of relevant industry standard attestations and the transfer is not in violation of any applicable Laws. If Customer requires additional manual exports during the Term or any Transition Period, each additional manual export (regardless of the size of the export) shall incur a USD $1,000 charge. For clarity, such charge shall not apply to any manual exports requested by Customer as a result of Service Provider's failure to comply with an SLA. Service Provider reserves the right to delete all of Customer's Cardholder Data and any other account data stored on its servers after the Transition Period. If Customer requires additional time to arrange the export of its Cardholder Data to a PCI compliant third party, it may extend the Transition Period for additional 30 day periods by paying a prorated amount based on the fees set forth in the applicable Order Form.

(vii)   Service Provider is not a payment gateway or merchant account provider; Service Provider does not assume any direct or indirect liability or responsibility for Customer's agreements with payment gateways or merchant account providers supported on the Hosted Services.   For the avoidance of doubt, Service Provider shall remain liable for the Customer Data (including any Cardholder Data) within the Hosted Services provided by Service Provider or otherwise under the control of Service Provider, including (without limitation) any integrations between the Hosted Services and any payment gateways or merchant account providers.

6.0   WARRANTIES; DISCLAIMER OF WARRANTIES

6.1   <u>Representations and Warranties</u>. Service Provider represents, warrants and (as applicable) covenants that:

(i)   Service Provider has the full right, power, and authority to enter into this Agreement, to carry out its obligations hereunder and any Order Form and/or SOW and to grant/assign the rights and licenses granted/assigned herein and/or in any Order Form and/or SOW to Customer and Customer Affiliates;

(ii)   Service Provider shall not make any representations to any third party inconsistent with the terms of this Agreement;

(iii)   Except as otherwise provided in an applicable Order Form and/or SOW, Customer and Customer Affiliates shall not be obligated to secure and/or pay for separate or independent licenses to any Third Party Materials Services;

(iv)   The Services and the use thereof do not and shall not infringe, violate or misappropriate any confidentiality obligation and/or Intellectual Property Rights of any person or entity;

(v)   As of the Effective Date of this Agreement, there are no actual or threatened lawsuits, claims or proceedings alleging that the Services or the use thereof violate, infringe or misappropriate any third-party Intellectual Property Rights;

(vi)   The Hosted Services conforms in all material respects with the Documentation and the applicable Order Form, including any Services descriptions, specifications and/or requirements attached to and/or referenced therein and/or this Agreement (subject to **Section 1.4** (*Upgrades*))*;*

(vii)   Intentionally omitted;

(viii)   The Services shall be performed on a professional basis and in a workmanlike and expeditious manner;

(ix)   To the extent Customer receives any Deliverable and/or software from Service Provider (and/or any agent, representative and/or Subcontractor of Service Provider), the Deliverables and/or software contain no code, including without limitation, open source code and freeware, that would directly or indirectly: (a) create, or purport to create obligations on Customer and Customer Affiliates with respect to Customer's and/or Customer Affiliates' use or distribution of any software that incorporates, is combined with, or derived from the Deliverable and/or software; (b) grant, purport to grant, or require Customer and Customer Affiliates to grant to any third party any rights or immunities under Customer's or Customer Affiliates' Intellectual Property Rights in any software that incorporates, is combined with, or is derived from the Deliverable and/or software; and/or (c) require as a condition of its use, modification, and/or distribution, that any software incorporated into, derived from, or distributed with the Deliverable(s) and/or software must be disclosed or distributed in any form; and

(x)   As of the Effective Date of this Agreement, Service Provider has tested and scanned the Services, including Service Provider's related systems and the Service Software, with a current version of a leading anti-virus application in efforts to detect and if so detected, to eliminate any Malicious Code, and the Services shall not contain (a) spyware or any other software or programming code not a part of the Services and not within the scope of the intended purpose of the Services, (b) any virus, worm, trap door, back door, timer, clock, counter, or other limiting routine, instruction or design that would cause the Services, or any system on which the Services are installed or which is operated by the Services to become inoperable or incapable of being used in the full manner for which it was designed or created, and/or (c) "time bomb" licenses or other similar code which would

render the Services and/or system(s) fully or partially unusable, ((a)— (b) collectively referred to as "**Malicious Code**"); and

(xi)   Service Provider shall not provide Customer (or any Customer Affiliate) with any Cardholder Data (including, but not limited to, the Primary Account Number or Sensitive Authentication Data, as those terms are defined by PCI-DSS).

6.2   <u>Customer Representations and Warranties</u>. Customer represents and warrants to Service Provider that: (i) it will not use the Service for any fraudulent undertaking or in any manner so as to interfere intentionally with the operation of the Service; (ii) it will comply, at its own expense, with all laws applicable to Customer's obligations under this Agreement and in connection with all transactions it attempts to process using the Hosted Services.

6.3   <u>DISCLAIMER OF WARRANTIES</u>. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, EACH PARTY HERETO DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING, PERFORMANCE OR USAGE OF TRADE.

7.0   **INDEMNIFICATION**

7.1   Service Provider shall indemnify, defend at its own cost and expense and hold harmless Customer and Customer Affiliates and their respective officers, directors, and employees (the "**Customer Indemnified Parties**") against any loss, expense, cost, fines or damage that Customer and/or Customer Affiliates may sustain or incur (including attorneys' fees and costs), in relation to any claim, demand, judgment, settlement or action by a third party (including, without limitation, any regulatory or government authority) (each a "**Claim**"), arising out of or related to any of the following: (i) any claim or allegation that the Services or Customer's and/or Customer Affiliates' use thereof in accordance with this Agreement infringe, violate or misappropriate a patent, copyright, trademark, trade secret or other Intellectual Property Right of any third party ("**Infringement Claim**"); (ii) any breach by Service Provider of **Section 5.6** (*PCI-DSS*), (iii) any breach by Service Provider of **Section 10** (*Confidential Information*), **Exhibit E** (*Data Security Addendum*), or **Exhibit F** (*Global Data Processing Addendum*); (iv) any Security Incident; and (v) Service Provider's breach of applicable law (including any regulations or rules of any agency having jurisdiction).

7.2   Customer shall indemnify, defend and hold harmless Service Provider against any loss or damage that Service Provider may sustain or incur (including attorneys' fees and costs), in relation to any Claim arising out of or related to any of the following: (i) any breach by Customer of **Section 10** (*Confidential Information*); and/or (ii) Customer's use of the Hosted Services in violation of the (A) terms of this Agreement, (B) the applicable terms of service of the payment gateways, merchant service providers and/or API endpoints Customer connects with on the Services; (C) 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 applicable payment network(s) (e.g., Visa, MasterCard, American Express, Discover Financial Services, and any affiliates thereof), and/or (D) applicable law (including any regulations or rules of any agency having jurisdiction), only to the extent such violation under (ii) is not the result of Service Provider's non-compliance (with respect to (ii)(B) and (ii)(C)), breach of this Agreement and/or violation of applicable law.

7.3   The party seeking indemnification (the "**Indemnitee**") shall promptly notify the other party (the "**Indemnitor**") in writing of any Claim for which the Indemnitee believes it is entitled to be indemnified pursuant to **Section 7.1** or **7.2**; provided, however, that failure to give such notice will not relieve the Indemnitor of its defense, hold harmless, and indemnification obligations hereunder except to the extent the Indemnitor has suffered actual material prejudice as a result of failing to receive prompt notice of the Claim. The Indemnitee shall cooperate with the Indemnitor at the Indemnitor's sole cost and expense. The Indemnitor shall promptly assume control of the defense and investigation of such Claim, at the Indemnitor's sole cost and expense. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The Indemnitor shall have no authority to settle and shall not enter into any settlement that imposes any liability, obligation and/or admission of liability on the Indemnitee without the Indemnitee's prior written consent.

7.4   In the event of an Infringement Claim, in addition to any other obligation Service Provider may have to Customer under the Agreement or otherwise, Service Provider may elect to, at its sole cost and expense, promptly (a) procure for Customer and Customer Affiliates a license from the patent, copyright or other proprietary right owner to use the Services; or (b) modify or replace the offending portion of the Services to make the Services non-infringing without materially impairing their usefulness or performance or materially reducing its features and functionality. In the event

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Service Provider is unable to provide to Customer either option (a) or (b) above within sixty (60) days of receipt of notice of the Infringement Claim, Customer may, upon written notice to Service Provider, terminate the Agreement and/or any Order Form without liability (except for payment of unpaid fees due and payable for Services properly performed up to the effective date of termination subject to Customer's right to set off) and further payment obligations to Service Provider, and Service Provider shall provide a pro rata refund of all fees paid in advance.

8.0   LIMITATION OF LIABILITY; INSURANCE

8.1   LIMITATIONS OF LIABILITY.

(i)   EXCEPT AS SET FORTH IN **SECTION 8.1(iv),** 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.

(ii)   EXCEPT AS SET FORTH IN **SECTION 8.1(iii)** or **8.1(iv),** UNDER NO CIRCUMSTANCES SHALL EITHER PARTY'S LIABILITY TO THE OTHER PARTY UNDER THIS AGREEMENT FOR DIRECT DAMAGES EXCEED THE GREATER OF: (i) USD $5,500,000.00 (FIVE MLLION FIVE HUNDRED THOUSAND US DOLLARS) or (ii) FIVE TIMES (5X) THE FEES AND CHARGES PAID AND/OR OTHERWISE DUE AND PAYABLE TO SERVICE PROVIDER BY CUSTOMER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING SUCH CLAIM (THE "**GENERAL LIABILITY CAP**").

(iii)   NOTWITHSTANDING THE FOREGOING, EACH PARTY'S AGGREGATE LIABILITY FOR LIABILITIES RESULTING FROM: (1) A BREACH OF SERVICE PROVIDER'S SECURITY, PRIVACY AND/OR DATA PROCESSING OBLIGATIONS SPECIFIED IN **EXHIBIT E** (*DATA SECURITY ADDENDUM*) AND **EXHIBIT F** (*GLOBAL DATA PROCESSING ADDENDUM*) HERETO (INCLUDING A SECURITY INCIDENT AS DEFINED IN THE DATA SECURITY ADDENDUM), (2) A BREACH OF **SECTION 10** (*CONFIDENTIAL INFORMATION*), OR (3) EITHER PARTY'S INDEMNIFICATION AND DEFENSE OBLIGATIONS (EXCLUDING SERVICE PROVIDER'S INDEMNIFICATION AND DEFENSE OBLIGATIONS UNDER **SECTIONS 7.1(i)** AND **7.1(ii)**), SHALL NOT EXCEED USD $10,000,000.00 (TEN MILLION US DOLLARS) (THE "**SUPER LIABILITY CAP**"). THE SUPER LIABILITY CAP SHALL BE IN LIEU OF, AND NOT IN ADDITION TO, THE GENERAL LIABILITY CAP AND SHALL APPLY SOLELY TO THE LIABILITIES DESCRIBED UNDER THIS **SECTION 8.1(iii).** FOR AVOIDANCE OF DOUBT, THE PARTIES AGREE THAT THE FOLLOWING LIABILITIES (WITHOUT LIMITATION) SHALL CONSTITUTE DIRECT DAMAGES AND ARE RECOVERABLE UNDER THIS **SECTION 8.1(iii):** (I) ANY AMOUNTS ARISING FROM SERVICE PROVIDER'S INDEMNIFICATION AND DEFENSE OBLIGATIONS (EXCLUDING **SECTION 7.1(i)** AND **SECTION 7.1(ii),** WHICH ARE NOT SUBJECT TO THE LIMITATIONS SET FORTH IN THIS **SECTION 8.1(iii)**); (II) ANY COSTS AND/OR EXPENSES ACTUALLY INCURRED BY CUSTOMER IN CONNECTION WITH FULFILLING LEGALLY REQUIRED OBLIGATIONS RESULTING FROM A SECURITY INCIDENT (E.G., SENDING NOTICES TO AFFECTED END USERS, FORENSIC INVESTIGATION EXPENSES, REMEDIATION COSTS, AND THE COST OF PROVIDING LEGALLY REQUIRED MONITORING SERVICES TO AFFECTED END USERS); AND (III) ANY FINES, PENALTIES, NON-COMPLIANCE FEES OR SIMILAR AMOUNTS ASSESSED OR IMPOSED BY A GOVERNMENTAL AUTHORITY OR CARD ASSOCIATION IN CONNECTION WITH A SECURITY INCIDENT AND/OR SERVICE PROVIDER'S BREACH OF THE DPA.

(iv)   NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS AND EXCLUSIONS OF LIABILITY IN **SECTIONS 8.1(i),** AND **8.1(ii)** AND **8.1(iii)** DO NOT APPLY TO (1) THE FRAUDULENT, CRIMINAL, OR GROSSLY NEGLIGENT ACTS OR OMISSIONS OF A PARTY OR A PARTY'S INTENTIONAL MISCONDUCT, (2) LIABILITIES RESULTING FROM SERVICE PROVIDER'S BREACH OF **SECTION 5.6** (*PCI-DSS*) (INCLUDING SERVICE PROVIDER'S INDEMNIFICATION AND DEFENSE OBLIGATIONS RELATED THERETO UNDER **SECTION 7.1(ii)**), OR (3) SERVICE PROVIDER'S INDEMNIFICATION AND DEFENSE OBLIGATIONS IN CONNECTION WITH INFRINGEMENT CLAIMS UNDER **SECTION 7.1(i)**.

8.2   Insurance.

(i)   Required Insurance. During the Term (and for policies written on a claims-made basis, for at least three (3) years following the later of the termination or expiration of this Agreement or the last SOW or Order Form), Service Provider shall maintain in full force and effect, at its expense, the following insurance coverages all stated in US dollars,

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which shall protect Service Provider and Customer, along with its parent and affiliates from claims arising out of or in connection with Service Provider providing Services to Customer and Customer Affiliates from or out of any act or omission of Service Provider, its officers, directors, Subcontractors, agents, contractors or employees:

        (a)   Commercial General Liability insurance with limits not less than $1,000,000 each occurrence and $2,000,000 in the aggregate. Such insurance shall include coverage for contractual liability, product liability, personal injury, property damage and bodily injury liability (including death).

        (b)   Automobile Liability insurance, including, without limitation, coverage for non-owned and hired vehicles, with limits not less than $5,000,000 per accident for bodily injury and property damage.

        (c)   Workers' Compensation insurance with statutory limits as required by applicable law, including Employers Liability coverage with limits not less than $1,000,000 each accident, $1,000,000 disease-each employee and $1,000,000 disease-policy limit.

        (d)   Umbrella/Excess Liability insurance with limits not less than $5,000,000 each occurrence with terms and conditions at least as broad as the underlying Commercial General Liability, Automobile Liability and Employers Liability policies.

        (e)   Errors and Omissions insurance with limits not less than $3,000,000 each claim and $3,000,000 annual aggregate. Such insurance shall include coverage for invasion/interference of privacy and/or publicity, libel, copyright infringement, unauthorized use of property rights, breach of implied contract and failure to give credit.

        (f)   Professional Liability and Technology Errors and Omissions insurance with limits not less than $10,000,000 each claim and $10,000,000 annual aggregate. Such insurance shall include coverage for privacy liability, identity theft, network security liability and network extortion threats.

        (ii)   <u>Requirements</u>. All such insurance required above shall be primary and non-contributory with respect to any insurance maintained by Customer. Policies shall be written by insurance companies qualified to do business in the state of Georgia with an A.M. Best Company rating of "A VIII" or better in the latest edition of Best's Insurance Guide and Key Ratings. Policies shall provide that the coverage may not be materially reduced or canceled unless thirty (30) days' prior written notice is furnished to Customer.

Service Provider insurance policies shall include Customer along with the Customer Indemnified Parties (defined in **Section 7.1**) as additional insureds and shall contain a waiver of subrogation in favor of the additional insureds. The additional insured requirement does not apply to the Workers' Compensation policy.

Within thirty (30) days of the Effective Date of this Agreement, Service Provider shall furnish certificate(s) of insurance to Customer verifying placement and maintenance of required coverages.

It is hereby agreed and understood that the insurance requirements specified above and/or absence or lack of any coverage shall not be construed as a limitation of any potential liability on behalf of Service Provider.

9.0   TERM AND TERMINATION

9.1   <u>Term of Agreement</u>. This Agreement shall begin on the Effective Date and shall continue in effect for a period of one (1) year (the "**Initial Term**"), unless earlier terminated as provided herein. Thereafter, this Agreement shall automatically renew for successive one (1)-year periods (each, a "**Renewal Term**"), unless either Party gives written notice of its intent not to renew. Service Provider will not utilize its option not to renew this Agreement for at least two (2) years from the Effective Date. In the event that Service Provider is providing such notice, Service Provider must provide written notice to Customer of its intent not to renew at least six (6) months prior to the expiration of the then-current Renewal Term. In the event that Customer is providing such notice, Customer must provide written notice to Service Provider at least thirty (30) days prior to the expiration of the Initial Term or the then-current Renewal Term, as applicable. The Initial Term and the Renewal Term(s) (if any) are referred to herein collectively as the "**Term**".

9.2   <u>Term of Order Form/SOW</u>. Each Order Form and SOW shall have its own term (each, an "**Order Term**" or "**SOW Term**", as applicable). Unless otherwise provided herein, in the event this Agreement is terminated or expires prior to the expiration or termination of an Order Term for an Order Form or an SOW Term for a SOW, such Order Form

and/or SOW will continue, and all of the terms and conditions of this Agreement will survive and continue to apply to such Order Form or SOW until the termination or expiration of such Order Form or SOW.

9.3   Termination.

9.3.1   Termination for Breach. In addition to any other remedy available under this Agreement or otherwise, either Party may terminate this Agreement (and/or any Order Form, SOW or portion thereof), if the other Party breaches any material provision of this Agreement (and/or the applicable Order Form and/or SOW) and has not cured such breach within thirty (30) days following its receipt of written notice of the breach from the non-breaching Party.

9.3.2   Termination without Cause. Customer may terminate this Agreement (and/or any Order Form, SOW or portion thereof) any time without cause by providing thirty (30) days prior written notice to Service Provider with termination effective as of the date set forth in such notice. In the event of early Termination without Cause by Customer, Customer shall remain liable for the remaining Minimum Annual Commitment under such Order Form for the duration of such Order Form's Order Term.

9.3.3   Termination for Bankruptcy, Dissolution, Insolvency. Either Party may terminate the Agreement (and/or the applicable Order Form and/or SOW) upon the occurrence of any one of the following events: (i) any voluntary or involuntary filing in bankruptcy, reorganization or receivership or under similar laws for the protection of creditors, by or directed against the other Party, which is not withdrawn within thirty (30) days of such filing; (ii) any assignment for the benefit of creditors; or (iii) any liquidation or dissolution of the other Party or the other Party ceases to do business in the normal course. In the event Customer terminates this Agreement pursuant to this Section, Customer will be entitled to a pro rata refund for Services paid for but not received.

9.3.4   Other Termination Rights. Customer has such other termination rights as are expressly set forth in this Agreement, an Order Form, SOW and an SLA.

9.4   Acknowledgement and Agreement. Unless otherwise agreed to by the Parties to an Acknowledgement and Agreement (defined in **Section 11.0** (*Affiliates*)) in said Acknowledgement and Agreement or other signed writing, any termination of this Agreement shall not terminate the Acknowledgement and Agreement(s) or any then-current unexpired Order Form or SOW attached to the Acknowledgement and Agreement(s).

9.5   Return of Materials. Upon any expiration or termination of this Agreement, and following the Transition Period (defined below), if elected by Customer, and/or upon Customer's request, Service Provider will return any and all Customer Materials to Customer subject to the terms and conditions of **Section 3.6** (*Customer Materials*). Customer's sole and exclusive obligation to Service Provider upon termination under **Section 9.3.2** (*Termination without Cause*), **Section 9.3.3** (*Termination for Bankruptcy*, *Dissolution*, *Insolvency*), and **Section 12.3(iii)** shall be the payment of unpaid charges due and payable for Services properly performed up to the effective date of termination or expiration, and Service Provider shall promptly provide Customer a pro rata refund of all fees paid in advance by Customer upon termination by Customer under this Agreement (other than pursuant to **Section 9.3.2** (*Termination without Cause*) and upon termination by Service Provider under **Section 9.3.1**(*Termination for Breach*) and **Section 9.3.3** (*Termination for Bankruptcy, Dissolution, Insolvency*). In no event will Customer be liable to Service Provider for any anticipated fees or profits on account of a termination under this **Section 9.0**. If Customer provides notice of termination hereunder, Service Provider shall continue to provide the Services until the termination is effective or until the expiration of the Transition Period, as applicable.

9.6   Transition Period. At the request of Customer or the applicable Customer Affiliate, Service Provider at no additional charge to Customer or the applicable Customer Affiliate will for up to twelve (12) months prior to and/or after the expiration or termination of an Order Form for any reason (the "**Transition Period**"), (i) continue to provide the Services in accordance with the terms of the Agreement and Order Form and (ii) provide reasonable cooperation and assistance to facilitate the orderly transition and migration of (a) the Services provided by Service Provider hereunder and any Order Form to Customer or the applicable Customer Affiliate or its designee, and (b) the Customer Data (including any and all Cardholder Data) to Customer or the applicable Customer Affiliate or its designee. Upon the earlier of (i) the expiration of the Transition Period or (ii) Customer's or Customer Affiliate's request, Service Provider shall delete, if applicable, the Customer Data (including any and all Cardholder Data), and any and all copies thereof in whatever form or media and on whatever device or equipment and provide a written certification confirming the same.

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9.7   Sunset. Service Provider shall not sunset or end of life the Hosted Services or discontinue the sale of the Hosted Services (collectively, "**Sunset the Hosted Services**") while any Order Form is still in effect. Without limiting the foregoing, Service Provider shall provide Customer with at least twelve (12) months prior written notice before Sunsetting the Hosted Services. For avoidance of doubt, in the event of any Sunsetting of the Hosted Services, Service Provider shall remain obligated to fulfill its obligations under any unexpired Order Form.

9.8   Survival. The definitions contained herein, Sections 1.5 (*Third Party Materials*), 3 (*Ownership*), 4.3 (*Taxes*), 4.4 (*Records*), 4.5 (*Audit*), 5 (*Security; Privacy; Disaster Recovery; PCI-DSS*), 6 (*Warranties; Disclaimer of Warranties*), 7 (*Indemnification*), 8 (*Limitation of Liability; Insurance*), 9.2 (*Term of Order Form/SOW*), 9.3 (*Termination*), 9.4 (*Acknowledgement and Agreement*), 9.5 (*Return of Materials*), 9.6 (*Transition Period*), 9.8 (*Survival*), 10 (*Confidential Information*), 11 (*Affiliates*) and 12 (*General*) of the Agreement, and Section 4 (*Term*), Section 5 (*Governing Law*), Sections 2(e), (f), (j) and (l) of **Exhibit F** (*Global Data Processing Addendum*) to the Agreement shall survive the expiration or termination of this Agreement, any Order Form and/or any SOW for any reason.

10.0   CONFIDENTIAL INFORMATION

10.1   Proprietary Information. All Proprietary Information shall remain the property of the disclosing Party, and no license or other rights to the disclosing Party's Proprietary Information is granted or implied hereby. Each Party shall not disclose or allow the disclosure of any of the other Party's Proprietary Information to any third party, except to such Party's affiliates, attorneys, accountants, consultants, Subcontractors and other agents and advisors who have a need to know with respect to the Services ("**Representatives**"), who are subject to obligations to keep such Proprietary Information confidential at least equivalent to the provisions set out in this **Section 10.0**, and shall use and disclose such Proprietary Information only on a need-to-know basis (i) for purposes of performing its obligations under this Agreement, or in the case of Customer and Customer Affiliates, for purposes of using the Services and/or exercising its rights granted hereunder, and/or (ii) in connection with any Order Form (including in the course of discussions or exploration of a potential Order Form which may or may not ultimately be executed). The Parties agree that this Agreement and its terms are Confidential Information. Each Party will be responsible for any breach of this **Section 10.0** by its respective Representatives.

For purposes of this Agreement, except with respect to Customer Data, the receiving Party will have no obligation to preserve the proprietary nature of any Proprietary Information that: (a) enters the public domain (other than as a result of a breach of this Agreement); (b) was in the receiving Party's possession prior to its receipt from the disclosing Party; (c) is independently developed by or on behalf of the receiving Party without the use of or reference to the disclosing Party's Proprietary Information; or (d) is obtained by the receiving Party from a third party under no obligation of confidentiality to the disclosing Party. Customer and Customer Affiliates may disclose Service Provider's Proprietary Information that must be disclosed by Customer and/or Customer Affiliates due to a judicial or governmental requirement or order, provided that unless prohibited by law (I) Customer or Customer Affiliate, as applicable, has given Service Provider reasonable prior notice of such requirement or order to give Service Provider a reasonable opportunity to object or to seek a protective order or other appropriate remedy, (II) Customer or Customer Affiliate, as applicable, reasonably cooperates with Service Provider, at Service Provider's cost and expense, so that Service Provider may object or seek a protective order or other appropriate remedy, and (III) Customer or Customer Affiliate, as applicable, in any event discloses only that portion of the Proprietary Information that it is legally required to disclose.

The confidentiality obligations set forth in this Section for Trade Secrets shall continue for so long as such information remains a trade secret under applicable law and with respect to Confidential Information, shall continue for three (3) years following termination or expiration of this Agreement.

10.2   Securities. Service Provider acknowledges that Customer is ultimately owned by AT&T and that AT&T's securities are publicly traded. Service Provider acknowledges that applicable securities laws prohibit Service Provider from buying or selling AT&T's securities while in possession of material non-public information and that, to the extent the Confidential Information disclosed hereunder constitutes material non-public information that would be subject to such laws, Service Provider will fully comply with same. As addressed above, this information, in addition to any other data disclosed pursuant to this Agreement, may only be used for the limited purpose(s) and Term contemplated by this Agreement.

10.3   Injunctive Relief. The receiving Party acknowledges that disclosure of any Confidential Information or Trade Secret by it or its Representatives will give rise to irreparable injury to the disclosing Party or the owner of such information, not adequately compensated by damages. Accordingly, the disclosing Party will be entitled to equitable relief, including injunctive relief and specific performance against the breach or threatened breach of the undertakings in this **Section 10.0**, in addition to any other legal remedies which may be available.

10.4   Return or Destruction of Confidential Information. Unless otherwise provided in **Section 9.6** (*Transition Period*), upon the earlier of the disclosing Party's request or the termination or expiration of this Agreement, Order Form(s), and/or SOW(s) as applicable, the receiving Party shall, at the disclosing Party's option, promptly destroy or return all Confidential Information, including all copies thereof in whatever medium, in its possession or control, and in either event provide a written confirmation of the same.

10.5   Third Party Requests. Service Provider shall not monitor directly or disclose or permit a Third Party (as defined below) and/or its subcontractors to monitor or disclose Customer Data and/or any of Customer's other Proprietary Information to any third party (including but not limited to law enforcement, other government entity, or civil litigant) ("**Third Party(ies)**"), unless required by law. Should a Third Party contact Service Provider with a request or demand to monitor and/or disclose Customer Data and/or any of Customer's other Proprietary Information, Service Provider will, unless prohibited by law, immediately, and to the extent possible, prior to any due date for such response or objection (i) notify Customer in compliance with the notice provision in **Section 12.2** (*Notices*) of Service Provider's receipt of any Third Party request, demand, subpoena and/or order to disclose, produce, and/or monitor Customer Data and/or Customer's other Proprietary Information and/or monitor Customer's and/or Customer Affiliates' use of the Services ("**Third Party Request**"), (ii) redirect the Third Party to make such request directly to Customer in compliance with the notice provision in **Section 12.2** (*Notices*), (iii) provide Customer with the information, tools and assistance required for Customer to respond to the Third Party Request, and (iv) at Customer's request, reasonably cooperate with any effort by Customer to object to a Third Party Request, and/or seek a protective order or other appropriate remedy. As part of the foregoing, Service Provider may provide Customer's basic contact information as set forth in the notice provision in **Section 12.2** (*Notices*) to the Third Party. Similarly, Service Provider will immediately notify Customer of any Third Party Requests regarding Customer's use of the Services, such as a request to take down content under the Digital Millennium Copyright Act, and Customer is responsible for responding to any such requests. Upon Customer's request, Service Provider will assist Customer, to the extent necessary, in complying with such take down requests. If compelled by law to disclose, monitor or permit a Third Party or one of Service Provider's subcontractors to monitor Customer Data and/or any of Customer's other Proprietary Information to a Third Party, Service Provider will notify Customer immediately, and to the extent possible in advance of such monitoring and/or disclosure. If Service Provider is prohibited by law from providing Customer with advance notice, Service Provider will notify Customer as soon as it is legally permissible to do so. In those cases where Service Provider is required by law to monitor, permit a Third Party and/or one of Service Provider's subcontractors to monitor, and/or disclose Customer Data and/or any of Customer's other Proprietary Information to a Third Party, Service Provider will, to the extent permitted by law, provide Customer with copies or a listing of all materials subject to such monitoring and/or produced upon Customer's request. Service Provider will require and ensure that its subcontractors follow the same procedures described above.

11.0   AFFILIATES

Customer shall have the right to share all or any part of this Agreement, and all associated documents and amendments, and any Confidential Information disclosed hereunder to Customer with any Customer Affiliate provided that Customer remains responsible for any obligation, financial or otherwise, of any such Customer Affiliate who has not entered into an Affiliate Acknowledgement Agreement (defined below) or Affiliate Order Form (defined below). Consistent with the license provisioning requirements under **Section 1** (*Scope of Services*), any Customer Affiliate will have the right, at any time during the Term of this Agreement, to engage Service Provider to provide Services under the same terms and conditions, as those set forth in this Agreement, by entering into a new Order Form and/or SOW hereunder (each an "**Affiliate Order Form**"). A Customer Affiliate entering into an Affiliate Order Form hereunder shall, for the purposes of that Affiliate Order Form only, have all the rights and obligations that Customer has under this Agreement and references to "Customer" in this Agreement shall be read as references to such Customer Affiliate. Moreover, any Customer Affiliate will have the option at Customer Affiliate's discretion, at any time during the Term of this Agreement, to modify the terms and conditions of this Agreement (as between Service Provider and such Customer Affiliate) by entering into an Affiliate Acknowledgement and Agreement ("**Acknowledgement and Agreement**"), that is substantially similar to the sample form which is attached hereto as **Exhibit G** (*Acknowledgement and Agreement Form*), unless otherwise modified by mutual agreement of Customer Affiliate and Service Provider, agreeing to be bound by the terms and conditions of this Agreement only as they relate to each individual Customer Affiliate and the Services it purchases hereunder. Customer shall not be responsible for any obligations, financial or otherwise, of any Customer Affiliate who has entered into an Affiliate Order Form or Acknowledgement and Agreement hereunder, and any breach of the Agreement or an Affiliate Order Form by a Customer Affiliate who has entered into an Affiliate Order Form or Acknowledgement and Agreement hereunder shall not affect this Agreement with respect to Customer.

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12.0   GENERAL

12.1   Governing Law; Forum. To the fullest extent permitted by law, this Agreement will be governed by and construed in accordance with the laws of the State of New York, USA, without regard to its conflicts of law principles or provisions. Any suit, action or proceeding brought in connection with or arising under this Agreement must be brought in a federal, state or local court of competent jurisdiction in New York County, New York. The Parties expressly consent to personal jurisdiction in New York County, New York, with respect to any suit, action or proceeding brought in connection with or arising under this Agreement.

12.2   Notices. Unless otherwise specified herein or in any Order Form or SOW, any notice or communication required or permitted to be given by either Party under this Agreement shall be in writing and shall be hand delivered, sent by certified or registered U.S. mail, return receipt requested, or sent by an internationally recognized overnight courier to the addresses and contacts indicated below. Such notices shall be deemed given on the date delivered if hand delivered or on the date it is officially recorded as delivered by the U.S. Postal Service or the overnight courier service, as applicable. Either Party may change its contact information and address for notice purposes upon issuance of notice thereof in accordance with this Section.

All notices to Service Provider shall be provided to:

> Spreedly, Inc.
> 300 Morris Street, Suite 400
> Durham, NC 27701
> Attention: Finance Department
> CC: General Counsel

All notices to Customer shall be provided to:

> Warner Media, LLC
> 30 Hudson Yards
> New York, New York 10001
> Attention: Kathy Styponias

With a simultaneous and separate copy to:

> Warner Media, LLC
> WarnerMedia Legal Department
> 30 Hudson Yards
> New York, New York 10001 USA
> Attention: General Counsel
> (with a copy sent to techlegalnotices@wb.com)

12.3   Compliance Warranties. Service Provider represents and warrants that:

(i)   Both parties will, in the performance of this Agreement, comply with all applicable federal, state, and local laws, rules, regulations, orders, and ordinances;

(ii)   Neither Service Provider nor any of its subsidiaries, affiliates, directors, officers, employees, agents, contractors, Subcontractors or representatives (whether domestic or foreign) (each, a "**Related Party**"), in the course of its actions in connection this Agreement: (a) has used or will use any funds for any unlawful contribution, gift, entertainment or other expense relating to political activity; (b) has made or will make any direct or indirect unlawful payment to any foreign or domestic government official or employee; (c) has taken or will take any action that would constitute a violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd 1 et seq. (the "**FCPA**") or any similar non-U.S. anti-bribery, anti-corruption or similar laws to which the Related Party may be subject (specifically including, but without limitation, the United Kingdom's Bribery Act 2010); (d) is a "foreign official" (as such term is defined in the FCPA); or (e) has taken or will take any action or inaction that by its nature could be deemed to contribute or cause a director, officer, employee, agent, representative, consultant or independent contractor of the Service Provider or its parents or affiliates to violate the FCPA, or The USA PATRIOT ACT [H.R. 3162]. In the event that, after execution of this Agreement, Service Provider or Related Party has a reasonable basis to believe that any of the foregoing

representations and warranties may no longer be true or have been breached, Service Provider shall immediately notify Customer in writing. On receipt of such written notice, the Parties, as appropriate, will consult together to address concerns under the laws, rules, orders and regulations that are enforced or administered by FCPA and/or The USA PATRIOT ACT [H.R. 3162] and determine whether those concerns can be satisfactorily resolved. Should the Parties be unable to satisfactorily resolve the concerns, Customer will be entitled to terminate the Agreement, any Order Forms and/or any SOWs without liability upon written notice to Service Provider, with termination effective as of the date set forth in the notice, and Customer shall have no payment obligations for Services not yet rendered and shall be entitled to a pro rata refund of fees paid in advance for Services not yet rendered as of the effective date of termination; and

(iii)   (a) it is not, and none of its subsidiaries, affiliates, directors, officers, employees, agents, contractors, Subcontractors or representatives is, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the U.S. Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute or executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or under any other law, rule, order, or regulation that is enforced or administered by OFAC (such persons and entities each being a "**Prohibited Person**"); (b) it is not acting directly or indirectly, for or on behalf of any Prohibited Person; (c) it is not engaged in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any Prohibited Person; and (d) it will not contract with or otherwise engage in any dealings or transactions or be otherwise associated with any Prohibited Person. In the event that, after execution of this Agreement, Service Provider or any officer, director, shareholder, employee or agent of Service Provider has a reasonable basis to believe that any of the foregoing representations and warranties may no longer be true or have been breached, Service Provider shall immediately notify Customer in writing. On receipt of such written notice, the Parties, as appropriate, will consult together to address concerns under the laws, rules, orders and regulations that are enforced or administered by OFAC and determine whether those concerns can be satisfactorily resolved. Should the Parties be unable to satisfactorily resolve the concerns, Customer will be entitled to terminate the Agreement, any Order Forms and/or any SOWs without liability upon written notice to Service Provider, with termination effective as of the date set forth in the notice, and Customer shall have no payment obligations for Services not yet rendered and shall be entitled to a pro rata refund of fees paid in advance for Services not yet rendered as of the effective date of termination.

12.4   Background Checks. Service Provider hereby agrees to promptly perform or have performed, at its cost, a background check on each Service Provider Personnel with responsibilities for or access to Customer Data and/or Customer Systems (to the extent permitted by applicable law). The background check shall be conducted by a reputable consumer reporting agency utilizing the highest industry standards and shall include, at a minimum (i) intentionally omitted, (ii) a complete criminal records search for felony and misdemeanor convictions or pending charges within the past seven (7) years (in compliance with applicable legal restrictions) for the counties of residence as revealed by social security trace, (iii) a National Sex Offender Registry screening, (iv) social security trace, and (v) a review of Department of Motor Vehicles records (if Service Provider Personnel's Services include driving), and shall be performed in accordance with all applicable local, state, and federal laws, rules and regulations. Service Provider shall only assign Service Provider Personnel who pass such checks without any material concern to perform Services under this Agreement. In addition to any and all other rights and remedies available, this Agreement is subject to immediate termination by Customer in the event of Service Provider's failure to properly conduct the required background checks prior to providing Service Provider Personnel with access to Customer Data, Customer Systems and/or Customer's and/or Customer Affiliates' premises.

12.5   Severability. In the event any provision of this Agreement, any Order Form, and/or any SOW is held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed to have been deleted from this Agreement, while the remaining provisions of this Agreement, Order Forms, and SOWs shall remain in full force and effect according to its terms.

12.6   Waiver. No failure or delay by either Party in exercising any right, power or remedy under this Agreement shall operate as a waiver of any such right, power or remedy. No waiver of any provision of this Agreement shall be effective unless in writing and signed by both Parties. Any waiver by any Party of any provision of this Agreement shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver operate or be construed as a waiver of such provision respecting any future event or circumstance.

12.7   Force Majeure.   Neither Party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder if such failure or delay shall arise on account of events beyond the reasonable control of such Party which cannot be overcome through due diligence, (e.g., strikes, riots, war, acts of terrorism, acts of God, invasion, fire, explosion, floods, and acts of government or governmental agencies or instrumentalities) (collectively, a "**Force Majeure Event**"); provided that (i) downturns in the economy or credit markets, contract disputes with vendors or subcontractors, changes in the availability or cost of components or services, including its financial inability to perform, will not constitute a Force Majeure Event or otherwise excuse performance by a Party under this **Section 12.7**; and (ii) the Party seeking to delay its performance gives the other written notice of any such Force Majeure Event as soon as practicable after the discovery of the Force Majeure Event, and further provided that such Party uses its good faith efforts to overcome the Force Majeure Event (and, in any event, such Party will begin or resume performance as soon as practicable after the Force Majeure Event has abated). Notwithstanding the foregoing, if a Force Majeure Event continues for more than thirty (30) days, Customer shall have the right to immediately terminate this Agreement in Customer's sole discretion by providing written notice, and upon such termination, Customer shall have no further obligation for any fees or charges hereunder and shall receive a pro rata refund for any and all Service(s) paid but not received.

12.8   Compliance with Laws. Each Party agrees to comply with all applicable laws and regulations with respect to its activities hereunder, including but not limited to any export laws and regulations of the United States.

12.9   Relationship between the Parties. Service Provider acknowledges and agrees that Service Provider, and its employees, agents, and contractors, are independent contractors, rather than agents or employees of Customer or Customer Affiliates. Nothing herein shall be deemed to create an employment, joint venture, agency, or partnership relationship between the Parties, and neither Party is authorized nor shall act toward any third party, individual entity, or the public in any manner that would indicate any such relationship to the other.

12.10   Assignment.   The Parties' rights and obligations under this Agreement will bind and inure to the benefit of their respective successors and permitted assigns. Neither Party shall assign or delegate its obligations under this Agreement either in whole or in Part without the prior written consent of the other Party; provided, however, that either Party may assign this Agreement in its entirety, without the other Party's consent, to an entity that acquires all or substantially all of the business or assets of the assigning Party relating to the subject matter of this Agreement, whether by merger, reorganization, acquisition, sale or otherwise (each, a "**Change of Control**"). In the event that Service Provider experiences a Change of Control, Service Provider will provide Customer with written notice of any Change of Control as soon as practicable but in no event more than thirty (30) days after the Change of Control occurs. In the event Service Provider experiences a Change of Control whereby it is acquired by or otherwise comes under the control of a competitor of Customer and/or a Customer Affiliate, Customer shall have the option, at its sole discretion, to terminate this Agreement and/or the Order Form(s) by providing written notice of such termination to Service Provider with termination effective as of the date set forth in the notice of termination.

12.11   Publicity. Service Provider shall not, without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion for any reason, in each instance, (i) use or reference in advertising, publicity, press releases, articles, websites, social media, marketing, promotional or sales collateral materials or otherwise use the name of Customer or any of the Customer Affiliates, or any partner or employee of Customer or the Customer Affiliates, nor any trade name, trademark, service mark, logo, trade device or simulation thereof owned or licensed by Customer or the Customer Affiliates or their partners, or (ii) represent, directly or indirectly, that any product or any service provided by Service Provider, including without limitation the Services, has been used, approved and/or endorsed by Customer or the Customer Affiliates or their partners.

12.12   No Obligation. Notwithstanding any other provision in this Agreement and/or any Order Form, Customer shall have no obligation to utilize any Services or any materials provided and/or prepared by Service Provider hereunder in Customer's businesses or otherwise, or to further develop or launch any Customer businesses, or to continue any of the foregoing if commenced. Further, but without limiting the generality of the foregoing, except with respect to **Exhibit B** (*Order Form #1*), this Agreement does not constitute a commitment for Customer to purchase Services or otherwise engage Service Provider to perform Services for Customer. In addition, Customer will have no obligation whatsoever to enter into any further agreement or Order Form with Service Provider.

12.13   No Exclusivity. Nothing in this Agreement will be deemed to limit or restrict either Party from entering into arrangements or agreements with any other person or entity for the same or similar services as those provided hereunder.

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12.14   Modification of Agreement. The terms and conditions of this Agreement may not be modified or waived except by a writing signed by both Parties which expressly references this Agreement.

12.15   Entire Agreement; Counterparts. This Agreement, together with all Exhibits, Attachments and signed Order Forms, and SOWs hereto, constitutes the entire and complete agreement and understanding between the Parties concerning the Services, and supersedes and replaces all prior and/or contemporaneous agreements, discussions and understandings between the Parties, written or oral, concerning the Services. The terms and conditions included in any quote, proposal, invoice, ordering document (not including an Order Form or SOW signed by the Parties pursuant to this Agreement), or purchase order shall not be binding upon the Parties and shall not apply, and no payment and/or acceptance of goods and/or services by Customer shall be construed as binding Customer with respect to any such term or condition. The Parties may execute this Agreement, amendments, Order Forms, SOWs and Acknowledgement and Agreements hereto in counterparts, each of which shall constitute an original for all purposes, including any copies of same, and all duplicate counterparts will be construed together and constitute one instrument. The Parties will be bound by signatures made by hand, or by signatures made by electronic means on the signature line of this Agreement, Order Forms, and SOWs, including amendments thereto. The Parties agree that such signatures are binding and may be transmitted by mail, hand delivery, facsimile, email and/or any other electronic method to the other Party or, if applicable, counsel of record for the Party, and will have the same binding effect as any original ink signature.

12.16   Bankruptcy. In the event of bankruptcy proceedings by or against Service Provider, and solely to the extent license rights are granted under or pursuant to this Agreement, the parties hereto agree as follows: (i) this Agreement is subject to Section 365(n) ("**Section 365(n)**") of title 11 of the United States Code ("**U.S. Bankruptcy Code**"); (ii) all rights and licenses granted under or pursuant to this Agreement by Service Provider to Customer and Customer Affiliates, are and shall otherwise be deemed to be, for purposes of Section 365(n), license rights to "intellectual property" as defined under the U.S. Bankruptcy Code ; (iii) Customer and Customer Affiliates, as licensees of such rights under this Agreement, may at its sole discretion retain and may fully exercise all of its rights and elections as creditor under the U.S. Bankruptcy Code including, without limitation, Customer's and Customer Affiliates' right, pursuant to Section 365(n), to retain all of its rights under this Agreement and under any agreement supplementary thereto; and (iv) unless and until the Trustee rejects the Agreement, on the written request of Customer and/or the Customer Affiliate, the Trustee shall perform under the Agreement. .

12.17   Divestiture. In the event that a Customer Affiliate either (1) ceases to be a "Customer Affiliate" as defined herein (thereafter, a "**Divested Entity**"), by reason of a sale, merger, spin-off, consolidation, reorganization, or otherwise, or (2) sells or transfers all or substantially all of its assets in a bona fide arm's-length transaction to a third party purchaser (that is not a Service Provider Competitor), then upon written notice to Service Provider at Customer's election, such Divested Entity (in the case of clause (1) above) will be considered to be a "Customer Affiliate" for all purposes of this Agreement for a period of up to nine (9) months after the effective date of the divestiture ("**Separation Period**"). For clarity, (i) in such case, (a) the Divested Entity will continue to receive Services under the terms of all applicable Order Forms and SOWs (including, for clarity, the rates) entered into by such Divested Entity with no additional fees, (b) the Divested Entity will be able to enter into additional Order Forms and SOWs during the Separation Period and/or (c) at Customer's (or the applicable Customer Affiliate's) election, the Divested Entity or third party purchaser (in the case of clause (2) above), as applicable, shall be eligible to continue to receive Services as a Customer Affiliate under Order Forms and SOWs signed by Customer or any other Customer Affiliate (to the extent Customer Affiliates are so eligible under such Order Forms and/or SOWs, as applicable) with no additional fees; (ii) neither Customer nor any of the Customer Affiliates will have any obligation (including without limitation, any obligation to pay fees or charges) to Company for Services rendered to any Divested Entity under any of such Divested Entity's Order Forms and/or SOWs; (iii) neither Customer nor any other Customer Affiliates will be liable or responsible for any acts, omissions, or breaches of the Agreement and/or any Order Forms or SOWs entered into by the Divested Entity; and (iv) neither the Divested Entity nor third party purchaser, as applicable, will be liable or responsible for any acts, omissions, or breaches of the Agreement and/or any Order Forms or SOWs by Customer or any other Customer Affiliates. All payments by or on behalf of the Divested Entity will contribute to any spend (or volume) commitments hereunder. Service Provider will, upon Customer's request, relieve Customer of any spend commitments to the extent they are based on the Divested Entity's use. In such case, the Parties will amend the Agreement or applicable Order Form to reflect such relief, thus terminating the Separation Period. If Divested Entity desires to use the Services beyond the Separation Period, it must enter into a separate agreement with Service Provider.

12.18   Incorporation of Exhibits. The following Exhibits, including their respective attachments, are attached and incorporated herein, and each reference to the "Agreement" shall include the following:

Exhibit A   Defined Terms
Exhibit B   Order Form #1
Exhibit C   Additional Terms for Professional Services

IN WITNESS WHEREOF, the Parties' authorized representatives have executed this Agreement to be effective as of the Effective Date.

WARNER MEDIA, LLC

By: _____

Printed Name: Aaron Bearce

Title: Vice President

APPROVED
By WarnerMedia Legal at 4:14 pm, Mar 15, 2021

SPREEDLY, INC.

By: _____
Justin Benson (Mar 15, 2021 16:50 EDT)

Printed Name: Justin Benson

Title: CEO

DEFINED TERMS

"**Acceptance**" has the meaning set forth in **Exhibit C** (*Additional Terms for Professional* Services) hereto.

"**Acknowledgement and Agreement**" has the meaning set forth in **Section 11.0** (*Affiliates*) herein.

"**AT&T**" means AT&T, Inc.

"**Authorized User**" means collectively, End Users, employees, independent contractors and third-party service providers of Customer or Customer Affiliates who are authorized by Customer to access and use the Hosted Services.

"**Brand Owner(s)**". Customer and/or Customer Affiliates operate, manage or provide various IT related services for certain third party and/or affiliate websites, mobile websites, and digital and mobile platforms pursuant to its/their respective contracts or relationships with said third parties (collectively, "**Brand Owners**", each a "**Brand Owner**").

"**Brand Properties**" means any and all applications, platforms and/or websites (and any successor site(s), affiliated and/or associated site(s)), including, without limitation, any mobile, web, desktop, digital or other versions thereof, within any Internet services made available therefrom or in connection therewith, or Customer's, Customer Affiliates', and/or Brand Owners' media and properties (e.g., RSS feeds, SMS alerts, embeddable video, etc.), that are owned, operated, branded and/or managed by Customer and/or Customer Affiliates, all of the foregoing in any medium or forum, whether now known or hereafter devised.

"**Change Order**" has the meaning set forth in **Exhibit C** hereto.

"**Change Request**" has the meaning set forth in **Exhibit C** hereto.

"**Claim**" has the meaning set forth in **Section 7.1** herein.

"**Service Provider Competitor**" means the following companies: ProcessOut (owned by Checkout.com), PCI Proxy, Braintree (owned by PayPal), TokenEx, Very Good Security, Modo Payments, IXOPAY, and Zooz (owned by PayU). The foregoing list may be updated only upon mutual written agreement of the Parties pursuant to an amendment signed by both Parties.

"**Confidential Information**" means any information or material in tangible or intangible form, written or oral, (i) provided or made available to the receiving Party and/or its affiliates in a manner or under circumstances in which the receiving party or its affiliates would reasonably understand such information or material to be confidential, whether or not such information or material is marked as "proprietary" or "confidential," or (ii) that the disclosing party obtains from its affiliates or the disclosing party and/or its affiliates obtain from third party, which the disclosing party and/or its affiliates treat as proprietary or confidential whether or not owned by the disclosing party or its affiliates. The parties agree that this Agreement and its terms are Confidential Information. For purposes of this defined term and with respect to Customer, all references herein to "affiliates" shall mean "Customer Affiliates".

"**Control**" (including the correlative terms "Controlling", "Controlled by" and "under common Control with"), as used with respect to any entity, means the possession, directly or indirectly, of the power in fact or in law to direct or cause the direction of management policies of such entity, whether through ownership of voting securities, by contract or otherwise.

"**Correction Process**" has the meaning set forth in **Exhibit C** hereto.

"**Customer Affiliate**" means, with respect to Customer, an entity that directly or indirectly, Controls, is Controlled by, or is under common Control with Customer, but only for so long as such Control exists.

"**Customer Data**" means and includes any and all data and/or information, in any form or media, that is (i) provided, made accessible or submitted by Customer or any of the Customer Affiliates or their Authorized Users to Service Provider; (ii) collected or processed by Service Provider that identifies or allows identification of Customer, Customer Affiliates and/or their employees, vendors, customers, properties, websites, or mobile applications, and/or any of Customer's and/or Customer Affiliates' brands, content, context, or Authorized Users as such; (iii) generated, collected, processed or received by Service Provider in connection with Customer's, Customer Affiliates' and/or its Authorized Users' access to

or use of the Hosted Services, and includes without limitation, data stored in cookies or functionally similar technologies, analytics, statistics, trending and any and all data contained in reports prepared for, generate by and/or accessible by Customer and/or Customer Affiliates; and/or (iv) derived from any of the Customer Data described in subsections (i), (ii) and (iii) above. Customer Data shall be deemed to include any and all copies, analyses, excerpts, abstracts, modifications, summaries, enhancements, aggregations, or other derivative works thereof, and such Customer Data and derivative works shall be kept in an industry-standard format. For clarity, Personal Information and Cardholder Data each constitutes Customer Data.

"**Customer Indemnified Parties**" has the meaning set forth in **Section 7.1** herein.

"**Customer Materials**" means collectively, all materials, programming, applications, software code, systems, content, data (including Customer Data), information, including Proprietary Information, documentation furnished or made accessible by Customer and/or Customer Materials, whether in oral or written form, to Service Provider, including, without limitation, system specifications, workflows, designs, financial information, and all logos and Intellectual Property Rights associated with the foregoing.

"**Deliverable(s)**" has the meaning set forth in the definition of Professional Services.

"**DPA**" means the Data Processing Addendum attached to the Agreement as **Exhibit F** (*Global Data Processing Addendum*).

"**Documentation**" has the meaning set forth in **Section 1.3** (*Documentation*) herein.

"**End Users**" means end users or consumers of Customer's, Customer Affiliates' and/or Brand Owners' services, products, content offerings and/or Brand Properties.

"**Force Majeure Event**" has the meaning set forth in **Section 12.7** (*Force Majeure*) herein.

"**Hosted Services**" means the hosting, management, operation and web-based provision of the Service Provider's payment processing & tokenization service (including the Spreedly API) to validate, tokenize and vault credit cards (and other payment types) and then process charges against those payment methods against one or more of the payment gateways that are integrated to the Spreedly API and/or third-party payment method receivers that Service Provider supports, the Account Updater Service (solely to the extent ordered by Customer pursuant to an Order Form), which automatically updates expired or lost credit cards, and (iii) any other applications, APIs, SDKs and platform services provided and/or made available by Service Provider under an Order Form. For the avoidance of doubt, to the extent any Third Party Materials are included in any of the foregoing, such Third Party Materials shall constitute "Hosted Services" hereunder.

"**Infringement Claim**" has the meaning set forth in **Section 7.1** herein.

"**Initial Term**" has the meaning set forth in **Section 9.1** (*Term of Agreement*) herein.

"**Intellectual Property Rights**" means, but is not limited to, rights in and to patents, patent disclosures, patent applications (including utility models, continuations, continuations-in-part, divisions, re-issues, re-examined patents and patent applications, and extensions thereof), patentable inventions, rights in design, copyrights (including any such rights in typographical arrangements, websites or software), whether registered or not and any applications to register or rights to apply for registration of any of the foregoing, trademarks, trading, business or domain names and e-mail addresses, mask-works, trade secrets, rights in inventions, know-how, moral rights, and other confidential information, rights in databases and all other intellectual property rights of a similar or corresponding character that subsist now or in the future in any part of the world, whether arising by operation of law, contract, license or otherwise.

"**Malicious Code**" has the meaning set forth in **Section 6.1** (*Representations and Warranties*).

"**Order Form**" means the initial Order Form for the Hosted Services and/or Support attached hereto as **Exhibit B** ("**Order Form #1**"), and any subsequent Order Form(s) for additional Hosted Services and/or Support substantially in the form as Order Form #1, which are entered into between and executed by both Parties from time to time and made a part of this Agreement, specifying, among other things, the type of Hosted Services and/or Support selected, fees for Hosted Service and/or Support, Order Term, and other items as agreed to between the Parties relating to the provision of such Hosted Services and/or Support.

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"**Order Term**" has the meaning set forth in **Section 9.2** (*Term of Order Form*) herein.

"**Personal Information**" means: (i) any information relating to an identified or identifiable natural person; and (ii) any information defined as "personally identifiable information," "personal information," "personal data" or similar terms as such terms are defined under applicable laws or regulations, limited to that Personal Information Service Provider Processes in connection with Services provided to Customer and/or a Customer Affiliate.

"**Process**", "**Processes**" or "**Processing**" means any set of operations performed upon Personal Information, whether or not by automatic means.

"**Professional Services**" means the installation, implementation, training, configuration, consulting, development services and/or other professional services, and any deliverables ("**Deliverables**"), provided hereunder by Service Provider to Customer and/or Customer Affiliates set out in and pursuant to a Statement of Work.

"**Proprietary Information**" means the Trade Secrets and Confidential Information of the disclosing Party (or of a third party providing such information to the disclosing Party).

"**Renewal Term**" has the meaning set forth in **Section 9.1** (*Term of Agreement*) herein.

"**SDKs**" means those software development kits (SDKs) identified on the applicable Order Form(s) or otherwise provided by or made available by Service Provider to Customer and/or Customer Affiliates.

"**Service Provider Personnel**" has the meaning set forth in **Section 5.1** (*Safety and Security Rules*) herein.

"**Service Software**" means the software, application programs, SDKs, scripts and other technology, including Third Party Materials, used by Service Provider in connection with and/or to provide the Hosted Services and/or that Service Provider provides remote access to and use of as part of the Hosted Services, as may be further described in the Documentation and an Order Form, and all new versions, updates, revisions, improvements and modifications to the foregoing.

"**Services**" means collectively, the Hosted Services, Support, Professional Services and such other services as may be specified in the applicable Order Form and/or SOW.

"**SLA**" has the meaning set forth in **Section 2.0** (*Support; Service Levels*) herein.

"**SOW**" or "**Statement of Work**" has the meaning set forth in **Exhibit C** (*Additional Terms for Professional Services*) hereto.

"**Specifications**" has the meaning set forth in **Exhibit C** (*Additional Terms for Professional Services*) hereto.

"**Support**" has the meaning set forth in **Section 2.0** (*Support; Service Levels*) herein.

"**Term**" has the meaning set forth in **Section 9.1** (*Term of Agreement*) herein.

"**Third Party**" has the meaning set forth in **Section 10.5** (*Third Party Requests*) herein.

"**Third Party Materials**" means collectively, any third-party software, technology, applications, and/or Intellectual Property Rights.

"**Third Party Request**" has the meaning set forth in **Section 10.5** (*Third Party Requests*) herein.

"**Trade Secrets**" means information constituting a trade secret within the meaning of the Uniform Trade Secrets Act.

"**Transition Period**" has the meaning set forth in **Section 9.6** (*Transition Period*) herein.

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EXHIBIT B

ORDER FORM #1

SPREEDLY		CUSTOMER	
Name:	Spreedly, Inc.	Name:	Warner Media, LLC
Address:	300 Morris Street, Suite 400	Address:	30 Hudson Yards
City/State:	Durham, NC 27701	City/Country:	New York, New York 10001

PRIMARY SPREEDLY BILLING CONTACT		PRIMARY CUSTOMER BILLING CONTACT	
Name:	Accounts Receivable	Name:	Angela Foell
Title	Spreedly Accounting Department	Title:	Director, Software Engineering
Phone:	888-727-7750	Phone:	
Email:	accounting@spreedly.com	Email:	Turner_invoice@onlinecapturecenter.com

This Order Form #1 ("**Order Form**") is entered into by and between by Spreedly, Inc. ("**Spreedly**" or "**Service Provider**") and Warner Media, LLC ("**Customer**") (each, a "**Party**" and collectively **"Parties**") and is effective as of **March 15, 2021** ("**Order Effective Date**"). Upon mutual execution of this Order Form, Customer hereby orders the Hosted Services and Spreedly hereby agrees to provide the Hosted Services to Customer and Customer Affiliates (hereinafter referred to collectively as "**Customer**") subject to the terms set forth herein and in the Master Services Agreement dated as of **March 15, 2021** entered into by and between the Parties (including its exhibits, schedules and addenda, the "**Agreement**"). Upon execution of this Order Form by both Parties, this Order Form is incorporated by reference into the Agreement. All undefined capitalized terms herein shall have the meanings ascribed to such terms as defined in the Agreement.

Hosted Services
The Hosted Services subscribed to under this Order Form are (i) Service Provider's payment processing and tokenization service (including the Spreedly API, which provides access to such service), which is hosted, managed and operated by Service Provider that Customer may use to validate, tokenize and vault credit cards (and other payment types) and then process charges, refunds and other related transactions against those payment methods against one or more of the payment gateways that are integrated to the Spreedly API and/or third-party payment method receivers that Service Provider supports (including, but not limited to, Paypal, Mercado Pago, ApplePay, Google Pay), as well as integrations with third-party service providers (including, but not limited to, Stripe, Adyen, Chase, Dlocal, Ebanx, Cybersource and Kount) and, (ii) the "**Account Updater Service**", which is a service hosted, managed and operated by Service Provider that is used to automatically update End Users' expired or lost credit cards, both (i) and (ii) as more fully described in **Attachment 2** attached hereto. Customer may update the list of necessary payment methods, third-party payment gateways, payment method receivers, and service providers by e-mail to support@spreedly.com.

Initial Order Term
The initial term for this Order Form shall be for a period of one (1) year from the Order Effective Date ("**Initial Order Term**"). Thereafter, this Order Form shall automatically renew under these same terms for successive one-year periods (each, a "**Renewal Order Term**" and, together with the Initial Order Term, the "**Order Term**") unless either Party has provided written notice of its intent to not renew this Order Form. Service Provider will not utilize its option not to renew this Order Form for at least two (2) years from the Order Effective Date. In the event Service Provider is providing such notice, Service Provider shall provide notice to Customer not less than six (6) months prior to the expiration of the then-current Renewal Order Term. In the event Customer is providing such notice, Customer will provide notice to Service Provider not less than sixty (60) days prior to the expiration of the then-current Initial or Renewal Order Term, as applicable.

Pricing
All fees are listed and payable in United States dollars and exclude any applicable taxes.

Table 1 - Service Fees

Transactions per Tier	$ per Transaction Cost	AUs Included (free of charge) per tier§	Cost per Additional AU	Integrations Included with tier	$ per Additional Integration	Maximum Annual Fee (Exclusive of Additional AUs)
1-25,000,000	$0.0075	150,000	$0.10	1	$12,000	$187,500
25,000,001-50,000,000	$0.0020	150,000	$0.10	1	$12,000	$237,500

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50,000,001-150,000,000	$0.00100	150,000	$0.10	1	$12,000	$337,500
150,000,001-250,000,000	$0.000850	150,000	$0.10	0	$12,000	$422,500
250,000,001-500,000,000	$0.000510	150,000	$0.10	0	$12,000	$550,000

§*For clarity, the number of AUs included per tier as shown in the chart above are cumulative. By way of example, at 25,000,000 Transactions, Customer receives a total of 150,000 AUs included at no additional cost; at 25,000,001 Transactions, Customer receives a total of 300,000 AUs included at no additional cost; and at 50,000,001, Customer receives a total of 450,000 AUs included at no additional cost, and so on and so forth.*

A "**Transaction**" is defined as a successful purchase by End User via the Spreedly API where the End User's payment method is charged via the Spreedly API, triggering funds to be transferred into Customer's merchant account.

Account Updater Service
The definition of an "AU" or "Account Update" is a successful card update. A successful card update includes the following billable types from the applicable processor: "Close Payment Method", "Contact Card Holder", "Invalid Replace Payment Method", and "Replace Payment Method", only to the extent Service Provider incurs charges for such update from the applicable processor.

In addition to the Spreedly API, Service Provider will also provide the Account Updater Service to Customer upon mutual execution of this Order Form. Customer shall be granted 150,000 AUs per tier at no additional cost. Once the included AUs of the current tier have been exhausted, Customer shall be invoiced on a monthly basis in arrears an additional $0.10 per additional AU in addition to the accrued monthly transaction fees. In the event that Customer uses fewer than the included AUs prior to entering a subsequent pricing tier, unused AUs will be added to the allotment for that tier. Notwithstanding anything to the contrary in the Agreement, Customer may cancel participation in the Account Updater program at any time via a written notification emailed to enterprise@spreedly.com without penalty, liability or further payment obligation. Termination of the Account Updater Services shall be effective as of the date set forth by Customer in such written notification. Furthermore, the Parties agree to comply with the Account Updater Service Additional Terms attached hereto as **Attachment 1** to this Order Form.

Tiered Pricing
Customer will remain in each tier until the maximum number of Transactions for that tier are exhausted and/or the Maximum Annual Fee for such tier is reached. Transactions in each tier will be charged at the stated per Transaction cost set forth in **Table 1**. Each tier has a stated Maximum Annual Fee, which includes the defined number of Transactions, included Integrations, as well as any additional fees paid for additional Integrations, such that these Services will continue to be charged as described in **Table 1** until the applicable Maximum Annual Fee is met or the maximum number of Transactions for that that tier is consumed. Once the number of Transactions for the tier are consumed and/or the Maximum Annual Fee for such tier is reached, Customer automatically will move to the next tier and be charged at the corresponding rate in **Table 1**. For the avoidance of doubt, charges for additional AUs in excess of the included allotment for each tier are not counted towards the Maximum Annual Fee for that tier. Upon the expiration of the Initial Order Term and each Renewal Order Term (if any), the pricing tier applicable at the beginning of the next Renewal Order Term (if applicable) will revert to the initial tier (of 1-25,000,000 Transactions). Beginning on the second month of each Renewal Order Term, the applicable pricing for all Transactions in a given month will be governed by the pricing tier in effect on the last day of such month. For example, if Customer moves into the second tier (25,000,001 – 50,000,000 Transactions) on the 15th of a given month, the pricing of $0.0020 will apply to all Transactions in that month, including those occurring before the 15th. The pricing for the first month of each Renewal Order Term (if any) will follow the pricing mechanism set forth above, where the pricing tier will continue to apply to Transactions in that tier until the Transactions of that tier are exhausted and/or the Maximum Annual Fee for such tier is reached.

If Customer exceeds 500,000,000 Transactions during the Order Term, Customer will be billed in arrears a fee at the rate of $0.00045 per Transaction. Alternatively, both Parties may enter into good faith negotiations to agree on an addendum to the applicable Order Form.

Minimum Annual Commitment
Customer shall pay Spreedly the minimum annual commitment set forth herein for the Initial Order Term and for each Renewal Order term (if any) ("**Minimum Annual Commitment**"). If, at the end of the Initial Order Term or any Renewal Order Term, Customer's total billable fees, excluding fees for additional AUs as defined above, has not reached the Minimum Annual Commitment, Spreedly shall bill Customer for the difference between the Minimum Annual Commitment and total billable fees, excluding fees for additional AUs, paid to date.

The Minimum Annual Commitment for the Initial Order Term and each Renewal Order Term (if any) shall be $187,500, excluding fees for additional AUs.

In the event that the number of included integrations with payment gateways, merchant account providers, and/or other third-party services (each, an "**Integration**") set forth above in **Table 1** are exhausted, Customer will be charged at the stated rate of $12,000 for any additional Integrations during the Order Term. Any additional Integrations will be agreed in advance by the authorized representatives of both Parties in writing prior to starting such integration. In case there is no written confirmation by an authorized decision maker from Customer, the Customer shall not be liable to pay for such unauthorized additional Integrations.

Invoicing & Payment
Spreedly will invoice Customer on the first day of each calendar month for the charges accrued during the previous month, including a breakdown of the number of Transactions in each tier for a given month, any accrued Additional AUs fees and any additional Integration charges, beginning upon mutual execution of this Order Form. At the end of the Initial Order Term or any Renewal Order Form, if Customer's total billable fees, excluding Additional AUs, has not reached the Minimum Annual Commitment, as defined above, Service Provider shall invoice Customer for the difference between the Minimum Annual Commitment and Customer's total fees, excluding fees for Additional AUs, paid to date.

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Customer shall pay all invoices hereunder in accordance with **Section 4.1** (*Payment*) of the Agreement.

All invoices shall be sent to turner_invoice@onlinecapturecenter.com or mailed to:

Turner Broadcasting System, Inc.
P.O. Box 5520
Portland, OR 97228-5520

All invoices shall include the following contact name: Angela Foell

Customer may change this invoice information upon written notice (e-mail acceptable) to Service Provider.

All payments to be made under this Agreement shall be made in accordance with Section 4.1 (*Payment*) of this Agreement.

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.

Enterprise Account Management
All enterprise accounts benefit from support prioritization and a named account manager.

This Order Form may be executed electronically (e.g., Docusign, exchange of executed PDFs via e-mail), and in counterparts, which taken together shall form one legal instrument. The Parties agree that such signatures are binding and may be transmitted by mail, hand delivery, facsimile, email and/or any other electronic method to the other Party or, if applicable, counsel of record for the Party, and will have the same binding effect as any original ink signature.

IN WITNESS WHEREOF, authorized representatives of the Parties have executed this Order Form to be effective as of the Order Effective Date.

Spreedly, Inc.	**Warner Media, LLC**
By: Justin Benson (Mar 15, 2021 16:50 EDT)	By:
Name: Justin Benson	Name: Aaron Bearce
Title:	Title: Vice President
CEO	APPROVED
_	By WarnerMedia Legal at 4:14 pm, Mar 15, 2021

ADDITIONAL TERMS FOR ACCOUNT UPDATER SERVICE

If Customer subscribes to Service Provider's Account Updater Service, such Account Updater Service shall constitute "Hosted Services" under the Agreement, and the following additional terms will apply:

1. **Merchant Qualification** Customer, as the merchant of record, meets the following qualifications:

   - Merchants designated by Visa as high-risk (High-Risk Acquirer Program with a condition of RED or higher) or on the MasterCard Alert to Control High-risk Merchants (MATCH) system may not participate in Account Updater.
   - Third-party payment portfolios must not contain more than 20 percent High-Risk Merchant activity.
   - Merchant must not be under any special conditions imposed by Visa Corporate Risk Management.
   - Merchants must have been in business a minimum of six (6) months prior to the applicable Order Effective Date.
   - Over the course of six months, the merchant must have at least 1,000 transactions a month or an average of 5,000 transactions over three months.
   - The merchant must maintain a chargeback ratio of less than 3 percent.
   - Merchants must meet the following risk management criteria:
     - Must not be engaged in business categorized by the following merchant category codes: 5962, 5966, 5967, or 7995.
     - Must not have sales transactions that are predominantly Quasi-Cash, Account Funding, or any combination thereof.

2. **Customer Responsibilities**. Customer agrees that it will:
   - Be in compliance with the Card Rules.
   - Have a valid business need to receive updated tokenized account information, including but not limited to:
     - Subscription services
     - Recurring payment services
   - Submit inquiries only for those End User accounts with which Customer has an existing customer relationship and for which Customer maintains their tokenized account information on file.
   - Ensure that information received from Account Updater is properly, completely, and accurately incorporated.

3. **Prohibited Activities.** Customer will not:

   - Request an Account Update on End User accounts for which Customer has previously been notified by Service Provider that the End User has closed its account with the card issuer.
   - Submit inquiries to the Account Updater Service on behalf of any third party (excluding Customer Affiliates or Brand Properties).

Customer acknowledges and agrees that any and all data related to electronic payment card transactions or other Personal Data that Customer provides to the Card Associations in connection with use of Account Updater may be used by them for the purposes described in their respective rules and for purposes of providing the program and other services as requested by Customer.

ATTACHMENT 2

Spreedly Service Functionality

Spreedly's API-based Payments Orchestration platform (Spreedly's API) enables WarnerMedia and its affiliates (collectively referred to in this **Attachment 2** as "**WarnerMedia**"), to tokenize End User payment instruments via Spreedly's iFrame payment form in a centralized, PCI-DSS Level 1 certified token vault, and then use those tokens to process transactions with WarnerMedia's payment and fraud service provider(s) of choice globally (without WarnerMedia needing direct integrations with payment providers). Spreedly's API provides one integration to 120+ gateways, payment processors, fraud service providers and alternate payment methods (APMs) globally. Through this single API connection, WarnerMedia can optimize and route transactions through gateways, processors and acquirers as needed based on a variety of factors and use cases, such as intelligently routing transactions to optimize acceptance rating, optimizing pricing, a/b testing transactions and redundancy/failover. Additionally, Spreedly's API provides the ability for WarnerMedia to use its third-party vaulting services, enabling WarnerMedia to send and receive Cardholder Data from third party vaults (e.g., another payment gateway or tokenization service).

Included in Spreedly's Services is the Spreedly dashboard, which provides WarnerMedia the ability to manage payment gateway integrations and view transactional reports.

Account Updater

WarnerMedia will also utilize Spreedly's Account Updater Service to automatically keep End User's Cardholder Data always current. Vaulted Cards are automatically processed in batches with the card schemes. When an End User's vaulted credit card number expires or is updated by his/her issuing bank, the Account Updater Service protects WarnerMedia from the lost revenue, involuntary churn, and decreased customer satisfaction associated with outdated payment information by automatically pushing the updated Cardholder Data to the stored payment method in Spreedly's vault, "refreshing" the Cardholder Data that has been tokenized on behalf of WarnerMedia. No additional development is required to utilize the Account Updater Service.

Please see that transaction workflows on the next page.

Spreedly Technical Resources

API Documentation: **https://docs.spreedly.com**

Technical Support: support@spreedly.com

Knowledge Base: **https://support.spreedly.com**

WARNERMEDIA

Spreedly

HBO max
Fontend

HBO max
Payments Platform

The flow diagram is reflective from the information we learned during our discussion on 1/14/21 - please reference the highlights:

- Represnts a 1st time checkout
- The Spreedly iFrame to reduce PCI Burden
- Leveraging the PMD deliver call to connect to Kount for your pre-auth fraud solution
- In the case a pre-auth check is needed on the card - IWM can leverage the Verify call
- The Purchase Request will be made to perform the Payment Authorization and Capture
- Ensuring redundancy and backup Spreedly provides the Store call to perform Third Party Vaulting in the case HBO wants to leverage the Spreedly platform for this
- Cards that are eligible for Account Updater will be ran on the 15th and 30th fo each month w/ the four statuses being delivered back.

TokenizePaymentMethod
PaymentMethod_Token
POST/deliver_Kount
Pre-Auth_RIS_Request
Risk Inquiry Service Response
Payments Platform Decision
POST/Verify Request
Auth/Void
Response
Verify Response
POST/PurchaseRequest
Gateway Token & Payment Method Token
Auth Request
Auth Response
Retain Payment Method
Capture Request
Capture Response
Purchase Response
POST/Store_Request
**If needed based on MBO preference
ThirdPartyVault_Request
ThirdPartyVault_Response
ThirdPartyToken

Spreedly AU Servcie
15 / 30 each month

{eligible_for_card_updater}
Results

1. ReplacePayment Method
2. InvalidReplacePaymentMethod
3. ContactCardHolder
4. ClosePaymentMethod
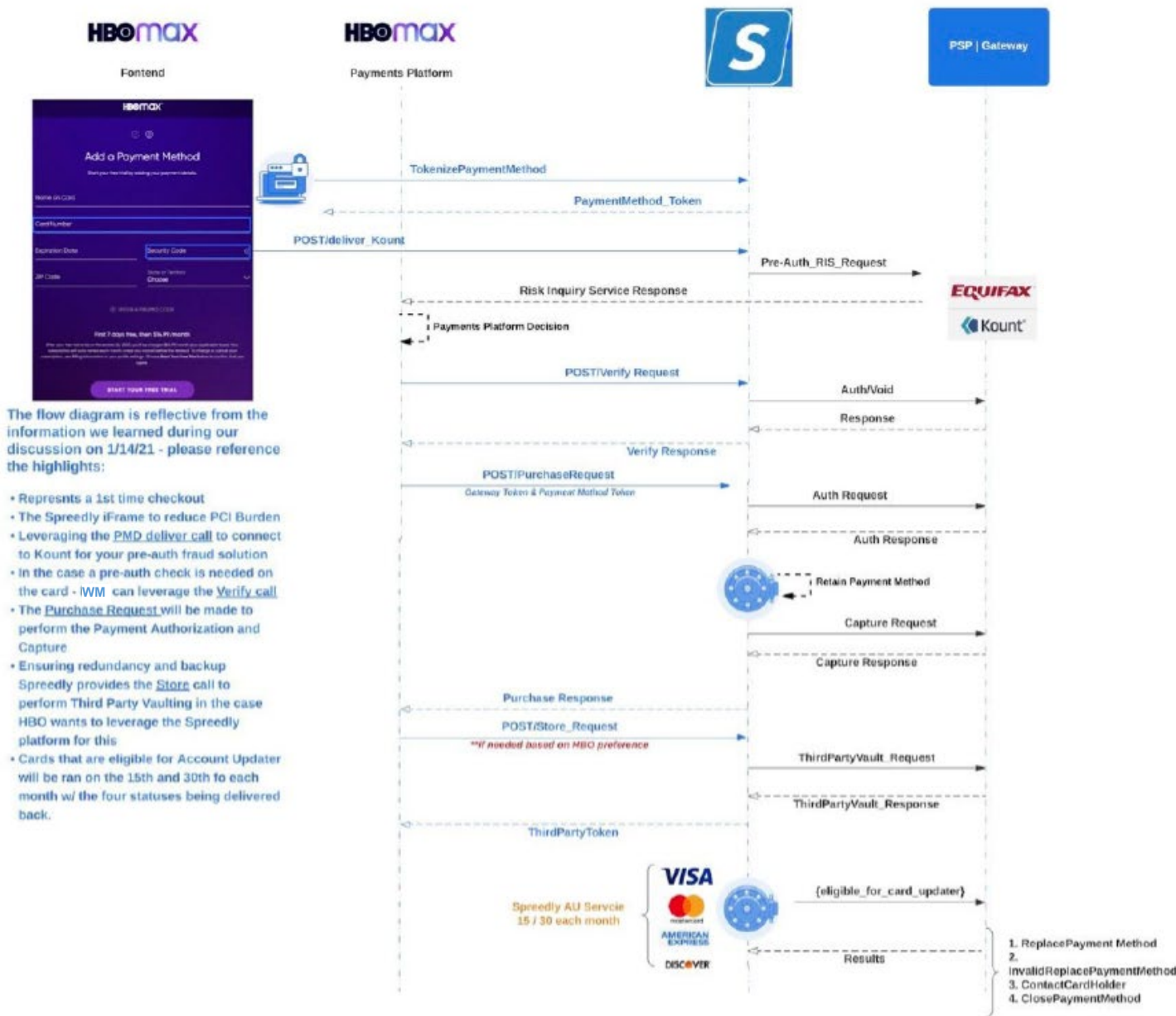
PSP | Gateway

EQUIFAX
Kount

EXHIBIT C

ADDITIONAL TERMS FOR PROFESSIONAL SERVICES

The Parties agree that the following terms and conditions, and the terms and conditions of the Agreement, shall govern the delivery by Service Provider of any and all Professional Services to Customer and/or Customer Affiliates in connection with the Services. Customer and Customer Affiliates are hereinafter referred to collectively as "Customer". Unless otherwise provided herein, all capitalized terms used in this Exhibit shall have the meaning ascribed to them in the Agreement.

  i. Statements of Work. During the Term, Customer may request Service Provider to provide certain Professional Services and Deliverables. Service Provider will provide the Professional Services pursuant to this Agreement and a written statement of work, substantially in the form set forth in **Attachment 1** to this **Exhibit C** that is executed by Service Provider and Customer (each, a "**Statement of Work**" or "**SOW**"). Each SOW shall set forth the scope and description of the Professional Services, milestone dates (if applicable), fees, location of the Professional Services, and any other relevant information. Once a SOW is signed by both parties, it shall be incorporated herein by reference and made a part of this Agreement. No SOW will become effective until it has been executed by an authorized representative of both Service Provider and Customer. Changes to SOWs shall be made in accordance with **Section iv** (*Change Control Procedure*) of this **Exhibit C**. If there is a conflict between the terms of this Agreement, and the terms of a SOW, the terms of the Agreement will govern and control, except to the extent, if any, that the SOW explicitly states the parties' intent to supersede any particular term(s) of this Agreement with specific reference to the affected term(s). No Professional Services will be performed outside of the United States without Customer's prior written consent.

  ii. Errors, Defects and Omissions. Service Provider shall immediately correct all errors, defects and omissions in the Professional Services without any additional costs to Customer.

  iii. Timeliness. Time is of the essence so the Professional Services shall be performed in accordance with the time frames set forth in the applicable Statement of Work.

  iv. Change Control Procedure. Customer may, at any time upon notice to Service Provider, request a revision to the Professional Services upon the submission of a written project change request ("**Change Request**") to Service Provider's project manager under the applicable SOW or the Service Provider contact identified on the SOW if no project manager is identified. Within five (5) days of receipt of a Change Request, Service Provider will submit a change order ("**Change Order**"), including time and costs, for such changes to Customer. If the Change Order is agreed and subsequently executed by both parties, Service Provider shall revise the applicable Professional Services subject to the terms set forth in such Change Order, including time and costs, in accordance with the terms and conditions of this Agreement, and such executed Change Order shall constitute an amendment to the applicable SOW.

  v. Acceptance. Upon completion of any Professional Services, Service Provider shall notify Customer. Customer shall evaluate such Professional Services to determine whether the Professional Services meet the Specifications within thirty (30) days ("**Acceptance Period**") to determine if the applicable Deliverable(s) conform to the Specifications. If Customer determines, prior to the expiration of the Acceptance Period, in its sole discretion that the Professional Services do not meet such Specifications, Customer shall notify Service Provider in writing that it is rejecting the Professional Services and specify the alleged deficiencies in reasonable detail. "**Specifications**" means collectively, the specifications and requirements (i) set forth in, referenced in and/or attached to the applicable SOW, (ii) provided by Customer, and/or (iii) as otherwise developed in the course of performance of the Professional Services thereunder, and any published technical specifications, including any and all documentation. Unless otherwise agreed to by the Parties in a SOW, Service Provider shall promptly correct any such deficiencies within fourteen (14) calendar days, and shall resubmit the Professional Services to Customer, and Customer shall re-evaluate the Professional Services to determine whether the resubmitted Professional Services meet the Specifications ("**Correction Process**"). If Service Provider does not, in Customer's discretion, remedy the deficiency, Customer may elect to allow Service Provider to repeat the Correction Process. If Service Provider repeats the process a second time and such Deliverable(s) fail to receive Customer Acceptance, Customer may request Service Provider to repeat the process, or cancel that particular SOW or the portion of the SOW related to the deficient Professional Services, with Customer having no further liability or obligation with respect to the terminated Professional Services and Service Provider shall promptly refund sums paid by Customer thereunder for the deficient Professional Services. Upon accepting any Professional Services, Customer shall provide a written notice of acceptance to Service Provider ("**Acceptance**").

vi. <u>Expenses</u>. All fees and expenses to be paid by Customer shall be set forth in the applicable SOW. Service Provider shall not invoice Customer for services or expenses in excess of the maximum compensation amount set forth in the applicable SOW. All such fees identified in the applicable SOW include all expenses, except for travel expenses. Customer shall reimburse Service Provider for all reasonable out-of-pocket travel expenses incurred by Service Provider which are necessary for Service Provider to perform the Professional Services hereunder, provided that: (i) such expenses are approved by Customer in advance of their being incurred and are in accordance with Customer's travel and expense policies; (ii) the expenses have been detailed on a form acceptable to Customer and submitted to the Customer designated representative for review and approval prior to invoicing; and (iii) if requested by Customer, Service Provider shall submit supporting documentation in addition to the approved expense form.

vii. <u>Representations and Warranties</u>. In addition to those representations and warranties set out in **Section 6.1** (*Representations and Warranties*) of the Agreement, Service Provider represents and warrants that the Professional Services conform in all material respects with the applicable SOW, including all Specifications.

viii. <u>Ownership of Deliverables</u>. Except (i) as set forth in the applicable SOW and (ii) any Deliverables that constitute modifications, revisions and/or edits by Spreedly to Customer Materials and/or Customer Confidential Information, as between Service Provider and Customer, Service Provider shall retain all right, title and interest in and to all Deliverables, including all Intellectual Property Rights relating thereto, subject only to the license granted in this Section 8(a). For clarity, Deliverables that are modifications, revisions and/or edits by Service Provider to Customer Materials and/or Customer Confidential Information shall constitute Customer Materials and Customer shall retain all right, title and interest therein. Service Provider hereby grants to Customer and Customer Affiliates a non-exclusive, worldwide right and license, during the Term, to use the Deliverables as required to use the Hosted Services in accordance with the terms of the Agreement or for such other purpose as may be set forth in the applicable Statement of Work.

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SERVICE LEVELS AND SUPPORT

The Parties agree that the following terms and conditions, and the terms and conditions of the Agreement, shall govern the delivery by Service Provider of any Support provided to Customer for the Service Software and related Hosted Services. All references to Customer in this **Exhibit D** shall be deemed to also refer to and include Customer Affiliates.

A.   SUPPORT SERVICES

1.   DEFINITIONS.   Unless otherwise defined in this Exhibit, capitalized terms shall have the meanings ascribed to them in the Agreement.

"**Account Updater**" means the Hosted Service managed and operated by Service Provider that is used to automatically update End Users' expired or lost credit cards.

"**Dashboard**" means the Customer web portal managed and operated by Service Provider for viewing transcripts and aggregated data related to Customer's use of the Transaction Processing Service.

"**Error**" means a failure, problem or issue that causes (a) the Hosted Services not to conform to the specifications in the Documentation; (b) unavailability of or intermittent outages of the Hosted Services; and/or (c) a degradation in the performance of the Hosted Services and/or components or features thereof.

"**Error Correction**" means revisions, modifications, alterations, and/or additions to the Hosted Services, bug fixes, and/or Workarounds provided by Service Provider to Customer to resolve Errors.

"**Transaction Processing Service**" means Service Provider's core payment tokenization and processing Service (including the Spreedly API) responsible for processing Customer's payment transaction requests (including its current (as of the Effective Date) and future integrations with payment gateways, merchant account providers, and other payment method receivers and does not include any beta features or non-payment transaction Service Provider services such as the Dashboard or Account Updater.

"**Workaround**" means a temporary or short-term plan or solution to circumvent or overcome a problem or Error until a permanent solution is found where the problem or Error is not actually eliminated; provided, however, that such plan or solution does not cause unreasonable or undue effort on the part of Customer.

2.   SUPPORT AND MAINTENANCE.

2.1   Level of Support. During the Term, Service Provider will provide email support Monday through Friday between 8:30 am and 8:30 pm US Eastern time zone to Customer, which includes automated email response and critical case monitoring 24 x 7, 365 days/year, as well as access to a 24 x 7 x 365 days/year RedAlert system via email and phone for Severity Level 1 and Severity Level 2 Errors, as defined in the table below. Response time to email and phone requests shall be within the time periods set forth in **Section 2.3.2** (*Error Severity Levels & Resolution, Workaround, Escalation and Response Times*) below based on the severity level of the Error.

RedAlert Critical Incident Phone: (984)-444-8633
24 x 7, 365 days/year Support Email: support@spreedly.com

2.2   Fees. There are no additional fees for Support, and all cost of Support is included within the fees for the Hosted Services set out in the applicable Order Form.

2.3   Support Descriptions.

2.3.1   Service Provider Support. Support includes telephone support, Documentation, web forums, email and a web-based portal for submitting Errors and tracking Error status. Support cases are handled based on Error severity levels as described in **Section 2.3.2** (*Error Severity Levels & Resolution, Workaround, Escalation and Response Times*) below. Service Provider will respond to Customer's Support requests and will provide Workarounds and/or complete resolution, as applicable, for Errors in accordance with the severity levels and corresponding timeframes set forth in **Section 2.3.2** (*Error Severity Levels & Resolution, Workaround, Escalation and Response Times*) below. When submitting

an Error, Customer shall indicate the severity for initial response in accordance with the severity guidelines set forth in **Section 2.3.2** (*Error Severity Levels & Resolution, Workaround, Escalation and Response Times*). In the event Service Provider reasonably believes the severity level assigned by Customer is incorrect, Service Provider may request the level be changed, and each Party shall promptly escalate such conflicts to its management team for resolution through consultation between the parties, during which time the parties shall continue to handle the support issue in accordance with Customer's initial severity level designation.

2.3.2   Error Severity Levels & Resolution, Workaround, Escalation and Response Times. Error severities will be determined by Customer and addressed by Service Provider in accordance with the following:

Error Severity Level	Description	Initial Response & Acknowledgment (by Error Severity Level)	Resolution and Workaround Times (by Error Severity Level)
1 Response, and resolution efforts for Severity Level 1 applicable 24x7, 365 days/year	Transaction Processing Services (including, but not limited to, validation, tokenizing, vaulting, processing) are unavailable. Issue is critical such that the Transaction Processing Services are inaccessible or the majority of its functionality is unusable. Customer may escalate Severity Level 1 issues via Red Alert service (email, phone, text) which will immediately invoke Spreedly incident response teams and procedures.	Up to 30 minutes *	• Spreedly will provide a Workaround as soon as commercially practicable with the highest level of urgency, but in no event longer than 3 hours* • Spreedly will provide complete resolution of the Error as soon as commercially practicable with the highest level of urgency, but in no event longer than 24 hours* • In the event of a Workaround, Service Provider shall continue to work on the Error until complete and final resolution • Service Provider will commit full-time resources 24x7, 365 days basis to resolve the Error; updates will be provided to Customer as frequently as reasonably possible via status.spreedly.com, with the ability for Customer to subscribe to e-mail notifications when such updates are provided on the status website.
2 Response, callback and resolution efforts for Severity Level 2 applicable 24x7, 365 days/year	Transaction Processing Services experience a significant Error that results in significantly impaired and degraded performance and reliability of Customer's use of the Transaction Processing Services.	Up to 60 minutes*	• Spreedly will provide a Workaround as soon as commercially practicable with the highest level of urgency, but in no event longer than 12 hours* • Spreedly will provide complete resolution of the Error as soon as commercially practicable with the highest level of urgency, but in no event longer than 48 hours* • In the event of a Workaround, Service Provider shall continue to work on the Error until complete and final resolution • Service Provider will commit full-time resources 24x7, 365 days basis to resolve the Error; updates will be provided to Customer as frequently as

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Error Severity Level	Description	Initial Response & Acknowledgment (by Error Severity Level)	Resolution and Workaround Times (by Error Severity Level)
			reasonably possible via status.spreedly.com, with the ability for Customer to subscribe to e-mail notifications when such updates are provided on the status website.
3 Response, callback and resolution efforts for Severity Level 3 applicable 24x7, 365 days/year	Customer's use of the Transaction Processing Services are impaired. Error is not critical, and the Transaction Processing Services are operational; however, the Error may be degrading the performance and reliability of the Transaction Processing Services. Unavailability of the Account Updater or Dashboard is a Severity Level 3 Error.	Up to 4 hour(s)*	• Spreedly will provide a Workaround as soon as commercially practicable with the highest level of urgency, but in no event longer than 24 hours* • Spreedly will provide complete resolution of the Error as soon as commercially practicable with the highest level of urgency, but in no event longer than 4 days* • Next new functionality of Service Software and/or Hosted Services or prioritized to be fixed in a mutually agreeable timeframe • In the event of a Workaround, Service Provider shall continue to work on the Error until complete and final resolution • Service Provider will commit full-time resources 24x7, 365 days basis to resolve the Error; updates will be provided to Customer as frequently as reasonably possible via status.spreedly.com, with the ability for Customer to subscribe to e-mail notifications when such updates are provided on the status website.
4 Response, callback and resolution efforts for Severity Level 4 applicable 24x7, 365 days/year	Routine support requests and general inquiries regarding End-user or Customer complaints that requires investigation by Spreedly (including bugs not impacting Transaction Processing Services Availability). Includes all non-critical Errors that are not resulting in Transaction Processing Services impairment.	Up to 48 hours*	• Spreedly will provide complete resolution of the Error as soon as commercially practicable with the highest level of urgency, but in no event longer than two (2) weeks or upon a mutually agreed action plan for resolution. *

Measured from the earlier of the time (i) Service Provider becomes aware of an Error or (ii) a Support request is submitted to Service Provider.

In each instance, Service Provider will, after the initial response or notification, within a timeframe mutually agreed upon by the parties, provide Customer with an action plan for resolution of the Severity Levels 1, 2, and 3 Error(s). Service Provider will provide unlimited Support in the form of consultations, assistance and advice concerning use of the Service Software and/or Hosted Services and Error Correction.

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2.3.3   Reporting. Should Service Provider identify an Error in the Service Software and/or Hosted Services that is not reported or identified by Customer, Service Provider will repair that defect in the version of the Service Software and/or Hosted Services that Customer is currently using or with respect to the Service Software that Customer is hosting, instruct Customer to install a newer version of the Service Software with that defect repaired. In the event that Service Provider is unable to provide an Error Correction after a reasonable period of time, Customer may terminate Support and receive a refund of any prepaid fees for Support. Upon request by Customer, Service Provider will provide a report which outlines the Errors, issues, and resolution of each incident in which Customer requested Service Provider to provide Support.

2.3.4   Service Credits for Failure to Meet a Resolution and/or Workaround Times.   In the event Service Provider fails to meet a required Resolution or Workaround Time for Error Severity Level 1 or Level 2 Errors as set forth in the chart above, as measured monthly during the Term, Customer shall receive a credit (each, a "**Service Credit**") of ten percent (10%) of the monthly fees for the Transaction Processing Services as set out in the applicable Order Form(s). (If there is no monthly fee but an annual fee, the monthly fee will be determined by dividing the annual fee by 12.)

2.3.5   Termination. If there are three (3) or more Severity Level 1 and/or Severity Level 2 Errors within any six (6)-month period, Customer may, within its sole discretion, terminate the Agreement and/or any Order Form upon thirty (30) days' written notice without liability, penalty and/or further payment obligation, including payment of recurring fees, and will receive a pro-rata refund of any fees for Hosted Services not yet rendered or access to the Service Software not yet provided.   Any termination by Customer under this Section shall be effective on the date set forth in Customer's notice of termination.

2.3.6   Escalation. Any items for escalation shall be made directly by phone or email to the following initial contact:

Name: Mike Lee
Title: Director of Customer Success
Phone: 919-768-2662
Email: mlee@spreedly.com

And/or to the following secondary contact if needed:

Name: Rohan Bairat
Title: SVP of Sales, Customer Success, and Professional Services
Phone: 713-261-9984
Email: rohan@spreedly.com

B.   SERVICE LEVELS

1.   DEFINITIONS. Unless otherwise defined in this Exhibit, capitalized terms shall have the meanings set forth in the Agreement.

"**Availability**" means the percentage of time in a particular month (based on twenty-four (24)-hour days for the number of days in the subject month) that the Service Software and/or Hosted Services are (a) fully available to and accessible by Customer, Customer's sub-licensees and their End Users, (b) fully operational and able to receive, process, store and transmit Customer Data accurately and without any Errors, and (c) does not include any beta features. Availability shall be calculated by subtracting the total minutes of Downtime during the month from the total number of minutes in the month and dividing that resulting number by the total number of minutes in the month. The resulting number would then be multiplied by 100 to arrive at the Availability percentage. The following is the formula for this calculation of Availability:

(Total # of minutes in month – Total # of minutes of Downtime in month)/Total # of minutes in month x 100 = % of Availability)

"**Business Day(s)**" means Monday through Friday, excluding U.S. bank holidays.

"**Downtime**" means such periods of time during which the Hosted Services is unavailable or unusable, including but not limited to, the minutes during which the Hosted Services or any components thereof are unavailable due to

Emergency Maintenance, Scheduled Maintenance, and/or Unscheduled Maintenance; provided, however, period(s) of unavailability resulting from Force Majeure Events shall be excluded from Downtime. For clarity, period(s) of unavailability resulting from or related to the acts, omissions and/or services of Service Provider's Subcontractors or service providers do not constitute Force Majeure Events for the purposes of this Exhibit.

"**Emergency Maintenance**" means any maintenance for the purpose of addressing Severity Level 1 Errors only that occurs during the Maintenance Window and where Service Provider has provided at least twelve (12) hours' prior notice to Customer's designated support contact or occurs outside the Maintenance Window with less than seventy-two (72) hours' prior notice to Customer's designated support contact.

"**Scheduled Maintenance**" means any maintenance that occurs during the Maintenance Window and where Service Provider has provided at least three (3) Business Days prior notice to Customer's designated support contact.

"**Throughput**" means the number of transactions per second from Customer (or its Affiliates), measured monthly, that the Hosted Services can receive and remain fully operational and able to receive, process, store and transmit Customer Data accurately and without any Errors.

"**Unscheduled Maintenance**" means any maintenance that does not constitute "Scheduled Maintenance" or "Emergency Maintenance".

2.   SERVICE LEVELS

(a)   Availability SLA. The Availability service level for the (i) **Transaction Processing Service** for any given month will be 99.999% ("**Availability SLA**"), measured both globally and by individual geographic region (e.g., Latin America, Europe, Asia, United States, etc.), and (ii) the **Dashboard** for any given month will be 99%.

(b)   Throughput SLA. The Throughput service level for the **Transaction Processing Service** for any given month will be 750 Transactions per second (TPS) ("**Throughput SLA**"; each of the Availability SLA and Throughput SLA, an "**SLA**" and collectively, the "**SLAs**"). Customer shall not exceed 750 TPS by more than 10% over any continuous eight (8) hour period in any given month during the applicable Order Term without first providing at least seven (7) days' advance notice to Service Provider of the required temporarily higher Throughput for a given month. Customer is not entitled to receive the Service Credits for Throughput in Section 5(b) below for Service Provider's failure to achieve such temporarily higher Throughput for a given month if Customer fails to provide Service Provider with such advance notice.

(c)   Account Updater SLA. The Account Updater Service will run on at least a semi-monthly basis, no less than twice per month, nominally on the 1st and 15th day of each month. Service Provider will notify Customer of any change to the operating schedule of the Account Updater Service with at least seven (7) days of advance notice, provided that any such change where the Account Updater Service is not run on at least a semi-monthly basis will be considered a failure of the Account Updater SLA. Service Provider will immediately notify Customer of any unplanned outage of the Account Updater Service via status.spreedly.com, with the ability for Customer to subscribe to e-mail notifications when such updates are provided on the status website. For clarity, any unavailability of the Account Updater Service resulting from Force Majeure Events shall be considered Downtime and excluded from calculating the Availability of this SLA. For clarity, period(s) of unavailability resulting from or related to the acts, omissions and/or services of Service Provider's Subcontractors or service providers will not constitute Force Majeure Events for purposes of this **Exhibit D**.

3.   SCHEDULED MAINTENANCE/UNSCHEDULED MAINTENANCE

Service Provider shall provide Customer at least three (3) Business Days prior notice of any Scheduled Maintenance. Service provider shall perform scheduled maintenance in such a way that any interruption of the Hosted Services 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 4 hours in the aggregate in any month ("**Maintenance Window**")). Any outage or unavailability of the Hosted Services due to maintenance activities outside of the Maintenance Window and/or any maintenance activities with less than three (3) Business Day's prior notice to Customer shall constitute "Unscheduled Maintenance". Notwithstanding the foregoing, Service Provider shall provide notice of any Unscheduled Maintenance as soon as it is possible. All notices of Emergency Maintenance, Scheduled Maintenance and/or Unscheduled Maintenance shall be provided to Customer's designated support contact by a method agreed between the parties (telephone/e-mail).

4.   SERVICE MEASUREMENT; REPORTING

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Service Provider shall monitor its compliance with each SLA set out in this Exhibit and will provide a report to Customer on a monthly basis containing sufficient data for Customer to determine Service Provider's compliance or non-compliance with each SLA. Notwithstanding the foregoing, Customer shall have the right to set up monitoring systems or use third party systems to measure Availability and Throughput of the Service Software and/or Hosted Services and any component thereof.

5.   CREDIT REQUEST AND PAYMENT PROCEDURES

(a)   <u>Notification</u>. Service Provider will notify Customer (via status.spreedly.com) of any Downtime of the Services within forty-eight (48) hours of Service Provider becoming aware of such failure(s) ("**Service Downtime Notification**").

(b)   <u>Service Credit for Failure to Meet an SLA</u>. Should Service Provider fail to meet an SLA, measured monthly during the Term, Customer shall receive a credit (each, a "**Service Credit**") as set forth below as a percentage of the monthly fees for the Hosted Services as set out in the applicable Order Form(s). (If there is no monthly fee but an annual fee, the monthly fee will be determined by dividing the annual fee by 12.).

        i.   Service Credits for Failure to Meet the Transaction Processing Availability SLA and the Throughput SLAs.

Transaction Processing Service Availability or Throughput* Achieved In a Given Month	Service Credit
Less than 99.999% but greater than or equal to 99.95%	**10%**
Less than 99.95% but greater than or equal to 99.90%	**15%**
Less than 99.90% but greater than or equal to 99.80%	**20%**
Less than 99.80% but greater than 99.50%	**30%**
Less than 99.50%	**50%**

*Throughput credits also apply during the temporary high-use period set forth in **Section B.2.(b)** of this **Exhibit D**. By way of example, if Service Provider processes transactions at a rate exceeding 750 TPS for less than 99.999% but greater than 99.95% of the designated 8 hour high-use period, Customer shall be entitled to a 10% service credit for that month's fees.*

        (ii)   Service Credits for Failure to Meet the Dashboard Availability SLA. In the event Service Provider fails to meet the Dashboard Availability SLA in a given month, Customer shall receive a flat Service Credit of $2,500.

        (iii)   Service Credits for Failure to Meet the Account Updater SLA. In the event Service Provider fails to meet the Account Updater SLA in a given month, Service Provider will provide a Service Credit of 10% of the total monthly fees for the Hosted Services set forth in the applicable Order Form(s).

(c)   <u>Application of Service Credits</u>. Service Provider will apply the applicable Service Credits within two (2) billing cycles of the month in which Service Provider failed to meet the applicable SLA. Service Credits may not be redeemed for cash other than as set forth below in this Section. Notwithstanding the foregoing, Spreedly has no obligation to issue any Service Credit unless Customer requests such Service Credit in writing (e-mail to support@spreedly.com is acceptable) within sixty (60) days from the later of (i) Customer's receipt of the Service Downtime Notification or (ii) the last day of the month in which the SLA Failure occurred. A refund will be provided in the amount of the Service Credit in the event that the Agreement or applicable Order Form has been terminated or has expired. Such refund will be paid to Customer within thirty (30) days of the end of the month in which the applicable SLA is not met.

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6.   TERMINATION RIGHT

In addition to the Service Credits set forth above, if Service Provider does not meet either the Availability SLA or Throughput SLA in any two (2) consecutive months or in any three (3) months in a twelve (12)-month period, Customer at its option may terminate the Agreement and/or any Order Form without penalty, liability, or any further obligation to pay for the Service Software and/or Hosted Services and Support, and receive a pro-rata refund of any fees for Hosted Services not yet rendered or access to the Service Software not yet provided. Any termination by Customer under this **Section 6** shall be effective on the date set forth in Customer's notice of termination.

<u>**EXHIBIT E**</u>
DATA SECURITY ADDENDUM

This Data Security Addendum ("**DSA**") is attached as <u>**Exhibit E**</u> to that certain Master Services Agreement, dated with effect from <u>**March 15, 2021**</u> ("**Agreement**"), by and between Warner Media, LLC ("**Customer**") and Spreedly, Inc. ("**Vendor**"). Capitalized terms used herein without definition will have the meaning ascribed to them in the Agreement. If there is a conflict between terms in this DSA and the Agreement, the terms of this DSA shall prevail.

1. **Scope.** To the extent the Vendor may operate or be given access to Customer Systems or Customer Facilities, or Process Customer Data, Personal Information, or Confidential Information, due to the Services provided by the Vendor, Vendor must comply with this DSA. The requirements of this DSA shall also apply to Vendor Systems and Vendor Facilities where such Vendor Systems and Vendor Facilities are used to collect, store, handle, Process, backup, dispose, and/or access Customer Data. Vendor shall not use any Customer Data for any reason other than providing the Services or as otherwise provided in the Agreement.

2. **Data Security Program, Policy and Controls**. Vendor and Vendor Personnel (as defined below) shall not access or Process and shall not permit unauthorized persons or entities within its control to access or Process, Customer Assets. Any actual or attempted access by Vendor Personnel must be consistent with their role and a legitimate need for such access. Vendor shall establish and, at all times during the Term of the Agreement, maintain physical, electronic and organizational security measures that are risk-based and consistent with industry best practices and standards (such as: ISO 27001/27002, CIS Critical Security Controls, NIST Standards, Cloud Security Alliance) designed to protect Customer Assets against any unauthorized access, use, destruction, loss, disclosure, Processing, or improper alteration. Vendor represents, warrants and covenants that its security practices and policies provide for, without limitation, the following:

   2.1 Information Security Program.
   a. Vendor has implemented a written information security policy available to all current employees, contractors, and other personnel (**"Vendor Personnel"**);
   b. Vendor has assigned roles and responsibilities for information security;
   c. Vendor's information security policy is reviewed and approved by Vendor's executive leadership on at least an annual basis; and
   d. Vendor has a documented standard for remote employee access to Customer Data and/or Vendor or Customer Systems, using Vendor devices, including mobile devices, if applicable.

   2.2 Human Resources Security.
   a. Vendor must conduct background checks on Vendor Personnel to the extent permitted by law and the Vendor Personnel must pass much background checks prior to such Vendor Personnel being given access to Customer Assets; and
   b. Vendor must conduct annual security awareness training targeting all Vendor Personnel.

   2.3 Asset and Data Management.
   a. Vendor must protect Customer Data in accordance with any information security policies, procedures and protocols agreed upon by the Parties in writing.
   b. Vendor must ensure that Vendor Personnel are aware of and comply with the Vendor's acceptable use standard or other similar policies, which must include provisions defining the requirements and responsibility for use of data, content and/or systems;
   c. Vendor shall not access, store, cache, download, or Process any Customer Data on any device or system that is not protected by Vendor's firewall; and
   d. Vendor must have and must comply with documented procedures for secure disposal of Customer Data.

   2.4 Access Control.
   a. Vendor must restrict access to Customer Assets to only authorized Vendor Personnel and access to Customer Data to devices authorized explicitly by Vendor through proper separation of duties, role-based access, on a need-to-know and least privilege basis. Vendor must review and update such access on at least a quarterly basis;
   b. Vendor must require Multi-Factor Authentication ("MFA") and use of a Virtual Private Network (VPN) to remotely access Vendor Systems and Vendor Facilities, and any Customer Assets;
   c. Vendor must conduct user deprovisioning to systems housing Customer Data immediately after termination or change in role of Vendor Personnel;
   d. Vendor must assign individual user IDs and must not allow shared accounts;
   e. Vendor must enforce industry best practices and standard requirements for strong passwords and lifecycle management for all users.

      i.   Vendor must require complex passwords that meet current NIST standards, in accordance with industry best-practice.

      ii.   Vendor must review privileged accounts on a quarterly basis and confirm rights and privileges are appropriate for the assigned roles; and

f. Vendor must not forward (nor auto-forward) emails from Customer accounts to non-Customer accounts.

2.5 Encryption. Vendor must implement and maintain industry best practices for data and content protection, including at a minimum:

a. Encryption at rest and in transit of all Customer Data and any backup media containing Customer Data with:

      i.   Industry best standard encryption algorithm (e.g., AES- 256, RSA, WPA-2);

      ii.   Transport Layer Security "TLS" v1.2 or higher during transmission;

      iii.   Full disk encryption of CD-ROMS, discs, flash drives, portable hard drives, tape or other removable media (collectively, "Removable Media") or any laptops, smartphones, tablets, or other portable devices (collectively, "Portable Devices") using an encryption algorithm that meets or exceeds industry best practice; and

      iv.   Digital certificates signed by a trusted certificate authority.

b. Key management policies and procedures for secure generation, storage, access, distribution, archiving, recovery, and destruction.

2.6 Physical Security. When Customer Data is to be stored in Vendor's data center, Vendor must implement and provide physical controls to protect Customer Data and the Vendor network, which must include:

a. Physical security procedures, including the use of security guards and 24 hours /7 days a week, monitoring of Vendor's premises;

b. Badge access and access log to areas which store, process, or transmit Customer Data;

c. Physical protection and maintenance of Vendor's equipment to prevent loss, disclosure, damage, theft or compromise of Customer Data; and

d. Secure disposal of equipment and physical and electronic media that contain Customer Data. Where Customer Data is to be stored in a data center owned or controlled by Vendor's contractor, Vendor shall ensure that contractor has implemented the controls above.

2.7 Public Cloud Services. If Vendor uses a public cloud service, Vendor must apply industry best practices for cloud management including:

a. Enforce "MFA" for all administrative users of Vendor cloud services;

b. Separation of cloud environments to include strong key management practices that separate and prevent access of Customer Data from other Vendor and Vendor customer users, as well as logical separation from other data and content; and

c. Use industry standard encryption to protect all Customer Data when:

      i.   Transmitted over all networks to, from, and within a public cloud service; and

      ii.   Stored within a public cloud service.

2.8 Operations Security.

a. Vendor must establish and maintain a vulnerability management program, including at a minimum:

      i.   Ongoing identification of vulnerabilities in Vendor network, application, database, software and operating systems.

          1. Weekly vulnerability scanning of all external facing systems with regular updating and patching.

          2. Weekly vulnerability scanning of all internal systems with regular updating and patching.

      ii.   Annual penetration testing of:

          1. Vendor network and application level assets by a qualified third party.

          2. Vendor web applications that are used by Customer and/or Customer Affiliates.

      iii.   Expedited identification and remediation processes in place for critical and high vulnerabilities, including for zero-day vulnerabilities.

b. Vendor must implement and maintain a logging and monitoring standard, including at a minimum:

      i.   Event logging which includes:

          1. User login/logout.

          2. Invalid login attempts.

          3. Privileged access and activities including data exports, modifications, and security administration.

          4. Access to logs by Customer and Customer Affiliates.

          5. Stopping or pausing of logging/log production.

      ii.   Monitoring activity to include:

          1. Daily log reviews of all security events.

          2. Daily log reviews from critical assets which store, process or transmit Customer Data.

          3. Daily log reviews from systems which perform security functions for Vendor network (ex: firewalls, IDS/IPS, authentication servers).

4. Detection of anomalous behavior by authenticated users.

2.9 Network Security.
    a. Vendor must monitor, detect, and restrict the flow of information on a multilayered basis, including but not limited to the use of the following controls:
        i.   Industry best practices and standards for network segmentation and the use of secure configuration of firewalls throughout the Vendor network or Virtual Local Area Networks (vLANs);
        ii.   External facing applications must have Web Application Firewalls (WAFs);
        iii. Maintain a Demilitarized Zone (DMZ) in order to protect the internal network and assets providing Services to Customer and Customer Affiliates;
        iv. Intrusion detection and/or prevention systems (IDS/IPS) at ingress points; and
        v.   Denial of Service (DOS/DDOS) protections must be in place when providing any Internet accessible Services to Customer and Customer Affiliates
    b. If Vendor utilizes wireless networking technologies to perform or support Services for Customer, ensure that all Customer Data is transmitted using a wireless encryption algorithm that meets or exceeds industry best practices.

2.10 Remote Work Management.
    A. <u>IF THE VENDOR OR VENDOR PERSONNEL PERFORM SERVICES FROM REMOTE LOCATIONS, VENDOR SHALL USE COMMERCIALLY REASONABLE EFFORTS TO ENSURE FOLLOWING REQUIREMENTS ARE MET:</u>
        i.   Remote work must be performed only within a secluded area (e.g., private residence), and with "clean desk" standards in place. The location should ensure minimal exposure to other (non-Vendor Personnel) individuals.
        ii.   Comprehensive logging must be in place for authorized Vendor Systems (that meet the standards specified herein) and such logs will be made available upon Customer's request to investigate potential Security Incidents involving Customer Data.
        iii. Vendor Personnel cannot use cell phones, screen grabs, or other camera/recording devices to photograph Customer Data for any purpose.
        iv. Vendor must strictly prohibit use of personal devices/Bring Your Own devices.
        v.   Vendor Personnel participating in the remote work management program shall use only devices authorized pursuant to Vendor's security program ("**Authorized Devices**") that meet the following standards:
            1. Each Authorized Device must receive security updates on the same schedule as in-facility devices;
            2. Vendor Personnel will not store Customer Data or otherwise transfer Customer Data to a USB and/or other removable media.
            3. No printing of Customer Data is permitted;
            4. Authorized Devices must comply with encryption standards provided herein;
            5. Vendor Personnel cannot have devices with administrative authority, remote desktop protocol access, and rights to modify any services and privileges, unless required for their role;
            6. Authorized Devices must be hardened to the same or more aggressive standards as Vendor Systems in Vendor Facilities;
            7. Technical controls must be enabled to prevent Customer Data from being saved locally on Authorized Devices;
            8. Authorized Devices must have a secure, locking screensaver requiring authentication, after a period of inactivity not to exceed fifteen (15) minutes;
            9. Authorized Devices must be configured for always-on VPN; and
               • VPN cannot be disabled by a user;
               • All network traffic must be forced to flow through the VPN; and
               • MFA required to access VPN;
          10. Vendor Personnel will not utilize copy/paste to/from or screenshots while within a virtual desktop infrastructure granting access to Customer and Customer Affiliate applications.
    b. Customer, at its sole discretion, may request that specific Vendor Personnel discontinue working remotely. Vendor will work in a commercially reasonable manner with Customer to expeditiously transition appropriate Vendor Personnel back to Vendor Facilities in accordance with local requirements and Vendor policies, when applicable.

2.11 System Acquisition, Development, and Maintenance. If Vendor develops software for use by Customer and/or Customer Affiliates or for use in Processing Customer Data, must adhere to industry best practices and standards for Secure Software Development Lifecycle (SSDLC), including all of, but not limited to, the following

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techniques:
a. Leveraging security guidelines from one or all the following industry best practices and standards – OWASP Top 10, SANS Top 25 and Cloud Security Alliance;
b. Consistently executed secure code reviews and testing either through manual peer review or via a code scanning solution;
c. Protection of test data and content and removal of test data and content before deployment to production;
d. System acceptance testing; and
e. System change control and approvals before deployment to production.

2.12 Vendor Management.
a. Vendor Personnel and contractors who access, use Vendor Systems and Vendor Facilities, and Customer Assets must comply with the requirement of this DSA.
b. Vendor must execute information security agreements, substantially equivalent to this DSA, with their contractors who access Customer Assets or provide services that result in access to the Vendor's Systems or Facilities.
c. Notwithstanding anything to the contrary in the Agreement, Vendor must obtain Customer's prior approval before engaging or replacing any contractor that will access Customer Assets.

2.13 Incident Notification and Response.
a. Vendor must follow industry best practices in the event of a reasonably suspected or confirmed Security Incident. Vendor must, at a minimum:
   i. Report such Security Incident in detail to WarnerMedia Security Operations Center hotline via phone (404) 827-1900 and email to cybersecurity@WarnerMedia.com within forty-eight (48) hours after the detection of the Security Incident and must take immediate and appropriate remedial and preventative actions at no additional cost to Customer;
   ii. Not serve any notice of or otherwise publicize an Security Incident that affects or relates to Customer Assets without the prior written consent of Customer, unless required by law;
   iii. Conduct a prompt and thorough investigation, including but not limited to leveraging an independent third party or parties where necessary in the sole determination of Customer, concerning the Security Incident.
   iv. Provide a report to Customer that sets forth details regarding the Security Incident, the known and potential impacts to Customer Assets, the root cause, and the steps taken to remedy the Security Incident and to prevent its recurrence;
   v. Cooperate with any investigation concerning the Security Incident requested by Customer;
   vi. Cooperate with Customer and Customer Affiliates to comply with Applicable Laws concerning such Security Incident, including any notification that may be required to individuals whose Personal Information was implicated due to the Security Incident;
   vii. Implement additional, reasonable security controls, as mutually agreed by both parties, to ensure the security of Customer Assets.
   viii. Implement additional, reasonable security controls, as specified by Customer, to ensure the security of Customer Assets.

2.14 Compliance and Security Audit.
a. Vendor shall comply with Applicable Law, including ensuring that the security program implements all measures required by Applicable Law.
b. Vendor shall audit the security of Vendor Systems and Facilities used in connection with the Services provided, processing Customer Data, or accessing Customer Systems under the Agreement and this DSA. Such audit will be performed at least annually.
c. At the request of Customer during the Term, Vendor must promptly provide a copy of its most recent Vendor SOC2 Type II report, PCI Attestation of Compliance and/or industry certification such as ISO/IEC 27001 or any successor standards for information security management. If Vendor does not hold such certification, Vendor must conduct, at its own expense, an independent third party audit of Vendor's security program, capabilities, Systems, and Facilities. In connection with its annual Audit Report, Vendor must procure an audit report ("**Audit Report**"), which will be provided to Customer and Customer Affiliates and treated as the Vendor's Confidential Information.
d. Vendor must provide to Customer and Customer Affiliates, at no cost, an executed copy of its annual Audit Report and a remediation plan relating to all observations and notes identified in such Audit Report
e. Vendor must correct, at its cost, any critical or high observations identified in any Audit Report within ninety (90) days from receipt of such Audit Report.
f. Vendor must provide at least twenty (20) days' written notice to Customer prior to any material changes to any of the security standards, processes, controls, measures and/or practices set forth in the Audit Report.
g. On request, Customer and/or its representatives (including without limitation Customer's regulators and auditors) may audit and/or test Vendor's implementation and maintenance of Vendor's security program, compliance with this DSA, and Vendor's handling of Customer Assets under this Agreement. Vendor must,

at no cost to Customer and Customer Affiliates, promptly correct any deficiencies or weaknesses identified in such audit within ninety (90) days of written notice from Customer of any deficiencies or weaknesses found and/or reported as a result of the audit

3. Contract Expiry or Termination

3.1 In the event (i) Vendor materially breaches this DSA, (ii) Vendor experiences a Security Incident that materially impacts Customer and/or Customer Affiliates, or (iii) a security assessment described in **Section 2.14** identifies a material degradation in security controls, Customer shall have the option to terminate the Agreement and any underlying statements of work, work orders, or similar engagement documentation without penalty on thirty (30) days' notice to Vendor with termination effective as of the date set forth in such notice. Where commercially reasonable, Customer will work with Service Provider to determine whether Service Provider is capable of curing such breach within a mutually agreeable period of time (not to exceed thirty (30) days) prior to such termination becoming effective. These termination rights are in addition to, and do not limit, Customer's rights to terminate under the Agreement.

3.2 Upon expiration or termination of the Agreement, Vendor shall return or destroy Customer Data and comply with the specifications that follow:
   a. Vendor must use industry best practices and standards for destruction or returning (at Customer's option) all Customer Data within ninety (90) days from written notice of termination or expiry of the Agreement, any applicable Order Form and/or any applicable SOW, unless an earlier time is specified in the Agreement and/or applicable Order Form or SOW.
   b. The requirements in this Section include Customer Data stored on premise, in data centers, in cloud environments and on backup systems.
   c. Upon request, Vendor must provide Customer with evidence and certification of destruction or return in compliance with this DSA.
   d. If Customer elects to have Customer Data returned, Vendor must provide Customer Data in an industry standard portable format using a secure method approved by Customer.

3.3 Upon expiration or termination of the Agreement, Vendor must confirm that its access, and that of all Vendor Personnel, to all Customer Assets is revoked or terminated. Upon request, Vendor must provide Customer with evidence and certification of access deprovisioning/revocation.

4. Failure to Adhere. Failure to adhere to the requirements of this DSA is a material breach of the Agreement. However, full compliance with the security requirements of this DSA shall in no way limit the accountability of Vendor for the improper actions of Vendor and any Vendor Personnel in the performance of this Agreement, any Exhibit, Order Form, SOW or any Services provide by the Vendor. Vendor will be liable for the actions and omissions of all Vendor Personnel and any of its or their subcontractors; and any breach of the security obligations under this DSA by Vendor Personnel or subcontractors will be deemed a breach by Vendor.

5. Survival. Section 3.2 and 3.3 of this DSA shall survive termination of the Agreement. All other sections shall expire when Vendor has returned or destroyed all Customer Data and terminated access to Customer Assets, in compliance with Section 3.

6. Additional Data Privacy Provisions.

6.1. Customer Data Treatment. Vendor will not, directly or indirectly, (i) reverse engineer any Customer Data that is masked, hashed, aggregated, pseudonymized, de-identified, anonymized, or otherwise protected; (ii) use the Services to collect or otherwise attempt to discern Personal Information and/or any combination of the following data elements, in each case, with respect to any end user: (a) precise geographic location information (i.e., latitudinal/longitudinal information), (b) device IDs or other persistent or unique identifiers, and/or (c) IP addresses (collectively, the data elements described in (a) through (c) are referred to herein as "**Identifiers**"); (iii) combine Customer Data obtained through the Services pursuant to this Agreement with Personal Information; (iv) combine page or user-level data, including any URL or a video title (collectively, "**Page-Level Data**"), with Personal Information and/or any Identifiers; (v) attempt to reverse engineer, disassemble, decompile, modify or otherwise use efforts to re-identify any individual, device or household about whom data received through this Agreement (including but not limited to the combination of Personal Information or Identifiers with other non-Personal Information data); or (vi) transmit to a third party any data in connection with this Agreement if (a) it contains any Personal Information, Identifiers, URLs or otherwise sensitive information, or (b) such transmission violates the Agreement and/or any Applicable Laws.

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6.2. COPPA Compliance. If applicable, Vendor understands and agrees that the Services will be used in connection with properties of Customer and/or Customer Affiliates that may be considered, in whole or in part, "website(s) or online service(s) directed to children" as defined by the Children's Online Privacy Policy Act of 1998 and the applicable rules, regulations and guidance promulgated thereunder ("**COPPA**"). Such website(s) and online service(s) are referred to herein as "**Child-Directed Properties**". With respect to Child-Directed Properties:

a. Vendor shall not collect any Personal Information, including persistent identifiers used over time and different sites, photographs, videos and audio recordings of children, geolocation information sufficient to identify street and city, and certain screen names;

b. Vendor shall not send any messages such as push notifications that would require "verifiable parental consent" (as defined under COPPA); and

c. Vendor shall comply with all applicable COPPA requirements, including without limitation, those required under 16 CFR § 312.8 ("Confidentiality, security and integrity of Personal Information collection from children") and 16 CFR § 312.10 ("Data retention and deletion requirements").

d. Without limiting Vendor's other obligations under this DSA and the Agreement, in the event that Customer and/or Customer Affiliates passes to Vendor or Vendor collects any persistent identifiers (e.g. customer number held in a cookie, an Internet Protocol (IP) address, a processor or device serial number, a mobile Device ID, or any other unique identifier), Vendor shall: (i) restrict use of persistent identifiers and any related data solely to those activities necessary for the support of the following approved "internal operations" (as defined under COPPA) of Customer and/or Customer Affiliates (i.e. maintaining or analyzing the functioning of the Services); and (ii) promptly and securely delete all persistent identifiers.

e. In no event may any Personal Information collected from a Child-Directed Property be used to create profiles of individual end users, be merged with other data related to individual end users, or serve online behavioral advertising based upon activity of the end users across other sites or applications other than as expressly agreed upon by the parties in an Order Form or SOW.

f. Vendor shall not collect user device, geolocation, or any other Personal Information except for the limited use of any non-precise GPS data and device IDs for "support for internal operations" (as defined under COPPA) as allowed without parental consent under COPPA.

Appendix 1 to Data Security Addendum – Definitions

1. "**Applicable Laws**" means all applicable laws, rules, regulations and standards in all jurisdictions in which the Services are provided or where Customer Data or Confidential Information may be stored or Processed, including without limitation those relating to privacy and data security. The term also includes all Laws and Data Protection Laws (if such terms are defined in the Agreement).

2. "**Customer Assets**" means and includes all Customer Data, Customer Systems, and Customer Facilities.

3. "**Customer Facility(ies)**" means any facility, building, structure or portion or section thereof of Customer or a Customer Affiliate, regardless of whether each of the foregoing is owned and operated by Customer or a Customer Affiliate, or by a third party on Customer's or a Customer Affiliate's behalf.

4. "**Customer Systems**" means the systems, equipment, hardware, software, mobile and other applications, and networks of Customer or a Customer Affiliate (i.e., any technology resources that comprise a technical environment or a part thereof), regardless of whether any of the foregoing are owned and operated by Customer or a Customer Affiliate, or by a third party on Customer's or a Customer Affiliate's behalf.

5. "**Security Incident**" means any actual or reasonably suspected: (1) unauthorized, acquisition, loss, access, or use of any Customer Assets, Vendor Systems or Vendor Facility; and (2) any breach of security leading to the accidental or unlawful destruction, loss, alteration, unavailability, unauthorized disclosure of or access to the same.

6. "**Vendor Facility(ies)** " means a facility of Vendor used in the provision of the Services to Customer and/or Customer Affiliates or used to collect, access, store, route, transmit, display, host or process Customer Confidential Information, regardless of whether such facility is owned and operated by Vendor or by a third party on Vendor's behalf.

7. "**Vendor Systems**" means the systems, equipment, hardware, software, mobile and other applications, and networks of Vendor or Vendor personnel used in the provision of the Services or used to collect, access, store, route, transmit, display, host or process Customer and/or Customer Affiliate Confidential Information, regardless of whether each of the foregoing is owned and operated by Vendor or by a third party on Vendor's behalf, including without limitation any Services (if defined in the Agreement).

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EXHIBIT F
GLOBAL DATA PROCESSING ADDENDUM

This Global Data Processing Addendum ("**Addendum**") specifies certain data protection obligations of Spreedly, Inc. ("**Vendor**") under the Master Services Agreement entered into between Vendor and Warner Media, LLC ("**Customer**") with an effective date of March 15, 2021, as may be amended from time to time (the "**Agreement**"). This Addendum applies to the Processing of Personal Information carried out by Vendor in connection with Vendor's services (the "**Services**") provided to Customer and its affiliates, if applicable, (Customer and its affiliates, each a "**Customer Affiliate**" and altogether, the "**Customer Affiliates**") pursuant to the Agreement.

1.   **Order of Precedence & Interpretation**

   a.   In this Addendum, capitalized terms shall have the meanings set out in **Appendix 1 (Definitions and Details of Processing)**. In the event that any terms of this Addendum and its appendices are inconsistent with any other terms of the Agreement, the parties intend for the terms of this Addendum, its appendices, and the Agreement to be construed in the manner that permits Customer Affiliates to fulfill their obligations under applicable Law.

2.   **Vendor Obligations: general data processing commitments**

   a.   With respect to Personal Information Processed by Vendor in connection with the Services or otherwise in the possession or control of Vendor:

      i.   as between Vendor and the Customer Affiliates, Vendor (together with any permitted assignee and/or subcontractor, subject to and as permitted under this Addendum) will be a Data Processor; and

      ii. each of the Customer Affiliates will be a Data Controller.

   b.   Vendor shall not: (i) sell Personal Information or otherwise disclose it in exchange for monetary or other valuable consideration; (ii) Process Personal Information for any purpose other than the specific purpose of performing the Services or pursuant to the directions of a Customer Affiliate; or (iii) Process Personal Information outside of the direct business relationship between Vendor and the Customer Affiliates. Vendor certifies that it understands and will comply with the restrictions of this section.

   c.   The extent and type of Personal Information to be Processed by Vendor, and the categories of data subjects are set out in **Appendix 1**. The details of the Personal Information listed in **Appendix 1** may also be restricted in certain territories on a case-by-case-basis subject to the requirements of applicable Law and/or the directions of a Customer Affiliate.

   d.   Vendor will only Process Personal Information pursuant to written directions from a Customer Affiliate. The Vendor will not deviate from the Customer Affiliate's directions, unless the Customer Affiliate has agreed to such deviation in advance and in writing.

   e.   Vendor will, at no additional cost, assist each Customer Affiliate to:

      i.   provide appropriate technical and organizational measures, and any necessary product features and functionality to allow the Customer Affiliate to effectively fulfill its obligations to respond to data subject requests for information, access, rectification, erasure, restriction, portability, objection, do not sell, deletion, and any other similar requests (each, a "Data Subject Request"). At the direction of a Customer Affiliate, Vendor shall promptly, and in any event within ten (10) days, unless otherwise agreed in writing, completely respond to and fulfill a Customer Affiliate's request for further Data Subject Request assistance;

    ii.   comply with obligations to inform individuals about the collection, Processing or use of Personal Information;

    iii.   immediately notify the Customer Affiliate of any notices, requests for information or orders from data protection authorities and work at the direction of the Customer Affiliate to promptly provide the information required by the Customer Affiliate to respond to notices, requests for information, or orders from data protection authorities received by Vendor or the Customer Affiliate;

    iv.   immediately inform the Customer Affiliate if, in Vendor's opinion, a direction or instruction from the Customer Affiliate infringes applicable Law; and

    v.   immediately notify the Customer Affiliate of any Data Subject Requests that it receives, without responding to the individual except to acknowledge receipt of the Data Subject Request.

f.   Vendor shall maintain complete and accurate records in connection with each Customer Affiliate's Data Subject Requests. Vendor shall provide access to a Customer Affiliate at all reasonable times to the records relating to the Customer Affiliate's Data Subject Requests.

g.   Vendor will implement and maintain technical and organizational security measures to adequately protect each Customer Affiliate's Personal Information against the risks inherent in the Processing of Personal Information for the purposes identified in the Agreement, and risks from unauthorized or unlawful Processing and destruction, damage, misuse, and loss. Vendor will implement and maintain reasonable security procedures and practices appropriate to the nature of the Personal Information it Processes.

h.   Vendor will ensure that each of its personnel:

    i.   have undertaken to comply with confidentiality obligations in respect of such Personal Information, which confidentiality obligations will continue after the termination of the Agreement; and

    ii.   are aware of the procedures that Vendor has put in place and receive appropriate training on data protection and security.

i.   Subject to the frequency and manner limitations imposed by the Agreement, Vendor agrees to permit Customer Affiliate, upon reasonable advance notice (which in no event shall be less than ten (10) business days), access to the pertinent policies, procedures, and other records and documentation as reasonably necessary for Customer to verify Vendor's compliance with this Addendum. The audit may be carried out by a Customer Affiliate or an expert appointed on its behalf, provided that the appointed expert is subject to a confidentiality undertaking. The Customer Affiliate will give reasonable advance notice and will use reasonable endeavors to conduct any such audit during regular business hours and without unreasonably disrupting Vendor's operations.

j.   Without prejudice to the Agreement, Vendor will provide and make available to the Customer Affiliate such information and assistance as may be required to facilitate such audits, and any other information necessary to complete a data protection impact assessment or confirm compliance with any provision of this Addendum, the Agreement and all applicable Law. For the avoidance of doubt, this provision will not require the Vendor to provide any Customer Affiliate with access to the confidential information of Vendor's other customers.

k.   Vendor shall assist Customer Affiliates in response to any requests from data protection authorities relating to the Processing of Personal Information in connection with the Agreement. In the event that any such request is made directly to Vendor, Vendor shall not respond to such communication directly without the Customer Affiliate's prior authorization, unless legally compelled to do so. If Vendor is required to respond to such a

request, Vendor shall promptly notify the relevant Customer Affiliate and provide it with a copy of the request unless legally prohibited from doing so.

l. In the event of (i) any serious interruption of Vendor's Processing operations; (ii) any unauthorized acquisition, loss, access or use of Personal Information; or (iii), any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosures of, or access to, Personal Information, Vendor will comply with the provisions of **Section 2.13** of the DSA with respect to such event.

m. If Vendor subcontracts or assigns any of Vendor's obligations with respect to the Processing of Personal Information to a third party Vendor will (i) in each case first ensure that each and every such subcontractor, partner or assignee (as the case may be) has undertaken in signed writing to comply with obligations no less protective than the obligations undertaken by Vendor in this Addendum; (ii) perform appropriate due diligence to ensure that all subcontractors, partners and assignees can meet all Vendor obligations in the Agreement, including all requirements related to features, functionality and assistance necessary for Data Subject Requests; and (iii) remain fully liable for the performance of each subcontractor, partner and/or assignee.

n. Each Customer Affiliate authorizes Vendor to engage the subcontractors identified in **Appendix 1** to Process Personal Information. Vendor will notify Customer in advance and in writing of any new subcontractor that Vendor proposes to use. Customer will have thirty (30) days from receiving such notification to object to the use of the new subcontractor. If Customer does not object within this period, the Vendor may permit the subcontractor to Process Personal Information. If Customer objects to the use of a subcontractor, then Vendor will promptly address that Customer's objections within ten (10) days of receipt. If Vendor cannot resolve Customer's objection to Customer's satisfaction within this ten (10) day period, then the Customer will have the option to immediately terminate the Agreement without penalty any time after this ten (10) day period, upon providing written notice to Vendor. Vendor will not allow the new subcontractor to Process any Customer Affiliate's Personal Information during (i) the thirty (30) days after providing notification of its intent to use a new subcontractor, or (ii) during any period where Customer's objection to use of a subcontractor has not been resolved to Customer's satisfaction.

3. **Vendor Obligations: compliance with Laws, data transfer, and data deletion**

a. Vendor shall, in Processing Personal Information, comply with all applicable Law.

b. If Vendor will Process Personal Information from a Restricted Country in another country that is not deemed adequate:

i. Vendor agrees to comply with the obligations of a data importer as set out in the Standard Contractual Clauses for the transfer of Personal Information to data Processors established in third countries adopted by the European Commission decision of 5 February 2010 and published under document number C(2010) 593 2010/87/EU (the **"Standard Contractual Clauses"**) and incorporated herein by reference. Vendor acknowledges that each Customer Affiliate in the Restricted Country will be a data exporter. In particular, and without limiting the above obligation:

A. Vendor agrees to grant third party beneficiary rights to data subjects, as set out in Clause 3 of the Standard Contractual Clauses, provided that Vendor's liability shall be limited to its own Processing operations;

B. Vendor agrees that its obligations under the Standard Contractual Clauses shall be governed by the law(s) of the Member State(s) (or Switzerland or the United Kingdom) in which the Customer Affiliates that are the data exporter(s) are established; and

C. the details of the appendices applicable to the Standard Contractual Clauses are set out in **Appendix 1** to this Addendum.

ii. If Vendor will at any time Process Personal Information originating in a Restricted Country outside that Restricted Country, Vendor will take all necessary actions and execute such agreements as may be necessary under applicable Law to legitimize any Processing or data transfer of Personal Information to Vendor or a subcontractor and to ensure an adequate level of protection for each Customer Affiliate's

Personal Information. In the event that any competent authority holds that a data transfer mechanism relied on by the parties is invalid, or any supervisory authority requires transfers of Personal Information made pursuant to such decision to be suspended, then a Customer Affiliate may, at its discretion, require Vendor to cease Processing Personal Information, or co-operate with it to facilitate use of an alternative transfer mechanism.

c. Vendor shall not disclose Personal Information in response to a request, including lawful process, from a governmental authority unless Vendor promptly notifies the relevant Customer Affiliate, and permits the Customer Affiliate to respond to and challenge such request. If the relevant Customer Affiliate informs Vendor in writing that it may proceed with the disclosure, Vendor must take steps to ensure that only the information, including the Personal Information, that is legally required to fulfill the request is disclosed.

d. Upon termination or expiration of the Agreement: (i) if the parties mutually agree, Vendor shall return to Customer a complete copy of the Personal Information it Processed in connection with the Agreement, in a form and format reasonably agreed upon by the parties; and (ii) Vendor shall securely dispose of the Personal Information in its possession or control that it Processed in connection with the Agreement.

e. Where applicable, Vendor shall promptly assist relevant Customer Affiliates in ensuring compliance with its obligations pursuant to Articles 32 to 36 of Regulation (EU) 2016/679 (security, notification of personal data breaches to authorities and individuals, data protection impact assessments and prior consultation with supervisory authorities), or similar provisions in other jurisdictions, taking into account the nature of the Processing and the information available to Vendor.

f. Vendor agrees to notify all of Vendor's employees, consultants, agents and subcontractors in Restricted Countries that the Vendor engages in any way in relation to the supply of the Services ("**Vendor Personnel**") that (i) Customer Affiliates may Process Personal Information relating to members of Vendor Personnel (in particular, business contact details) in order for a Customer Affiliate to further its legitimate business interests in managing the Agreement and the relationship with Vendor; and (ii) Customer Affiliates may share such Personal Information with other Customer Affiliates and associated companies, licensors, subcontractors and agents for this purpose, which may include transferring Personal Information about Vendor's Personnel outside the country in which they are based, in which case the Customer Affiliate ensures there is adequate protection for such Personal Information either by using an adequacy decision, , or by use of other safeguards permitted under applicable Law.

4. Term

The term of this Addendum commences as of the effective date of the Agreement and will end upon Vendor's return or destruction (to be confirmed in writing) of all Personal Information Processed by Vendor under the Agreement.

5. Governing Law

Unless otherwise required by the Standard Contractual Clauses or other data transfer requirements, this Addendum will be subject to the governing law identified in the Agreement without giving effect to conflict of laws principles.

6. Counterparts

This Addendum may be executed in one or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. Signatures may be electronic or handwritten, both of which being of equal effect, whether kept in electronic or paper form.

IN WITNESS WHEREOF, Vendor and Customer, on behalf of itself and the Customer Affiliates, have executed this Addendum to be effective as of the effective date of the Agreement.

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WARNER MEDIA, LLC

Signature: _____

Name: Aaron Bearce_____

Title: Vice President_____

SPREEDLY, INC.

Signature: Justin Benson (Mar 15, 2021 16:50 EDT)_____

Name: Justin Benson_____

Title: CEO_____

APPENDIX 1: DEFINITIONS AND DETAILS OF PROCESSING

1. For purposes of this Addendum, the following terms will have the following meanings:

   a. "**Data Controller**" means the person or entity which, alone or jointly with others, determines the purposes and means of the Processing of Personal Information;

   b. "**Data Processor**" means the person or entity which Processes Personal Information on behalf of the Data Controller;

   c. "**Law**" means any federal, state, provincial, local, municipal, foreign, international, multinational or other constitution, law, statute, treaty, rule, regulation, ordinance, code, and guidance issued by regulatory authorities competent to interpret or enforce the same, relating to privacy, data protection, or cybersecurity.

   d. "**Personal Information**" shall mean: (1) any information relating to an identified or identifiable natural person; and (2) any information defined as "personally identifiable information," "personal information," "personal data" or similar terms as such terms are defined under applicable Law, limited to that Personal Information Vendor Processes in connection with Services provided to a Customer Affiliate.

   e. "**Process**" **or "Processing"** means any operation or set of operations performed upon Personal Information, whether or not by automatic means; and

   f. "**Restricted Country**" means any country which restricts the transfer of the Personal Information to another country not deemed adequate to receive such Personal Information.

2. The details of the Processing of Personal Information carried out by the Vendor are as follows:

   a. **Data subjects**: Vendor will Process Personal Information relating to the following data subjects (check all that apply):

      [x] employees or contractors
      [x] consumers
      [_] customers
      [_] vendors
      [_] other (specify where possible):

   b. **Categories of data**: Vendor will Process the following categories of Personal Information (check all that apply):

      [x] personal identification (name, date of birth)
      [_] government issued identification (driver's license, social security number, or other national identity number)
      [x] contact details (email, phone, address)
      [_] real-time, precise location tracking
      [_] education and training details
      [_] employment related data
      [_] family, lifestyle and social circumstances
      [_] financial, economic and insurance data
      [x] billing and payment information
      [x] digital, device and social identifiers or digital profiles

[_] any other categories of Personal Information provided by a Customer Affiliate to Vendor in connection with the Services (specify where possible): **[_____]**

Vendor may also Process some of the following special categories of Personal Information (check all that apply):

[x] none
[_] racial or ethnic origin
[_] political opinions
[_] religious or philosophical beliefs
[_] trade union membership
[_] genetic data
[_] biometric data
[_] data concerning health
[_] sex life or sexual orientation

c. **Processing operations**: Vendor will Process Personal Information solely as described in the Agreement or as otherwise directed by the Customer Affiliates.

d. **Duration of Processing**: So long as Services are provided under the Agreement and until written confirmation of destruction or return of all Personal Information under the Agreement.

3. **Security measures**: Any technical and organizational measures are specified in the Agreement, including any relevant addendum or exhibit specifying security requirements, such as a data security addendum or security requirements exhibit. Applicable security measures include, at minimum:

a. Administrative safeguards: documented security policies and procedures, training programs, management of access rights, background checks and security clearances.
b. Technical safeguards: logging and monitoring of system activity and access, intrusion detection, vulnerability assessments, mobile device management, access controls, firewalls, change management controls, malware protection and appropriate use of encryption of data in transit and at rest.
c. Physical safeguards include facility access controls, secure disposal of records and electronic media, reasonable workstation security, and privacy screens and clean desk policies where appropriate.

4. **Subcontracting:** Vendor uses the following subcontractors for the Processing of Personal Information as of the date of the Addendum:

Subcontractor	Country of Jurisdiction	Brief Description of Processing
Dropbox	USA	Cloud hosting of company documents including contracts
Slack	USA	Company communication
Asana	USA	Project planning and management
Salesforce	USA	Customer relationship management
Google	USA	Company email for internal and external communication
Clearbit	USA	Identification of prospect companies

Mixpanel	USA	Customer usage tracking and messaging
Zendesk	USA	Inbound customer support and help center/community
SurveyMonkey	USA	Customer messaging and surveying
Netsuite	USA	Customer invoicing, financial reporting
Quickbooks	USA	Customer invoicing, financial reporting
Heroku	USA	Cloud hosting of applications
AWS	USA	Cloud data processing
Rollworks	USA	Online advertising and remarketing
Looker	USA	Business intelligence and visualization for analytics
Catalyst	USA	Customer activity monitoring
FIS/Global/Vantiv	USA	Account updater services
Pendo	USA	Customer usage tracking

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EXHIBIT G
ACKNOWLEDGMENT AND AGREEMENT FORM

Acknowledgement and Agreement

This Acknowledgement and Agreement (the "**Affiliate Agreement**") is entered into by and between Spreedly, Inc. ("**Service Provider**") and [INSERT NAME OF CUSTOMER AFFILIATE] ("**Customer Affiliate**") pursuant to the terms and conditions of the Master Services Agreement entered into by and between Warner Media, LLC ("**Customer**") and Service Provider, with an Effective Date of March 15, 2021 ("**Master Agreement**"). This Affiliate Agreement is effective as of _____ ("**Affiliate Agreement Effective Date**"). Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Master Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Service Provider hereby agrees to provide the Services described in the Order Forms and/or SOWs entered into by Service Provider and Customer Affiliate pursuant to this Affiliate Agreement and other privileges and benefits of the Master Agreement to Customer Affiliate pursuant to the terms and conditions of the Master Agreement as modified herein, all of which are incorporated herein by this reference, and Customer Affiliate and Service Provider hereby agree to be bound by the terms and conditions of the Master Agreement, as modified herein. For purposes of this Affiliate Agreement only, the terms and conditions of the Master Agreement are modified and/or supplemented as follows:

(1) Party Designation. The party designation "Warner Media, LLC" is hereby replaced with [INSERT NAME OF CUSTOMER AFFILIATE] at the address [INSERT ADDRESS], and all references to "Customer" are deemed to refer to [INSERT NAME OF CUSTOMER AFFILIATE].

(2) Effective Date. The designation "Effective Date" in the Master Agreement is hereby replaced with the Affiliate Agreement Effective Date.

(3) Notices. Any notices sent to Customer Affiliate under the Master Agreement and/or this Affiliate Agreement shall be sent pursuant to **Section 12.2** (*Notices*) of the Master Agreement to Customer Affiliate at the following address(es): [INSERT ADDRESSES]

(4) Termination. Any termination of the Master Agreement shall not terminate this Affiliate Agreement or any then-current unexpired Order Form or SOW attached to this Affiliate Agreement.

(5) [INSERT ANY OTHER ADDITIONAL OR MODIFIED TERMS]

Customer Affiliate will deal directly with and be responsible to Service Provider with respect to its invoices, charges, credits, disputes, and any other issues relating to the Services purchased by Customer Affiliate hereunder. Except as expressly set forth in the Master Agreement, either Customer nor Customer Affiliate is responsible for the actions or omissions of the other under this Affiliate Agreement or the Master Agreement. This Affiliate Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. Signatures may be electronic or handwritten, both of which being of equal effect, whether kept in electronic or paper form.

IN WITNESS WHEREOF, the parties have caused this Affiliate Agreement to be executed by their duly authorized representatives.

CUSTOMER AFFILIATE: _____   **SPREEDLY, INC.**

By: *FORM ONLY-DO NOT SIGN*   By: *FORM ONLY-DO NOT SIGN*

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

Spreedly, Inc. - Master Services Agreement - Final, 3.15.2021

Final Audit Report   2021-03-16

Created:	2021-03-15
By:	Sarah Parker (sarah.parker@warnermedia.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA6BeVICA38k4xDGh0k4ifttNWIYh0b2iZ

"Spreedly, Inc. - Master Services Agreement - Final, 3.15.2021" History

📄 Document created by Sarah Parker (sarah.parker@warnermedia.com)
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