

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT MADE this 20th day of May, 2022 (the "Effective Date"), is by and between **Checkout Ltd** ("Company") and **Spreadly, Inc.**, a Delaware corporation ("Spreadly"). Spreadly and Company may be referred to herein collectively as the "Parties" or individually as a "Party."

Agreement

The Parties hereby agree as follows:

1. Definitions.

"Agreement" means, collectively, the terms of this Professional Services Agreement and all Statements of Work attached hereto and incorporated herein by reference, as amended, restated, or supplemented from time-to-time.

"Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

"Law" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

"Person" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.

"Personnel" means all individuals involved in the performance of Services as employees, agents or independent contractors of Spreadly or any of Spreadly's subcontractors.

"Spreadly Technology" means all of the software products, solutions, applications and services that Spreadly develops (or previously developed), markets and licenses to Spreadly's customers in the ordinary course of Spreadly's business, including all updates, upgrades, new releases, new versions or other adaptations or modifications thereto. For avoidance of doubt, Spreadly Technology includes the proprietary Spreadly.

"Work Product" means all works, drawings, documents, designs, specifications, inventions, works of authorship (including, without limitation, software), deliverables and other tangible materials, which are authored, prepared, created and developed by Spreadly in connection with the performance of the Services.

2. Services.

2.1 Statements of Work. Subject to the terms of this Agreement, Spreadly shall perform the services (the "Services") that are mutually agreed upon and described in one or more statements of work to this Agreement (each, a "Statement of Work"), each of which shall be in form and substance satisfactory to Spreadly. Each Statement of Work shall be effective, incorporated into and form a part of this Agreement when duly executed by an authorized representative of each of the Parties. Each Statement of Work shall include a statement of the Services to be performed, a statement of Company's tasks, responsibilities and obligations with respect to such Statement of Work, any Customizations to be developed thereunder, pricing terms, any special terms and conditions for that specific engagement, acceptance criteria and an estimated timeline completion timetable. Each Statement of Work shall be subject to the terms and conditions set forth in this Agreement. If any terms in any Statement of Work conflict with the terms of this Agreement, the terms of this Agreement will prevail unless the Statement of Work explicitly states that it is superseding the Agreement with specific reference to the Agreement section which it is superseding.

2.2 Personnel. The Parties agree that Spreadly has the sole and exclusive right to make all decisions relating to terms and conditions of each Personnel's relationship with Spreadly, including, but not limited to, decisions regarding hiring, firing, discipline, reassignment, compensation, and benefits. Subject to the terms and conditions set forth herein, Spreadly reserves the right to terminate its relationship with or reassign any Personnel at any time. If Spreadly reassigns or terminates its relationship with any Personnel during the Term, it will notify Company in writing in advance thereof, and will exercise all commercially reasonable efforts to provide a suitable replacement Personnel candidate within such reasonable period of time as shall be agreed upon by each of Company and Spreadly in writing.

2.3 Subcontractors. Spreadly may from time-to-time in its discretion engage subcontractors to perform the Services; provided that Spreadly shall remain liable for any act or omission by its subcontractors that would constitute a breach or violation of the terms of this Agreement.

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

3. Fees and Payment.

3.1 Fees & Expenses. Company shall pay to Spreadly the fees and/or time and materials charges applicable for any Services, in each case as specified in the Statement of Work applicable for such Services. Company agrees to reimburse Spreadly for reasonable out-of-pocket expenses incurred in connection with providing the Services (including necessary travel expenses). Any such reasonable out-of-pocket expenses must be approved in writing by Company prior to Spreadly incurring said expenses.

3.2 Taxes. All fees and other amounts payable by Company under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Company is responsible for all sales, service, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Company hereunder, other than any taxes imposed on Spreadly's income.

3.3 Payment. Unless other payment terms are specified in a Statement of Work, Company shall pay all undisputed amounts due and owing under this Agreement within thirty (30) days after the date of receipt of Spreadly's invoice. Company shall make all payments hereunder in U.S. dollars to the address or account specified in the applicable Statement of Work or such other address or account as Spreadly may specify in writing from time-to-time.

3.4 Late Payment. If Company fails to make any payment when due then, and fails to remedy the non-payment within thirty (30) days, in addition to all other remedies that may be available to Spreadly, Spreadly may (a) charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable Law; and (b) withhold or suspend performance of the Services. The remedies specified in this **Section 3.4** are in addition to, and not in lieu of, Spreadly's right to terminate this Agreement under **Section 4.2**.

4. Term and Termination.

4.1 Term. The term of this Agreement commences on the Effective Date, and continues through the later of: (i) three (3) years from the Effective Date; or (ii) the expiration of the latest outstanding Statement of Work (collectively, the "Term"), unless terminated in accordance with the applicable provisions of this Agreement.

4.2 Termination of Agreement. This Agreement may be terminated at any time by Spreadly, effective on written notice to Company, if Company fails to pay any amount when due under this Agreement, where such failure continues more than thirty (30) days after Spreadly's delivery of written notice thereof. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party (a) materially breaches this Agreement and such breach remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach; or (b) is dissolved or liquidated or takes any corporate action for such purpose, becomes insolvent or is generally unable to pay its debts as they become due, becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law, makes or seeks to make a general assignment for the benefit of its creditors, or applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property. Any termination of this Agreement pursuant to this **Section 4.2** shall automatically terminate all Statements of Work hereunder.

4.3 Termination of Statements of Work. Either Party may terminate an individual Statement of Work: (a) effective on written notice to the other Party, if the other Party materially breaches such Statement of Work and such breach remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach; and (b) for convenience and without cause upon sixty (60) days' prior written notice to the other Party. Any termination of a Statement of Work shall not: (i) affect the Term of this Agreement or the Parties' rights, responsibilities and obligations under this Agreement and any other outstanding Statements of Work; or (ii) release either Party from any liability which, at the time thereof, has already accrued to such Party pursuant to such Statement of Work.

4.4 Termination for Convenience. Either Party may terminate this Agreement for convenience and without cause upon sixty (60) days' prior written notice to the other Party at any time. If this agreement is terminated by either Party under Clause 4.4, this Agreement shall survive with respect to any then currently outstanding Statements of Work until the applicable Services are completed or subsequently terminated, and any termination of this Agreement under Clause 4.4 shall not release either Party of their respective obligations and liabilities which, at the time thereof, has already accrued to such Party pursuant to any outstanding Statements of Work.

4.5 Effect of Termination. Upon termination of this Agreement: (i) Company shall promptly (but in no event more than thirty (30) days after the effective date of such termination) pay to Spreadly all undisputed fees, charges and expenses accrued before the effective date of such termination; and (ii) each Party shall promptly return or destroy any Confidential Information received from the other Party.

4.6 Survival. Notwithstanding anything in this Agreement to the contrary, if this Agreement is terminated for any reason, each of **Sections 4.5, 5, 6, 7.3, 8, 9 and 11**, and all other provisions necessary for their interpretation or enforcement, shall survive and will remain in full force and effect and be binding upon the Parties as applicable.

5. Confidentiality.

5.1 Confidential Information. Each Party that discloses or makes available its Confidential Information (in such capacity, the "Disclosing Party") to the other Party (in such capacity, the "Receiving Party"). Subject to **Section 5.2**, "Confidential Information" means any and all technical and non-technical information, in any form or medium (whether in graphic, electronic, written or oral form), which: (a) if disclosed in writing or other tangible form or medium, is marked "confidential" or "proprietary", (b) if disclosed orally or in other intangible form or medium, is identified by the Disclosing Party or its Representative (as defined below)

as confidential or proprietary when disclosed and summarized and marked "confidential" or "proprietary" in writing by the Disclosing Party or its Representative within 30 days after disclosure, or (c) due to the nature of its subject matter or the circumstances surrounding its disclosure, would reasonably be understood to be confidential or proprietary; including but not limited to, any trade secrets, methods, techniques, drawings, designs, descriptions, specifications, works of authorship (including, without limitation, any software), patent applications or other filings, models, inventions, know-how, processes, algorithms, software source documents, and formulae related to the current, future, and proposed technologies, products and services of the Disclosing Party, and also any information concerning research, experimental work, development, engineering, financial information, purchasing, customer lists, pricing, investors, employees, business and contractual relationships, business forecasts, business plans, individually identifiable personal information, sales and merchandising, marketing plans of or related to the Disclosing Party and information the Disclosing Party provides to the other regarding or belonging to third parties. For avoidance of doubt, Spreadly's "Confidential Information" includes the source code for all Spreadly Technology and Work Product and the methods, algorithms, structure and logic, technical infrastructure, techniques and processes used by Spreadly in developing, producing, marketing and/or licensing the Spreadly Technology and the Work Product.

5.2 Exclusions and Exceptions. Confidential Information does not include information which: (a) now or hereafter enters the public domain through no breach of an obligation of confidentiality or other fault of the Receiving Party; (b) the Receiving Party independently knows free of any obligation of confidentiality at the time of receiving such information; (c) a third party hereafter furnishes to the Receiving Party without restriction on disclosure and without breach of any confidentiality obligations; or (d) employees or agents of the Receiving Party have independently developed without any use of, or reference to, any of the Disclosing Party's Confidential Information and without breaching this Agreement.

5.3 Protection of Confidential Information. The Receiving Party shall: (a) only disclose the Disclosing Party's Confidential Information to any of its and/or its affiliates' employees, officers, directors, partners, consultants, contractors, agents and representatives (collectively, its "Representatives") that have a need to know such Confidential Information and who have agreed to terms at least as restrictive as those stated in this Agreement; (b) hold in strict confidence and not disclose any of the Disclosing Party's Confidential Information to any third party, except as permitted herein; (c) protect and safeguard any and all of the Disclosing Party's Confidential Information using the same standard of care as it uses to protect and safeguard its own Confidential Information, but in no event less than a reasonable standard of care; (d) use the Disclosing Party's Confidential Information only to the extent required for the purposes of this Agreement; (e) not reproduce the Disclosing Party's Confidential Information in any form except as required for the purposes of this Agreement; (f) not reverse-engineer, decompile, or disassemble any software or devices disclosed by the Disclosing Party; (g) not directly or indirectly export or transmit any of the Disclosing Party's Confidential Information to any country to which such export or transmission is restricted by regulation or statute; and (h) promptly provide the Disclosing Party with notice upon discovery of any loss or unauthorized disclosure of the Disclosing Party's Confidential Information. Each party shall be liable for any failure of its Representatives to abide by the provisions of this Agreement as if such failure was the act or omission of such party.

5.4 Compelled Disclosures. Notwithstanding the foregoing, the Receiving Party may disclose the Disclosing Party's Confidential Information: (a) to the extent required by a court of competent jurisdiction or other governmental authority or otherwise as required or compelled by applicable Laws; or (b) on a "need-to-know" basis and under an obligation of confidentiality to its legal counsel, accountants, banks and other financing sources and their advisors, or to a Qualified Security Assessor ("QSA") for the purpose of assessing compliance with the Payment Card Industry Data Security Standards ("PCI-DSS"). If the Receiving Party or any of its Representatives is compelled to disclose the Disclosing Party's Confidential Information pursuant to clause (a) above then, to the extent permitted by applicable Law, the Receiving Party shall: (i) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under **Section 5.3**; and (ii) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this **Section 5.4**, the Receiving Party remains required by Law to disclose any of the Disclosing Party's Confidential Information, the Receiving Party shall disclose only that portion of the Disclosing Party's Confidential Information that the Receiving Party is legally required to disclose and shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

5.5 Return of Materials. All Confidential Information (including all copies thereof) shall remain the property of the Disclosing Party. Upon the request of the Disclosing Party, the Receiving Party shall either (a) return such materials to the Disclosing Party; or (b) certify in writing as to the destruction thereof.

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

6. Intellectual Property Rights.

6.1 Spreadly Technology. Company acknowledges and agrees that Spreadly is the sole and exclusive owner of all right, title and interest in and to the Spreadly Technology, including all Intellectual Property Rights relating thereto.

6.2 Work Product. Company acknowledges and agrees that Spreadly shall retain all right, title and interest in and to all Work Product, including all Intellectual Property Rights relating thereto, subject only to the license granted in this Section.

Subject to Company's payment in full of all amounts payable under an applicable Statement of Work, Spreadly grants to Company a non-exclusive license to use the Spreadly Technology (as set forth in the Statement of Work), to use the Work Product solely for its internal business operations, and solely as required to use the Spreadly Technology in accordance with applicable the terms of service.

6.3 Company Materials. All logos, trademarks, copyrighted materials, and other information and materials and technology, including data, hardware, software, system documentation, provided to Spreadly by Company, including modifications, changes and derivatives thereto, whether or not created as part of the Services (the "Company Materials"), are and shall remain the property of Company or its licensors, which shall retain all Intellectual Property Rights therein. Spreadly obtains no right, title, or interest therein, except that during the Term, Spreadly may use the Company Materials for purposes of performing the Services.

7. Representations and Warranties.

7.1 Mutual Representations and Warranties. Each Party represents, warrants and covenants to the other Party that: (a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses and authorizations it grants and is required to grant under this Agreement; (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

7.2 Services Warranty. Spreadly warrants to Company that it shall perform the Services in a professional and workmanlike manner.

7.3 DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN THIS AGREEMENT, THE WORK PRODUCT, THE SERVICES AND ALL OTHER INFORMATION AND MATERIALS PROVIDED BY SPREEDLY ARE PROVIDED "AS IS." SPREEDLY HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER (INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE), AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

8. Indemnification.

8.1 Spreadly Indemnification. Spreadly shall indemnify, defend and hold harmless Company against any loss or damage that Company may sustain or incur (including reasonable attorneys' fees and costs) (collectively, "Losses") in relation to any claim or action by a third party (each, a "Third-Party Claim") against Company alleging that any Work Product infringes, violates or misappropriates a patent, copyright, trademark, trade secret or other intellectual property right of such third party. If Spreadly receives notice of a Third-Party Claim, Spreadly shall have the right, at its option and expense, to obtain for Company the right to continue to use such Work Product or modify or replace such Work Product with an alternative, non-infringing solution that is reasonably equivalent in functionality. Notwithstanding the foregoing, Spreadly shall have no liability or obligation with respect to any Third-Party Claim that is based upon or arises out of (collectively, the "Excluded Claims"): (i) use of any Work Product in combination with any software or hardware other than the Spreadly Technology, (ii) any modifications or configurations made to any Work Product by anyone other than Spreadly or Spreadly's Personnel, unless such modification or configuration was made with Spreadly's written consent or (iii) any action taken by Company relating to use of any Work Product that is outside of the scope of the licenses granted to the Work Product under the terms of this Agreement.

8.2 Indemnification Procedure. In handling any such Third-Party Claim, the indemnifying Party shall act in good faith, keep the indemnified Party advised of the status of any such Third-Party Claim, and shall only use qualified counsel with substantial experience in handling such matters. The indemnified Party may elect to participate in the action with an attorney of its own choice at its own expense. The indemnifying Party shall not enter into any settlement that imposes any liability or obligation on the indemnified Party without the indemnified Party's prior written consent. The Parties shall cooperate in any such settlement or defense and give each other full access to all relevant information, at the indemnifying Party's expense.

8.3 Sole Remedy. THIS **SECTION 8** SETS FORTH COMPANY'S SOLE REMEDIES AND SPREEDLY'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT ANY WORK PRODUCT OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

9. Limitations of Liability.

9.1 SPREEDLY'S CAP ON MONETARY LIABILITY. IN NO EVENT SHALL SPREEDLY BE LIABLE TO COMPANY FOR DIRECT DAMAGES RELATED TO OR ARISING IN CONNECTION WITH THE SERVICES PERFORMED UNDER A STATEMENT OF WORK IN EXCESS OF THE AMOUNT OF FEES PAID BY COMPANY TO SPREEDLY UNDER SUCH STATEMENT OF WORK DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY.

9.2 COMPANY'S CAP ON MONETARY LIABILITY. IN NO EVENT SHALL COMPANY BE LIABLE TO SPREEDLY FOR DIRECT DAMAGES RELATED TO OR ARISING IN CONNECTION WITH THE SERVICES PERFORMED UNDER A STATEMENT OF WORK IN EXCESS OF THE AMOUNT OF FEES PAID BY COMPANY TO SPREEDLY UNDER SUCH STATEMENT OF WORK DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY.

9.3 **EXCLUSION OF DAMAGES.** UNDER NO CIRCUMSTANCES SHALL EITHER PARTY HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF PROFITS, OR CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF SPREEDLY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE.

9.4 **EXCEPTIONS.** NOTWITHSTANDING THE FOREGOING, THE EXCLUSIONS AND LIMITATIONS SPECIFIED IN **SECTIONS 9.1 AND 9.2** SHALL NOT APPLY TO A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD.

10. **Force Majeure.** In no event will either Party be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any obligations under this Agreement (except for any payment obligation), when and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control (a "**Force Majeure Event**"), including acts of God, epidemics/pandemics, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority. Either Party may terminate this Agreement if a Force Majeure Event affecting the other Party continues substantially uninterrupted for a period of thirty (30) days or more.

11. **Miscellaneous.**

11.1 **Notices.** All notices, instructions, requests, authorizations, consents, demands and other communications hereunder shall be in writing and shall be delivered by one of the following means, with notice deemed given as indicated in parentheses: (a) by personal delivery (when actually delivered); (b) by overnight courier (upon written verification of receipt); or (c) by certified or registered mail, return receipt requested (upon verification of receipt). In each case, such notices shall be addressed to a Party at such Party's address set forth on the signature page to this Agreement (or such other address as updated by such Party from time-to-time by giving notice to the other Party in the manner set forth in this **Section 11.1**).

11.2 **Entire Agreement.** This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, the Statements of Work and any other documents incorporated herein by reference, the following order of precedence governs: *first*, this body of this Agreement; *second*, the Statements or Work; and *third* any other documents incorporated herein by reference.

11.3 **Assignment.** Company shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement without Spreedly's prior written consent, which consent shall not unreasonably be delayed or withheld. Any purported assignment, delegation or transfer in violation of this **Section 11.3** is void. This Agreement is binding on and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.

11.4 **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or will confer on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

11.5 **Modification, Amendment, Supplement and Waiver.** No modification, course of conduct, amendment, supplement to or waiver of this Agreement or any provision hereof shall be binding upon the Parties unless made in writing and duly signed by authorized representatives of both Parties. At no time shall any failure or delay by either Party in enforcing any provisions, exercising any option, or requiring performance of any provisions, be construed to be a waiver of same.

11.6 **Severability.** If any provision of this Agreement is for any reason held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a valid, legal and enforceable provision that comes closest to the intention of the Parties underlying the original provision.

11.7 **Governing Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina without regard to its conflict of laws principles that would result in the application of another jurisdiction's laws.

11.8 **Equitable Remedies.** Each Party acknowledges and agrees that a violation, breach or threatened breach by such Party of any of the rights, duties or obligations under **Section 5** (Confidentiality) or **Section 6** (Intellectual Property Rights) of this Agreement would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including in a restraining order, an injunction, specific performance and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy.

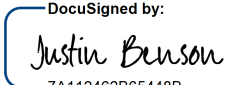
11.9 **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or

other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

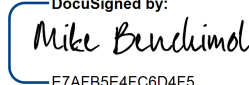
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

SPREEDLY INC.

By: 
Name: Justin Benson
Title: CEO

Checkout Ltd

By: 
Name: Mike Benchimol
Title: Director

Notice Address:

Spreedly Inc.
300 Morris St, STE 400
Durham, NC 27701
Attention:

Notice Address:

Wenlock Works
Shepherdess Walk, London
N1 7BQ
Attention: Legal