



ENTERPRISE SERVICE AGREEMENT

This Enterprise Services Agreement ("Agreement") is entered by and between Spreedly, Inc., a Delaware corporation, ("Spreedly") and Brainly sp. z o.o., a Polish limited liability company ("Customer"). Spreedly and Customer are each a "Party" and collectively the "Parties". This Agreement is effective on the last date of signature by a Party in the signature block below ("Effective Date").

SPREEDLY		CUSTOMER	
Name:	Spreedly, Inc.	Name:	Brainly sp. z o.o.
Address:	300 Morris Street, Suite 400	Address:	ul. Krowoderska, 63B/6
City/State:	Durham, NC 27701	City/Country:	Krakow, Poland
PRIMARY SPREEDLY CONTACT		PRIMARY CUSTOMER CONTACT	
Name:		Name:	Blake Whitson
Title:		Title:	VP, Payments
Phone:		Phone:	
Email:		Email:	Blake.whitson@brainly.com
SPREEDLY FINANCE CONTACT		CUSTOMER BILLING CONTACT	
Name:	Spreedly Accounting Department	Name:	
Phone:	888-727-7750	Phone:	
Email:	accounting@spreedly.com	Email:	invoices@brainly.com

Background

Spreedly develops, markets and provides to its customers a web-based payments orchestration and tokenization platform, which includes Spreedly's proprietary API integration (collectively, the "Platform"), which enables its customers to validate, tokenize and vault credit cards (and other payment types) and then transact with one or more of the payment gateways that are integrated to the Platform and/or third-party payment method receivers that Spreedly supports, and, where applicable, automatically update expired or lost credit cards (the "Permitted Use"). Customer desires to acquire a subscription to access and use the Platform for the Permitted Use, subject to the terms and conditions set forth herein.

Agreement

The Parties agree for themselves, their successors and permitted assigns as follows:

1. Definitions. As used in this Agreement, the following terms will have the meanings set forth below:

1.1. "Affiliate(s)" means any entity that is now or in the future directly or indirectly controlled by, controlling or under common control with a Party.

1.2. "Agreement" means, collectively, this Enterprise Services Agreement, the Order Form(s), the Statements of Work, the Support Services Terms, the SLA and the Data Security Policy, in each case as amended from time-to-time.

1.3. "Card Associations" means MasterCard, VISA, American Express, Discover, JCB or any other credit card brand or payment card network for or through which Spreedly processes payment card transactions.



1.4. “Card Data” means any credit card data uploaded or otherwise received from Customer by or through the Platform for the purposes of being processed within the Platform.

1.5. “Claim” means any claim, suit, action, proceeding, or investigation by a governmental body.

1.6. “Customer Data” means Card Data and any other data or information that is uploaded or otherwise received from Customer by or through the Platform for the purposes of being processed within the Platform, including the related statistics, reporting, or other derived materials.

1.7. “Documentation” means the then-current online, electronic and written user documentation and guides, and instructional videos that Spreedly makes available to Customer at: <https://docs.spreedly.com/>, which describe the functionality, components, features or requirements of the Platform, as Spreedly may update from time-to-time in Spreedly’s discretion.

1.8. “Malicious Code” means any software, hardware or other technology, device or means, including any virus, worm, malware or other malicious computer code, the purpose or effect of which is to permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (a) computer, software, firmware, hardware, system or network or (b) any application or function of any of the foregoing or the security, integrity, confidentiality or use of any data processed thereby.

1.9. “Initial Order Form” means Order Form #1 executed by Customer and Spreedly concurrently with the execution and delivery of this Agreement.

1.10. “Intellectual Property Rights” means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the Laws of any state, country, territory or other jurisdiction.

1.11. “Laws” means all laws, directives, rules and regulations.

1.12. “Losses” means any and all losses, damages, liabilities, deficiencies, judgments, settlements, costs and/or expenses (including reasonable attorneys’ fees).

1.13. “Order Form” means each order form executed by Customer and Spreedly that references this Enterprise Services Agreement, each of which is hereby incorporated into this Agreement by reference, as amended from time-to-time by the Parties.

1.14. “PCI-DSS” means the Payment Card Industry Data Security Standard.

1.15. “Professional Services” means any consulting or professional services listed under a Statement of Work that are not included as part of the Support Services. Professional Services may include training, implementation, and configuration of the Platform.

1.16. “Statement of Work” means a statement of work executed by Customer and Spreedly that references this Enterprise Services Agreement, each of which is hereby incorporated into this Agreement by reference, as amended from time-to-time by the Parties.

2. Provision and Use of the Platform.

2.1. Authorization to Use the Platform. Subject to the terms of this Agreement, Spreedly authorizes Customer and Customer Affiliates, during the Term and on a non-exclusive and non-transferable (except as permitted in Section 14.5) basis, to access and use the Platform solely for the Permitted Use. Customer acknowledges and agrees that Spreedly is not a payment gateway or merchant account provider and Spreedly does not assume any direct or indirect liability or responsibility for Customer’s agreements with payment gateways or merchant account providers supported on the Platform.

2.1.1. Customer may enter into an Order Form for any Spreedly services to be performed on behalf of a Customer Affiliate or share all or any part of this Agreement and any Confidential Information disclosed hereunder with a Customer Affiliate provided that Customer remains ultimately responsible for any obligation, financial or otherwise, of any such Customer Affiliate.

2.2. Lawful Use. Customer will access and use the Platform solely for lawful purposes and will not use it for any fraudulent, illegal or criminal purposes. Customer hereby grants Spreedly authorization to share information with law enforcement about Customer, Customer’s transactions and Customer’s Spreedly account, in each case if Spreedly reasonably suspects that Customer’s use of the Platform has been for an unauthorized, illegal, or criminal purpose; provided, however, that Spreedly shall provide prior written notice of such disclosures to Customer (to the extent legally



permissible). Further, Spreedly reserves the right to not store or submit any transaction Customer submits that Spreedly believes is in violation of this Agreement or applicable Law or otherwise exposes Spreedly or other Spreedly users to harm, including but not limited to, fraud, illegal, and other criminal acts; provided, however, that Spreedly shall provide prior written notice of such disclosures to Customer.

2.3. Limitations and Restrictions. Customer will use commercially reasonable efforts to prevent unauthorized third-party access to or use of the Platform. Customer must not do any of the following:

- 2.3.1. modify, adapt, translate or create derivative works or improvements of the Platform or any portion thereof;
- 2.3.2. rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Platform or any features or functionality of the Platform to any other person or entity for any reason, including as part of any time-sharing, service bureau or software as a service arrangement;
- 2.3.3. reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive, gain access to or discover the source code of the Platform or the underlying structure, ideas, know-how, algorithms or methodology relevant to the Platform;
- 2.3.4. input, upload, transmit or otherwise provide to or through the Platform any information or materials that are unlawful or injurious, or contain, transmit or activate any Malicious Code;
- 2.3.5. attempt to gain unauthorized access to, damage, destroy, disrupt, disable, impair, interfere with or otherwise impede or harm in any manner the Platform;
- 2.3.6. access or use the Platform in any way that infringes, misappropriates or otherwise violates any intellectual property right, privacy right or other right of any third party, or that violates any applicable Law; or
- 2.3.7. access or use the Platform for purposes of (A) [[intentionally omitted], (B) developing, producing, marketing, distributing, licensing or selling any product or service that may compete with the Platform, or (C) disclosing to Spreedly's competitors, for any purpose, Spreedly's Confidential Information. Notwithstanding the foregoing, Customer may disclose its results and achievements in connection with its use of the Platform with reference to the Spreedly name and the relationship of the Parties as contemplated by this Agreement.

2.4. Changes to the Platform. Spreedly may make any changes to the Platform (including, without limitation, the design, look and feel, functionality, content, material, information and/or services provided via the Platform) that Spreedly deems necessary or useful to improve the Platform or for any other reason, from time-to-time in Spreedly's sole discretion, and without notice to Customer; provided, however, that Spreedly will not make any such changes that will materially adversely affect its features or functionality available to Customer during the Term. Such changes may include upgrades, bug fixes, patches and other error corrections and/or new features (collectively, including related Documentation changes, "Updates"). All Updates will be deemed a part of the Platform governed by all the provisions of this Agreement pertaining thereto.

2.5. Subcontractors. Spreedly may, in Spreedly's discretion, engage subcontractors to aid Spreedly in providing the Platform and performing Spreedly's obligations under this Agreement, but Spreedly will remain liable to Customer for any act or omission by such subcontractors that would be a breach or violation of this Agreement. Spreedly may use Amazon Web Services, Microsoft Azure, Google Cloud Platform and/or such other reputable hosting provider that implements and maintains commercially reasonable security programs, policies, procedures, controls and technologies (each a "Reputable Hosting Services Provider") for cloud-based infrastructure and hosting and storage services for the Platform, and such Reputable Hosting Services Provider will host and store certain portions of Customer Data that is processed through the Platform. Customer hereby specifically approves and consents to Spreedly's use of a Reputable Hosting Services Provider in the manner described and agrees that the Reputable Hosting Services Provider's security programs, policies, procedures, controls and technologies are consistent with industry best practices and comply with the requirements of the Data Security Policy and PCI-DSS.

2.6. Beta Services. Spreedly may offer Customer access to beta services that are being provided prior to general release ("Beta Services"). Beta Services will be clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation or by a similar description. Beta Services are for evaluation purposes and not for production use, are not considered "services" under this Agreement, are not supported, and may be subject to additional terms. Spreedly may discontinue Beta Services at any time in its sole discretion and may never make them generally available. ALL BETA SERVICES ARE PROVIDED "AS-IS" AND "AS AVAILABLE," WITHOUT WARRANTIES OF ANY KIND. Spreedly will have no liability for any harm or damage arising out of or in connection with the use of Beta Services. If



Customer provides feedback ("Feedback") about the Beta Services, Spreedly will be free to use, disclose, reproduce, distribute, implement or otherwise commercialize all Feedback provided by Customer without obligation or restriction. For the Beta Services only, the terms of this Section 2.6 supersede any conflicting terms and conditions in the Agreement, but only to the extent necessary to resolve conflict.

2.7. Suspension of Services and Platform Access. Spreedly may suspend or deny Customer's access to or use of all or any part of the Platform and Support Services, without any liability to Customer or others, if (i) Spreedly is required to do so by Law or court order (with prior written notice to Customer, if legally permissible) ; or (ii) Customer has (A) failed to comply with Section 2.2 or 2.3) with prior written notice to Customer, or (B) otherwise breached a material term of this Agreement and have failed to cure such breach within ten (10) days after Spreedly provides written notice thereof to Customer. Spreedly's remedies in this Section are in addition to, and not in lieu of, Spreedly's termination rights in Section 10.

2.8. Customer Data Export; Customer Data Retention. Customer may elect at any time to perform an automatic export of any Card Data and/or other Customer Data to a third-party endpoint for which Spreedly supports third-party vaulting as set forth at: <https://docs.spreedly.com/guides/third-party-vaulting>. For any endpoint for which automatic export is not supported, Customer may request that Spreedly perform one (1) free-of-charge manual export during the Term or up to 90 days thereafter, of any Card Data or other credit card or user information associated with Customer's account to a recipient designated by Customer, provided that the recipient has proven that it is PCI-DSS compliant and the transfer is not in violation of any applicable Laws. If Customer requires additional manual exports during the Term or up to 90 days thereafter, each additional manual export will incur an export charge at Spreedly's then-current rates and as agreed upon by the parties in writing. Spreedly reserves the right to delete all of Customer's Card Data and any other Customer Data ninety (90) days after the effective date of termination of this Agreement (the "Data Transfer Window"). If Customer requires additional time to arrange the export of its Card Data to a PCI-DSS compliant third party, it may extend the Data Transfer Window for additional thirty (30) day periods by providing notice to Spreedly and continuing to pay a prorated portion of the applicable Fees set forth in the Order Forms.

3. Support Services and SLA.

3.1. Support Services. During the Term, so long as Customer complies with this Agreement, Spreedly will provide customer support services (the "Support Services") to Customer in accordance with Spreedly's Support Policy described at in Schedule A (as amended from time-to-time, the "Support Services Terms").

3.2. Availability. During the Term, so long as Customer complies with this Agreement, Spreedly will make the Platform available for access and use by Customer in accordance with Spreedly's Service Level Agreement described in Schedule B (as amended from time-to-time, the "SLA"). THE REMEDIES SPECIFIED IN THE SLA ARE CUSTOMER'S EXCLUSIVE REMEDIES, AND SPREEDLY'S SOLE OBLIGATION AND LIABILITY TO CUSTOMER, FOR ANY FAILURE TO MEET THE SLA REQUIREMENTS.

4. Professional Services. If Customer and Spreedly execute a Statement of Work for Professional Services, the following additional terms will apply:

4.1. Scope of Services; Statements of Work. Subject to the terms of this Agreement, Spreedly will perform the training, consulting, advisory, implementation, configuration, customization and/or other professional services (the "Professional Services") that are mutually agreed upon and described in one or more Statements of Work. Services purchased under a Statement of Work may be used by the Customer on behalf of itself and, at no additional expense, for the benefit of its Affiliates. Any Customer Affiliate may enter into a Statement of Work directly with Spreedly with all of the rights and interests of Customer under this Agreement and will be able to enforce the terms of this Agreement in its own name as to the performance of the applicable Statement of Work provided that Customer remains ultimately responsible for any obligation, financial or otherwise, of any such Customer Affiliate.

4.2. Personnel. Subject to Section 2.5, Spreedly reserves the right to determine which of Spreedly's personnel or subcontractors will be assigned to perform Professional Services, and to replace or reassign such personnel during the Term.

4.3. Customer Responsibilities. In connection with Spreedly's provision of the Professional Services, Customer will: (i) reasonably cooperate with Spreedly in all matters relating to the performance of the Professional Services; (ii) respond promptly to Spreedly's requests to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Spreedly to perform the Professional Services in accordance with the Statement of Work; (iii) provide the content, data and materials that Customer is required to provide as described in the Statement of Work; and (iv) perform those additional tasks and assume those additional responsibilities specified in the applicable Statement of Work ("Customer Responsibilities"). Customer understands and agrees that Spreedly's performance is dependent on Customer's timely and effective satisfaction of Customer Responsibilities.



4.4. Securing Rights. Customer will be solely responsible for securing all rights, consents, licenses or approvals to grant Spreedly access to or use of any third-party data, materials, software or technology necessary for Spreedly's performance of the Professional Services, other than with respect to any third-party materials included as part of the Platform or that Spreedly has otherwise agreed to provide as described in the Statement of Work. Spreedly will abide by the terms and conditions of such permissions, licenses or approvals, provided that Customer has provided to Spreedly written copies of such permissions, licenses or approvals prior to the commencement of the applicable Professional Services.

4.5. Ownership of Work Product. Unless Customer and Spreedly have otherwise expressly provided in a Statement of Work (including by making a specific reference to this Section 4.5), all Deliverables (as defined below) will be deemed to be a part of the Platform hereunder and therefore owned by Spreedly (pursuant to Section 8.1 below) and provided to Customer (pursuant to Section 2.1 above) under the terms of this Agreement. "Deliverables" means all results and proceeds of the Professional Services provided by Spreedly.

4.6. Acceptance of Deliverables. If Customer reasonably believes that any final Deliverable provided by Spreedly as part of Professional Services fails to conform in some material respect to the specifications set forth in the applicable Statement of Work, then Customer will provide Spreedly with a detailed written description of each alleged non-conformance within ten (10) business days after receipt of such Deliverable. In such event, Spreedly will either confirm the non-conformance and commence work on making corrections to such Deliverable without any additional cost or expense to Customer or inform Customer that Spreedly does not agree that a non-conformance exists and provide Customer with a written explanation for Spreedly's conclusion. If Spreedly does not agree that a non-conformance exists, Customer and Spreedly agree to work together in good faith to try to resolve the matter. If Spreedly does not receive a non-conformance notice from Customer within ten (10) business days after receipt of such Deliverable, such Deliverable will be deemed to be accepted under this Agreement. Each Party will provide reasonable assistance and information to one another to assist in resolving any Deliverable non-conformance issues.

5. Confidentiality.

5.1. Confidential Information. In connection with this Agreement, each Party (as the "Disclosing Party") may disclose or make available its Confidential Information to the other Party (as the "Receiving Party"). "Confidential Information" means all proprietary, non-public information or materials of any character, whether written, electronic, verbal or otherwise furnished by the Disclosing Party or its directors, officers, employees, consultants, contractors, agents or advisors that (i) is marked or otherwise identified as "Confidential" and/or "Proprietary" (or, if disclosed verbally, is reduced to writing and marked or identified as "Confidential" and/or "Proprietary" and forwarded to the other Party within thirty (30) days of oral disclosure) or (ii) should reasonably be understood from all the relevant circumstances to be of confidential or of a proprietary nature, including but not limited to, all (A) trade secrets, (B) financial information and pricing, (C) technical information, such as research, development procedures, algorithms, data, designs, and know-how, (D) individually identifiable personal information, (E) business and operational information, such as planning, marketing interests, pricing and products, and (F) customer lists and all related information. For avoidance of doubt, all non-public information related to the Platform (including without limitation, pricing information (e.g., price quotes) and the source code for the Platform and the methods, algorithms, structure and logic, technical infrastructure, techniques and processes used by Spreedly in developing, producing, marketing and/or providing the Platform) are Spreedly's Confidential Information, Customer Data is Customer's Confidential Information, and the terms of this Agreement and any Order Form or Statement of Work are the Confidential Information of both Parties.

5.2. Exclusions. Confidential Information of a Disclosing Party does not include information that the Receiving Party can demonstrate by written or other documentary records: (i) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with this Agreement; (ii) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' (as defined in Section 5.3 below) noncompliance with this Agreement; (iii) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; (iv) was or is independently developed by the Receiving Party without reliance upon any Confidential Information; or (v) to the extent it was or is independently developed by the Receiving Party with use of or reliance upon Residual Information (as defined below).

5.3. Protections. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party will: (i) not use the Disclosing Party's Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement; (ii) except as may be permitted under the terms and conditions of Section 5.4 below, not disclose or permit access to such Confidential Information other than to its affiliates and its affiliates' respective officers, employees, directors, attorneys, accountants, professional advisors, contractors, subcontractors, agents and/or consultants (collectively, its "Representatives") who: (x) need to know such



Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; and (y) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Agreement; (iii) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its own Confidential Information and in no event less than a reasonable degree of care; and (iv) promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information of which it becomes aware and take all reasonable steps to prevent further unauthorized use or disclosure. Each Party will be liable for any breach of this Agreement by its Representatives to whom it discloses Confidential Information.

5.4. Legally Required Disclosures. If a Receiving Party or one of its Representatives is required by any Law, rule or order of any governmental body or agency, or as otherwise necessary to maintain or comply with any regulatory certifications or requirements, to disclose any Confidential Information, such Receiving Party (i) will, to the extent legally permissible, give the Disclosing Party prompt notice of such request so that the Disclosing Party may (at its own expense) seek an appropriate protective remedy, and (ii) will, and will cause its Representatives to, cooperate with the Disclosing Party (at the Disclosing Party's expense) in the Disclosing Party's efforts to obtain any such protective remedy. In the event that the Disclosing Party is unable to obtain such a protective remedy, the Receiving Party or its Representatives, as applicable, will (A) furnish only that portion of the Confidential Information that the Receiving Party or its Representatives is required to disclose in the opinion of the Receiving Party's or its Representatives' outside counsel, (B) exercise reasonable efforts to assist the Disclosing Party (at the Disclosing Party's expense) in obtaining assurances that confidential treatment will be accorded the Confidential Information so required to be disclosed, and (C) give notice to the Disclosing Party of the information to be disclosed as far in advance of disclosure of the same as is reasonably possible and legally permissible.

5.5. Ownership. All Confidential Information will remain at all times the sole and exclusive property of the Disclosing Party and the Receiving Party will not acquire any rights in or to such Confidential Information by reason of its disclosure to the Receiving Party hereunder.

6. Data Protection and Privacy.

6.1. Data Security. During the Term, Spreadly will implement safeguards to protect against anticipated threats or hazards to the security, confidentiality or integrity of Customer Data in accordance with Spreadly's Data Security Policy described in Schedule C, as amended from time-to-time (the "Data Security Policy").

6.2. Data Privacy. In the event that the Parties enter into an Order Form and/or SOW whereby Spreadly collects, accesses, processes, stores, transfers, transmits, uses, discloses or otherwise handles any Customer Data that includes "personal information," "personal data" or "personally identifiable information" as defined under applicable law (collectively "Personal Information"), Spreadly will store, use and otherwise process such Personal Information in all material respects in accordance with all applicable laws relating to the privacy and protection of the Personal Information involved ("Data Privacy Laws"), including but not limited to the California Consumer Privacy Act of 2018 and its implementing regulations (as amended, restated or supplemented from time to time, "CCPA") where applicable. Spreadly will not access, use, handle, maintain, process, dispose of, or disclose Personal Information other than as permitted or required under this Agreement or Data Privacy Laws. Spreadly will limit dissemination of Personal Information to its employees and subcontractors who (i) need to know the information to enable Spreadly to perform its obligations or exercise its rights under this Agreement, and (ii) are bound by confidentiality obligations substantially equivalent to those provided for in this Agreement. Upon Customer's written request Spreadly will cooperate with Customer as may be reasonably required to enable Customer to comply with Data Privacy Laws, including by reasonably assisting Customer in complying with individuals' rights in regards to their Personal Information under Data Privacy Laws. In furtherance of the foregoing, based on the Customer Data that Customer will process using the Platform or otherwise provide to Spreadly, if and to the extent Data Privacy Laws require additional clauses to be executed by Spreadly beyond those set forth in this Agreement, then Customer will notify Spreadly in writing of such requirement and Spreadly will in good faith review, negotiate and consider adding such clauses as an addendum to this Agreement. In the absence of such notice Customer represents and warrants that no additional clauses are required.

6.3. CCPA Service Provider Compliance. Spreadly and Customer both agree that Customer is a business and Spreadly is a service provider under CCPA. Spreadly will: (i) not retain, use or disclose personal information for any purpose (including any commercial purpose) other than for the specific purpose of providing the Platform and performing the Support Services and Professional Services contemplated by this Agreement; (ii) not retain, use or disclose personal information outside of the direct business relationship between Customer and Spreadly; and (iii) not sell the personal information to any third parties. Spreadly certifies that it understands and will comply with the restrictions, duties and obligations set forth in this Section 6.3. In the event that any consumer makes a request directly



to Spreedly with respect to exercising its privacy rights under CCPA, Spreedly will promptly notify Customer and provide Customer with a copy of the consumer request, inform the consumer that the consumer's request cannot be acted upon because the request has been sent to a service provider, provide Customer with a copy of such response, and reasonably cooperate with Customer in its efforts to respond and act on the consumer's request in accordance with the requirements of CCPA, in each case unless legally prohibited from doing so. As permitted and provided by CCPA, nothing in this Section 6.3 will prohibit Spreedly from retaining, using or disclosing the personal information in connection with: (z) retaining or employing another service provider as a subcontractor, provided the subcontractor meets the requirements for a service provider under CCPA; (y) Spreedly's internal use to build or improve the quality of its Platform or services, provided that the use does not include building or modifying household or consumer profiles for use in providing services to another business, or correcting or augmenting data acquired from another source; (x) detecting data security incidents, or protecting against fraudulent or illegal activity; (w) complying with applicable laws; (v) complying with a civil, criminal or regulatory inquiry, investigation, subpoena, or summons by governmental authorities; (u) cooperating with law enforcement agencies concerning conduct or activity that Spreedly, Customer or a third party reasonably and in good faith believes may violate applicable law; or (t) exercising or defending legal claims. For purposes of this Section 6.3, the terms "business," "commercial purpose," "consumer," "personal information," "processing," "sell" and "service provider" will have the meanings given to such terms in CCPA.

7. Fees and Payment.

7.1. Fees. Customer will pay to Spreedly the fees and charges described in each Order Form and Statement of Work entered into by Customer and Spreedly (the "Fees") in accordance with such Order Form or Statement of Work and this Section 7. All purchases are final, all payment obligations are non-cancelable and (except as otherwise expressly provided in this Agreement or in the applicable Order Form or Statement of Work) all Fees once paid are non-refundable.

7.2. Taxes. If Spreedly is required by law to pay, withhold or deduct any taxes, levies, imports, duties, charges, fees or other amounts from Customer's payments, such amounts will be invoiced to and paid by Customer in addition to the Fees, unless Customer provides Spreedly with a valid exemption certificate from the corresponding authority. If Customer is required by law to withhold or deduct any portion of the Fees due to Spreedly (a "Customer Withholding"), Spreedly will be entitled to "gross-up" the applicable Fees in an amount equal to the Customer Withholding so that Spreedly receives the same Fees it would have received but for the withheld amounts required by law. Customer remains liable for the payment of all such Customer Withholdings, however designated, that are levied or based on Customer's use of the Platform.

7.3. Payment. Customer will make all payments in US dollars. Unless otherwise set forth in an applicable Order Form or Statement of Work, all invoiced amounts are due net thirty (30) days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information and notifying Spreedly of any changes to that information.

7.4. Late Payment. If Customer fails to make any undisputed payment when due then, in addition to all other remedies that may be available to Spreedly (including Spreedly's rights under Section 2.7 and Section 9.3), Spreedly may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law.

8. Ownership and Intellectual Property Rights.

8.1. Platform and Documentation. Customer acknowledges and agrees that Spreedly owns all right, title and interest in and to the Platform and the Documentation, including all Intellectual Property Rights therein and all derivative works thereof. Spreedly is not granting Customer any right, license or authorization with respect to the Platform or the Documentation, except as specifically provided in Section 2.1 above (and subject to the limitations and restrictions in Section 2.3 above). Spreedly reserves all rights not expressly granted to Customer in this Agreement.

8.2. Customer Data. As between Customer and Spreedly, Customer is and will remain the sole and exclusive owner of all right, title and interest in and to all Customer Data, including all Intellectual Property Rights therein, subject to the rights Customer grants to Spreedly in this Section 8. During the Term, Customer hereby grants to Spreedly and its subcontractors all such rights and permissions in or relating to Customer Data as are necessary to: (i) provide the Platform to Customer; and (ii) enforce this Agreement and exercise Spreedly's rights and perform Spreedly's obligations under this Agreement.

8.3. Improvements. To the extent Spreedly makes any improvements to the Platform based upon Customer's use of the Platform, Customer agrees that Spreedly exclusively owns all right, title and interest in and to such improvements, including all related Intellectual Property Rights.



8.4. Usage Data. Customer acknowledges and agrees that Spreedly may collect metadata and other statistical information regarding Customer's use of and the performance of the Platform ("Usage Data"). Usage Data does not contain and is not derived from Customer Data. Customer agrees that Spreedly may use Usage Data in connection with providing Support Services to Customer and for Spreedly's internal business purposes (such as monitoring, enhancing and improving the Platform), and that Spreedly may publish and share with third parties aggregated Usage Data that cannot, by itself or with other data, directly or indirectly, identify Customer, Customer's customers or clients or any other individual or entity or may be attributed to Customer's Confidential Information.

8.5. Publicity Rights. During the Term, Customer agrees that Spreedly may, with the prior written consent from Customer in each instance, include Customer's name, trademarks and logos on Spreedly's website and in other sales and marketing materials in order to factually identify Customer as a current customer.

9. Term and Termination.

9.1. Term. Unless otherwise terminated in accordance with this Agreement, the initial term of this Agreement will be for the duration specified in the Initial Order Form (the "Initial Term"). Thereafter, this Agreement will automatically renew for successive renewal terms (each, a "Renewal Term" and, together with the Initial Term, the "Term"), subject to, and in accordance with, the terms of the Initial Order Form. Unless otherwise mutually agreed upon by the Parties, the term of each additional Order Form will be the same as the term set forth in the Initial Order Form.

9.2. Termination. In addition to any other termination rights described in this Agreement, this Agreement may be terminated at any time by either Party, effective when that Party provides written notice to the other Party: (i) at any time that there are no active and outstanding Order Forms and Statements of Work; and (ii) if the other Party materially breaches the terms of this Agreement (including, for avoidance of doubt, the terms of any Order Form or Statement of Work incorporated herein) and such breach remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice regarding such breach.

9.3. Effect of Termination. The exercise of any right of termination under this Agreement will not affect any rights of either Party (including rights to payment or reimbursement) that have accrued prior to the effective date of termination and will be without prejudice to any other legal or equitable remedies to which a Party may be entitled. If this Agreement is terminated or expires, then: (i) Spreedly will immediately discontinue Customer's access to the Platform; (ii) Customer will complete all pending transactions and stop accepting new transactions through the Platform; (iii) Customer will discontinue use of any Spreedly trademarks and immediately remove any Spreedly references and logos from Customer's website; and (iv) each Party will promptly return to the other or, if so directed by the other Party, destroy all originals and copies of any Confidential Information of the other Party (including all notes, records and materials developed therefrom).

9.4. Surviving Terms. Sections 1 (Definitions), 2.8 (Customer Data Export), 5 (Confidentiality), 7 (Fees and Payment), 8 (Ownership and Intellectual Property Rights), 9.3 (Effect of Termination), 10.c (Disclaimer of Warranties), 11 (Indemnification), 13 (Limitations of Liability), 14 (Miscellaneous) and this Section 9.4 will survive any expiration or termination of this Agreement.

10. Representations and Warranties.

10.1. Mutual Representations. The Parties each represent and warrant as applicable that: (i) 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; (ii) it has the full right, power and authority to enter into and perform its obligations under this Agreement; (iii) the execution of an Order Form by its representative has been duly authorized by all necessary corporate or organizational action of Customer; and (iv) when executed and delivered by both Parties, the Agreement will constitute the legal, valid and binding obligation of Customer, enforceable against Customer in accordance with its terms

10.2. Customer Representations. Customer represents and warrants that: (i) it will not use the Platform, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of the Platform; (ii) Customer's use of the Platform and its collection and use of all of Customer Data (including Customer's processing of Customer Data and/or any card authorization, credit, ticket only, capture or settlement request, decline transaction, or other related transaction, completed or submitted under Customer's account) will comply with (A) all applicable Laws, (B) the terms of service of the payment gateways, merchant service providers and/or API endpoints Customer connects with on the Platform; (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 of the payment networks including Visa, MasterCard, American Express, Discover Financial Services, and any affiliates thereof or any other payment network applicable to this Agreement; (D) PCI-DSS and PA-DSS, as applicable; and (E) any regulatory body or agency having jurisdiction over the subject matter thereof; (iii) Customer either owns, or has all rights, permissions



and consents that are necessary to process, and to permit Spreedly, its subcontractors and the Platform to process as contemplated in this Agreement, all Customer Data and the credit card transaction related thereto; (iv) Spreedly's and its subcontractors' access to and use of Customer Data (including, for the avoidance of doubt, the Card Data and all personal data included with Customer Data) as contemplated by this Agreement does not and will not violate any applicable Law or infringe, misappropriate or otherwise violate any Intellectual Property Right, privacy right or other right of any third party; (iv) it will not use the Platform, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of the Platform.

10.3. Spreedly Representations. Spreedly represents and warrants that:

- 10.3.1. it 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;
- 10.3.2. it will (A) be compliant with PCI-DSS and all other applicable standards and guidelines issued by the PCI Security Standards Council, LLC, (the "Council"); (B) validate its PCI-DSS compliance as required by the applicable Card Rules; (C) undergo annual PCI-DSS assessments by a Qualified Security Assessor; and (D) notify Customer if it becomes aware that it is no longer in compliance with PCI-DSS. Spreedly will provide proof of its PCI-DSS compliance to Customer upon request and evidence of its successful completion of its annual assessments on its website (currently available at <https://www.spreedly.com/pci>);
- 10.3.3. the Platform will perform in all material respects in accordance with the functional specifications set forth in the applicable Documentation. If Spreedly breaches this warranty, as Spreedly's sole obligation and liability to Customer and Customer's sole and exclusive remedy, Spreedly will, at its option: (a) promptly correct any portion of the Platform that fails to meet this warranty; (b) provide Customer with a reasonable procedure to circumvent the nonconformity; or (c) refund to Customer on a *pro rata* basis the share of any Fees prepaid by Customer for the portion of the applicable Term in which the Platform is non-conforming;
- 10.3.4. it will perform all Professional Services in a professional and workmanlike manner in accordance with the highest recognized industry standards in Spreedly's field. If Spreedly breaches this warranty, as Spreedly's sole obligation and liability to Customer and Customer's sole and exclusive remedy, Spreedly will promptly re-perform the non-conforming Services at no additional cost to Customer.

10.4. Disclaimer of Warranties. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN THIS AGREEMENT, THE PLATFORM AND ALL SERVICES PROVIDED BY SPREEDLY HEREUNDER ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND SPREEDLY HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, NEITHER SPREEDLY NOR ANYONE ASSOCIATED WITH SPREEDLY, INC. REPRESENTS OR WARRANTS THAT THE PLATFORM WILL BE RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED OR THAT THE PLATFORM WILL OTHERWISE MEET CUSTOMER'S NEEDS OR EXPECTATIONS.

11. Indemnification.

11.1. Spreedly Indemnification. Spreedly will defend Customer from and against any Claims brought by a third party, and will indemnify and hold Customer harmless from any Losses associated with such third party Claims arising from: (i) an allegation that the Platform (excluding Customer Data) infringes any U.S. patent, copyright or trademark of such third party, or misappropriate the trade secret of such third party (each, an "Infringement Claim"); (ii) a "Data Incident" (as defined in Schedule C attached hereto) that is related to Spreedly's data protection obligations hereunder; or (iii) Spreedly's failure to remain compliant with PCI-DSS or its violation of applicable law or regulation.

11.2. Customer Indemnification. Customer will defend Spreedly and Spreedly's subcontractors and personnel from and against any Claims brought by a third party, and Customer will indemnify and hold Spreedly and Spreedly's subcontractors and personnel harmless from any Losses associated with such third party Claims, in each case to the extent the same are based on (i) Customer's use of the Platform in violation of the terms of this Agreement and/or any applicable Law, and/or (ii) Customer's breach of Section 5 (Confidentiality).

11.3. Indemnification Process. Each Party will promptly notify the other Party in writing of any Claim for which such Party believes it is entitled to be indemnified pursuant to Section 11.1 or 11.2. The Party seeking indemnification



(the "Indemnitee") will cooperate with the other Party (the "Indemnitor") at the Indemnitor's sole cost and expense. The Indemnitor will promptly assume control of the defense and investigation of such Claim and will employ counsel of its choice to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee's failure to perform any obligations under this Section 11.3 will not relieve the Indemnitor of its obligations under this Section 11 except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The Indemnitor will not enter into any settlement that imposes any liability or obligation on the Indemnitee without the Indemnitee's prior written consent.

11.4. Additional Terms for Infringement Claims.

- 11.4.1. Spreedly will have no liability or obligation with respect to any Infringement Claim to the extent based upon or arising out of: (A) access to or use of the Platform in combination with any hardware, system, software, network or other materials or service not provided or otherwise approved by Spreedly; (B) use of the Service in the practice of a process or system other than that for which it was intended or otherwise approved by Spreedly; or (C) any action taken by Customer relating to use of the Platform that is outside the scope of the rights and authorizations granted or otherwise in breach of this Agreement and/or any applicable Order Form.
- 11.4.2. If the Platform is, or in Spreedly's opinion is likely to be, the subject of an Infringement Claim, or if Customer's use of the Platform is enjoined or threatened to be enjoined, Spreedly may, at Spreedly's option and Spreedly's sole cost and expense: (A) obtain the right for Customer to continue to use the allegedly infringing Platform as contemplated by this Agreement, (B) modify or replace the allegedly infringing Platform to make the Platform (as so modified or replaced) non-infringing, or (C) if Spreedly determine the remedies in clauses (A) and (B) are not commercially reasonable, then Spreedly may terminate the applicable Order Form upon written notice and without any liability to Customer and Spreedly will promptly refund to Customer on a *pro rata* basis the share of any Fees prepaid by Customer for the future portion of the applicable Term that would have remained but for such termination.
- 11.4.3. THIS SECTION 11 SETS FORTH CUSTOMER'S EXCLUSIVE REMEDIES, AND SPREEDLY'S SOLE OBLIGATION AND LIABILITY TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT THE PLATFORM (INCLUDING CUSTOMER'S USE THEREOF) INFRINGES, MISAPPROPRIATES OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

12. Insurance. During the Term, Spreedly will maintain (i) commercial general liability insurance with at least \$1,000,000 per occurrence and (ii) "errors and omission" (tech and cyber coverage) insurance in an amount not less than \$5,000,000. Upon Customer's request, Spreedly will provide Customer with a certificate of insurance evidencing the same.

13. Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOST PROFITS, LOSS OF ANTICIPATED SAVINGS, WASTED EXPENDITURE, LOSS OF BUSINESS OPPORTUNITIES, REPUTATION OR GOODWILL, LOSS OR CORRUPTION OF DATA, 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 AND ON ANY THEORY OF LIABILITY. THE TOTAL AND CUMULATIVE LIABILITY OF A PARTY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED TWO (2) TIMES THE AMOUNT OF FEES PAID TO SPREEDLY BY CUSTOMER DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING SUCH CLAIM OR \$500,000 WHICHEVER IS HIGHER, PROVIDED HOWEVER, THAT THIS LIMIT ON LIABILITY WILL NOT APPLY TO THE EXTENT THE LIABILITY IS A DIRECT RESULT OF THE FRAUDULENT, CRIMINAL OR GROSSLY NEGLIGENT OR MORE CULPABLE ACTS OR OMISSIONS OF THAT PARTY, FRAUDULENT REPRESENTATION, DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE OR ANY MATTER FOR WHICH IT WOULD BE UNLAWFUL FOR THE PARTIES TO EXCLUDE LIABILITY. THE LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. NOTWITHSTANDING THE FOREGOING, SPREEDLY'S TOTAL AND CUMULATIVE LIABILITY WITH RESPECT TO ITS DATA OBLIGATIONS HEREUNDER WILL NOT EXCEED \$1,000,000.

14. Miscellaneous.

14.1. Entire Agreement. This Agreement and each Order Form and Statement of Work constitute the entire agreement, and supersede all prior negotiations, understandings or agreements (oral or written), between the Parties regarding the subject matter of this Agreement (and all past dealing or industry custom).



14.2. Amendment, Severability and Waiver. No change, consent or waiver under this Agreement will be effective unless in writing and signed by the Party against which enforcement is sought. Any delay or failure of either Party to enforce its rights, powers or privileges under this Agreement, at any time or for any period, will not be construed as a waiver of such rights, powers and privileges, and the exercise of one right or remedy will not be deemed a waiver of any other right or remedy. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

14.3. Governing Law and Venue. This Agreement will be deemed to have been made in and will be governed by and construed in accordance with the laws of, the State of New York, without regard to its conflicts of law provisions.

14.4. Notices. All notices, instructions, requests, authorizations, consents, demands and other communications hereunder will be in writing and will be delivered by one of the following means, with notice deemed given as indicated in parentheses: (i) by personal delivery (when actually delivered); (ii) by overnight courier (upon written verification of receipt); (iii) by email (upon confirmation of receipt); or (iv) by certified or registered mail, return receipt requested (upon verification of receipt). In each case, such notices will be addressed to a Party at such Party's address set forth in the Initial Order Form (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 14.4).

14.5. Assignment. Neither Party may assign, delegate or otherwise transfer its rights or obligations under this Agreement without the prior written consent of the other Party; provided 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 such Party to which this Agreement pertains, whether by merger, reorganization, acquisition, sale or otherwise. This Agreement will be binding upon, and inure to the benefit of, the successors and permitted assigns of the Parties.

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

14.7. 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 will have authority to contract for or bind the other Party in any manner whatsoever.

14.8. Force Majeure. Neither Party will be liable for any delays or non-performance of its obligations arising out of actions or decrees of governmental authorities, criminal acts of third parties, epidemics and/or pandemics as designated by governing authorities, earthquakes, flood, and other natural disasters, war, terrorism, acts of God, or fire, or other similar causes not within such Party's reasonable control (each, a "Force Majeure Event"). In the event of any failure or delay caused by a Force Majeure Event, the affected Party will give prompt written notice to the other Party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event. 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.

14.9. Equitable Remedies. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 2.c (Limitations and Restrictions), Section 5 (Confidentiality) or Section 8 (Intellectual Property Rights) of this Agreement may 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. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

14.10. Conflict in Terms. If there is a conflict between this Agreement and any Order Form or Statement of Work, the terms of such Order Form or Statement of Work will govern the provision of the Platform or the Professional Services involved; provided, however, that nothing in an Order Form or Statement of Work may modify or supersede anything in Sections 2.3 (Limitations and Restrictions), 4.5 (Ownership of Work Product), 8 (Ownership and Intellectual Property Rights), 10 (Representations and Warranties), 11 (Indemnification), 13 (Limitation of Liability), or 14 (Miscellaneous) of this Agreement unless an express cross-reference is made to the relevant provision of this Agreement in the applicable Order Form or Statement of Work and the Parties have expressly agreed in such Order Form or Statement of Work to modify or alter the relevant provision of this Agreement.



14.11. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

[Signatures on Next Page]



CONFIDENTIAL

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

Spreedly, Inc.

("Spreedly")

DocuSigned by:

6793B5D8E8EC48E
Authorized Signature

Justin Benson

Print Name

CEO

Title

6/6/2022

Date

Brainly sp. z o.o.

("Customer")

Authorized Signature

Denise Ho

Print Name

Director

Title

June 6, 2022

Date



**SCHEDULE A****Support Services Terms**

Spreedly will provide email support Monday through Friday between 3:00 am and 9:00 pm (US Eastern time zone). Customer and its employees and consultants can contact Spreedly at support@spreedly.com with questions about the Platform, to report errors or other problems with the Platform, or to otherwise request support or assistance with respect to the Platform. Spreedly will maintain a sufficient number of Spreedly support staff to ensure timely responses to emails from Customer and to otherwise satisfy Spreedly's obligations under this Schedule.

Spreedly will make Updates to the Platform available to Customer on a regular basis. In addition, Spreedly will troubleshoot and resolve errors related to the Platform in accordance with the following table:

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

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



SCHEDULE B

Service Level Agreement

The Transaction Processing Service (as defined below) will be available 99.95%, measured monthly, excluding scheduled maintenance. For purposes hereof, “**Transaction Processing Service**” means Spreedly’s core API responsible for processing Customer’s payment transaction requests and does not include any beta features or non-payment transaction Spreedly services such as dashboard reporting. For purposes of calculations, the following will apply:

- “Availability” means that the services are up and running, accessible by Customer and its end users, without interruption or undue delay.
- Any downtime resulting from outages of third-party connections or utilities or other reasons beyond Spreedly’s control will be excluded from any such calculation.
- Any unavailability resulting from Spreedly’s right to suspend the Service in accordance with the terms of the Agreement will be excluded from any such calculation.
- Downtime will begin to accrue as soon as the Transaction Processing Service is unavailable to Customer and/or its end users and continues until the availability of the Transaction Processing Service is restored.
- Spreedly will give no less than 5 business days prior written notice to Customer of all scheduled maintenance. Spreedly will perform scheduled maintenance in such a way that any interruption of the Transaction Processing Service is kept to a minimum and will provide a maintenance window during which the scheduled maintenance will be carried out (which will not exceed 60 minutes individually or 24 hours in the aggregate in any month).

In the event of a failure to comply with foregoing service level for a given calendar month (a “Service Level Failure”), Spreedly will issue a credit to Customer (each, a “Service Credit”) in the following amounts based on the availability for the applicable calendar month (as follows):

Monthly Availability Percentage	Credit Percentage
Less than 99.95% but greater than or equal to 99.90%	5% of 1/12 th of Base Annual Fee
Less than 99.90% but greater than or equal to 99.80%	10% of 1/12 th of Base Annual Fee
Less than 99.80% but greater than or equal to 99.70%	15% of 1/12 th of Base Annual Fee
Less than 99.70%	20% of 1/12 th of Base Annual Fee

Service Credits may not be redeemed for cash and will be applied to Customer’s next applicable payment of Base Annual Fee. The issuance of Service Credits sets forth Spreedly’s sole obligation and liability and Spreedly’s sole remedy for any Service Level Failure.

Notwithstanding the foregoing, Spreedly has no obligation to issue any Service Credit unless Customer requests such Service Credit in writing within ten (10) days of the Service Level Failure.



SCHEDULE C

Data Security Policy

This Data Security Policy describes Spreadly's standard information security controls and is hereby incorporated into and made a part of the Enterprise Service Agreement between the Parties. Any capitalized terms used but not defined herein will have the meaning described in the Agreement. In the event of any conflict between the terms of the Agreement and this Data Security Policy, this Data Security Policy will govern with respect to the security measures in place for Customer Data.

A. Definitions.

A.1. "Data Incident" means a breach of Spreadly's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Data on the Platform. "Data Incidents" exclude unsuccessful attempts or activities that do not compromise the security of Customer Data, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, and other network attacks on firewalls or networked systems.

A.2. "Security" means Spreadly's technological, physical, administrative and procedural safeguards, including without limitation, policies, procedures, guidelines, practices standards, controls, hardware, software, firmware and physical security measures, the function or purpose of which is, in whole or part, to: (a) protect the confidentiality, integrity or availability of Customer Data and the Platform; (b) prevent the unauthorized use of or unauthorized access to the Platform; or (c) prevent a breach or malicious infection of Customer Data.

B. Data Security.

B.1. Security Controls. Spreadly uses industry-accepted technological, physical, administrative, procedural safeguards, methods and products, including without limitation, policies, procedures, guidelines, practices standards, controls, hardware, software, firmware and physical security measures, the function or purpose of which is to: (a) protect the confidentiality, integrity or availability of Customer Data and the Platform; and (b) prevent the unauthorized use of or unauthorized access to the Platform. Spreadly agrees that beginning on the Effective Date of the Agreement, Spreadly will employ and maintain, at a minimum, the reasonable and appropriate security controls listed in Attachment A attached hereto and incorporated by reference.

B.2. Data Ownership and Use Limitations. As between Spreadly and Customer, Customer is the owner of any and all Customer Data, including information provided by Customer's clients, customers or users, and Spreadly will have no ownership rights or interest in the Customer Data. Spreadly will use, process and handle Customer Data solely for the purpose of providing services under the Agreement and only per the instructions of Customer.

B.3. Data Deletion. Upon termination of the Agreement for which Spreadly is processing Customer Data, Spreadly will, upon Customer's request and subject to the limitations described in the Agreement, delete Customer Data in accordance with the procedures and timeframes specified in the Agreement.

B.4. Data Tokenization. Tokenization is a process by which the primary account number (PAN) is replaced with a surrogate value called a token. Tokenization promotes security and efficiency between the Platform and connected payment gateways. When available, Spreadly may at its sole discretion tokenize applicable Customer Data for use within the Platform.

B.5. Third-Party Audit and Compliance. Spreadly undergoes annual PCI-DSS assessments by a Qualified Security Assessor and annual SOC 2 Type 2 audits performed by an external third-party. The copy of the most recent Attestation of Compliance with PCI-DSS is available at www.spreadly.com/pci and Spreadly will provide a copy of its most recent SOC 2 Type 2 upon Customer's request.

B.6. Use of Subcontractors. Prior to utilizing any subcontractor, vendor, or other third party, Spreadly will conduct a reasonable, documented investigation of such third party to ensure the third party can comply with the privacy, confidentiality and security requirements of Customer Data that are at least as protective of Customer Data as the requirements imposed on Spreadly under this Data Security Policy.

B.7. Additional Controls. Spreadly may update the security controls in Exhibit A from time to time upon notice to Customer and implement and maintain additional security controls in the event of any material changes to the Platform, available technology or systems, provided that such changes or additional controls will not materially reduce Spreadly's obligations under this Data Security Policy. In the event of any material change (including changes due to a change in applicable Law) which requires a change to all or a significant part of the security controls, services or the



Platform, the parties agree to make appropriate adjustments to the terms of the Agreement utilizing the amendment process.

C. Data Incident Response.

C.1. Response Actions. In the event of a Data Incident, Spreedly will:

- C.1.1. promptly conduct a reasonable investigation of the reasons for and circumstances of such Data Incident;
- C.1.2. take all reasonably necessary actions to prevent, contain, and mitigate the impact of, such Data Incident, and remediate such Data Incident;
- C.1.3. provide notice to Customer using the contact information identified in the most recent Order Form without undue delay and in any event within twenty-four (24) hours after the Spreedly confirms such Data Incident;
- C.1.4. promptly, and in no event more than two (2) Business Days after the Spreedly provides notice of a Data Incident provide a written report to Customer providing all relevant details concerning such Data Incident;
- C.1.5. collect and preserve all evidence concerning the discovery, cause, vulnerability, remedial actions and impact related to such Data Incident; and
- C.1.6. document the incident response and remedial actions taken in detail.

C.2. Data Incident Notice. Spreedly hereby authorizes Customer, in Customer's sole and absolute discretion, to provide notice of, and reasonably required information and documents concerning, any Data Incident, to third parties, including without limitations individuals or entities that may have been impacted by the breach.

C.3. Security Contacts. The following individuals will be the primary contacts for purposes of any coordination, communications or notices with respect to this Schedule, or any Data Incident:

Customer Security Contact:	Spreedly Security Contact:
Name: Marcin Maslowski	Name: Jennifer Rosario
Telephone:	Telephone: 888-727-7750
Email: marcin.maslowski@brainly.com	Email: security@spreedly.com

Each party will promptly notify the other if any of the foregoing contact information changes.

D. Monitoring and Reporting.

D.1. Records; Maintenance. Spreedly will, consistent with PCI-DSS and its security obligations in this Schedule and the Agreement, collect and record information, and maintain logs, planning documents, audit trails, records and reports, concerning its security, its compliance with this Schedule, Laws, Data Incidents, its storage, processing and transmission of Customer Data and the accessing and use of Customer Data on the Platform.

D.2. Customer Assessments. Upon reasonable notice to Spreedly, once per year during the Term, Customer (or any vendor selected by Customer subject to the conditions in this Schedule), may at Customer's sole cost, undertake an assessment and audit of security and Spreedly's compliance with this Schedule. The scope of such assessments and audits, will be mutually agreed between the Spreedly and the Customer, but may include Spreedly's security practices and procedures.

D.3. Security Coordinator. Spreedly will assign a dedicated account manager that will act as the liaison between Customer and Spreedly to communicate compliance with this Schedule, coordinate Data Incident response and remedial action, and provide notice, reporting and other actions and duties as set forth in the Agreement. The Spreedly will ensure that such individual is sufficiently trained, qualified and experienced to be able to fulfill these functions and any other related functions that might reasonably be expected to be carried out under this Schedule.

D.4. Information Requests.

- D.4.1. Spreedly will cooperate with Customer in responding to any party, non-party, or government or public authority request or demand made to Customer for information related to the services under the Agreement (including metadata). In the event that such requests are



served on Customer, Spreedly will provide Customer with access to such information in the format in which it is maintained in the ordinary course of business (or, on Customer's request, in any format necessary to satisfy such request).

- D.4.2. In the event a request or demand by any party, non-party, or government or public authority (in the form of a subpoena, court order or otherwise) is provided to or served on Spreedly for information related to the services under the Agreement (including Customer Data and metadata), Spreedly will, to the extent it may legally do so, promptly notify Customer's security contact (as specified in subsection 3.3) in writing by electronic mail.

E. Cooperation and Coordination. Spreedly agrees to reasonably cooperate and coordinate with Customer concerning: (a) Customer's investigation, enforcement, monitoring, document preparation, notification requirements and reporting concerning Data Incidents and Spreedly's and Customer's compliance with Privacy Laws; and (b) any other activities or duties set forth under this Schedule for which cooperation between Customer and Spreedly may be reasonably required.

F. Survival. Spreedly's obligations and Customer's rights in this Schedule will continue as long as Spreedly, or a third party for or on Spreedly's behalf, controls, possesses, stores, transmits or processes Customer Data, including after expiration or termination of the Agreement.

G. Data Processing Agreement. At the request of the Customer, Spreedly will enter into a data processing agreement that incorporates the European Commission Standard Contractual Clauses between Controllers and Processors, in accordance with the Agreement (or any similar agreement with respect to non-European Union countries) with Customer and its affiliates in order to allow Customer to be transferred to Spreedly and any Spreedly Affiliate.



Attachment A: Specific Security Controls

Security Controls	
Information Security Governance	<p>A comprehensive information security program including a policy written in one or more readily accessible parts that: (1) contains technical, physical, administrative and procedural controls to provide for the security, confidentiality, integrity and availability of Personal Information and supplier systems; (2) protect against hazards or threats and unauthorized access or use of Personal Information; (3) controls identified risks; (4) addresses access, retention and transport of Personal Information, and (5) acceptable use.</p> <p>Designate an individual to manage and coordinate its written security policy and who is sufficiently trained, qualified and experienced to be able to fulfill those functions and any other functions that might reasonably be expected to be carried out by the individual as a security manager or officer.</p>
Asset Management	<p>Mechanisms exist to inventory system components that: (1) Accurately reflects the current system; (2) Is at the level of granularity deemed necessary for tracking and reporting; and (3) Includes organization-defined information deemed necessary to achieve effective property accountability.</p> <p>All corporate laptops are full disk encrypted and wiped per industry standards when decommissioned.</p> <p>All infrastructure equipment housing Customer Data resides within certified third-party data centers within AWS. AWS currently uses the techniques detailed in NIST 800-88 ("Guidelines for Media Sanitization") as part of the decommissioning process.</p>
Business Continuity and Disaster Recovery	Plans and regular exercises to address business continuity of key people and processes along with disaster recovery plans for critical technology resiliency.
Change Management	Mechanisms exist to govern the technical configuration change control processes. Prior to implementing changes to the Platform Spredly will assess the potential impact of such changes on Security and determine whether such changes are consistent with existing Security. No changes to the Platform or Security should be made which increase the risk of a Security Incident or which would cause a breach of the Schedule.
Cloud Security	Mechanisms exist to facilitate the implementation of cloud management controls to ensure cloud instances are secure and in-line with industry practices.
Compliance	Mechanisms exist to facilitate the identification and implementation of relevant legislative statutory, regulatory, and contractual controls.
Configuration Management	Mechanisms exist to develop, document and maintain secure baseline configurations for technology platforms that are consistent with industry-accepted system hardening standards.
Continuous logging and monitoring	Mechanisms exist to ensure that all systems used to store Customer Data are logged, monitored, and reviewed regularly.
Cryptographic Protections	Spredly will encrypt all sensitive cardholder data using appropriate encryption technology wherever it is stored or transmitted. Spredly will use only strong, public encryption algorithms and reputable cryptographic implementations and will not employ any proprietary cryptography.
Data Classification and Handling	Mechanisms exist to facilitate the implementation of data protection controls to ensure data and assets are categorized in accordance with applicable statutory, regulatory, and contractual requirements.



Endpoint Security	Mechanisms exist to protect the confidentiality, integrity, availability and safety of endpoint devices including but not limited to (1) utilization of anti-malware technologies to detect and eradicate malicious code; (2) automatic updates of anti-malware technologies, including signature definitions; (3) ensuring that anti-malware technologies are continuously running in real-time and cannot be disabled or altered by non-privileged users, unless specifically authorized by management on a case-by-case basis for a limited time period; and (4) utilization of host-based firewall software, or a similar technology, on all information systems, where technically feasible.
HR Security	As permitted by applicable Law, conduct reasonable background checks of any Spreedly personnel that will have access to Customer Data, including Criminal Record Bureau checks. Mechanisms exist to define acceptable and unacceptable rules of behavior for the use of technologies, including consequences for unacceptable behavior.
Identification and Authentication	<p>Mechanisms exist to (1) provide physical access controls, secure user authentication protocols, secure access control methods, and firewall protection; and (2) prevent terminated Supplier Personnel from accessing Personal Information and supplier systems by promptly terminating their physical and electronic access to such Personal Information.</p> <p>With respect to supplier systems and Personal Information: (1) maintain secure control over user IDs, passwords and other authentication identifiers; (2) maintain a secure method for selecting and assigning passwords and using authentication technologies such as token devices; (3) Restrict access to only active users/accounts; (4) block user access after multiple unsuccessful attempts to login or otherwise gain access; (5) assign unique user identifications plus passwords, which are not vendor supplied default passwords; and (6) require personnel to change passwords at regular intervals and whenever there is any indication of possible system or password compromise, and avoid re-using or cycling old passwords.</p> <p>Duties and areas of responsibility of Supplier Personnel are segregated to reduce opportunities for unauthorized or unintentional modification or misuse of supplier system or Personal Information.</p>
Incident Response	Maintain policies and procedures for detecting, monitoring and responding to actual or reasonably suspected intrusions and Security Incidents, and encouraging reporting actual or reasonably suspected Security Incidents, including: (1) training Supplier's personnel with access to Customer Data to recognize actual or potential Security Incidents and to escalate and notify the senior management of the foregoing; (2) mandatory post-incident review of events and actions taken concerning security of Customer Data.
Malicious Code Mitigation Software	Mechanisms exist to (1) implement and maintain software for Spreedly systems that detects, protects against, removes and remedies software or computer code designed to perform an unauthorized function on, or permit unauthorized access to, an information system, including without limitation, computer viruses, Trojan horses, worms, and time or logic bombs; (2) run mitigation software on at least a weekly basis; (3) update mitigation software automatically, including without limitation, obtaining and implementing the most currently available virus signatures.
Network Security	Mechanisms exist to monitor and control communications at the external network boundary and at key internal boundaries within the network including but not limited to (1) up-to-date firewalls between supplier system, the Internet (including internal networks connected to the Internet) and other public networks, and internal networks operated by Supplier that are not necessary for providing the Services to Customer, which are reasonably designed to maintain the security of Personal Information and supplier system; (2) implementation and management of a secure guest network.
Physical and Environmental Security	Mechanisms exist to provide (1) reasonable restrictions on physical access to Customer Data and the Platform; and (2) physical protection against damage from fire, flood, earthquake, explosion, civil unrest, and other forms of natural or man-made disaster should be designed and applied.



	Policies concerning security for the storage, access, transportation and destruction of records and media containing Personal Information outside of business premises.
Privacy	Mechanisms exist to comply with applicable privacy laws, regulations, and notices.
Risk Management	Periodic and regular information security risk assessment and monitoring of Spreedly's information security program, Security and the Platform, at least annually, including: (1) identifying and assessing reasonably foreseeable internal and external threats and risks to the security, confidentiality, integrity and availability of Personal Information; (2) assessing the likelihood of, and potential damage that can be caused by, identified threats and risks; (3) regularly testing, monitoring and evaluating the sufficiency and effectiveness of Security and Data Incident response actions, and documenting same; (4) assessing adequacy of Spreedly personnel training concerning, and compliance with, Spreedly's information security program; (5) designing, implementing, adjusting and upgrading Security in order to limit identified threats and risks, and address material changes in technology, business and sensitivity of Customer Data; and (6) assessing whether such information security program is operating in a manner reasonably calculated to prevent unauthorized access or use of Customer Data; and (6) detecting, preventing and responding to attacks, intrusions and other system failures.
Secure Engineering and Architecture	Mechanisms exist to facilitate the implementation of industry-recognized security and privacy practices in the specification, design, development, implementation and modification of systems and services.
Security Awareness and Training	Regular and periodic training of Spreedly personnel concerning: (1) Security; (2) implementing Spreedly 's information security program; and (3) the importance of personal information security.
Technology Development and Acquisition	Spreedly will adhere to industry best practices and standards for Secure Software Development Lifecycle (SSDLC), including all of, but not limited to, the following techniques: (1) Leveraging security guidelines from one or all the following industry best practices and standards – OWASP Top 10, SANS Top 25 and Cloud Security Alliance; (2) Consistently executed secure code reviews and testing either through manual peer review or via a code scanning solution; (3) Protection of test data and content and removal of test data and content before deployment to production; (4) System acceptance testing; and (5) System change control and approvals before deployment to production.
Third Party Management	Mechanisms exist to facilitate the implementation of third-party management controls including but not limited to: (1) reasonable steps and due diligence to select and retain third party suppliers that are capable of maintaining security consistent with the Schedule and complying with applicable legal requirements; (2) contractually requiring such suppliers to maintain such security; and (3) regularly assessing and monitoring third party suppliers to confirm their compliance with the applicable security required in the Schedule and by law.
Threat Management	Mechanisms exist to implement a threat intelligence program that includes a cross-organization information-sharing capability that can influence the development of the system and security architectures, selection of security solutions, monitoring, threat hunting, response and recovery activities.
Vulnerability and Patch Management	Mechanisms exist to identify and assign a risk ranking to newly discovered security vulnerabilities using reputable outside sources for security vulnerability information including but not limited to (1) software and firmware patching; (2) vulnerability scanning on a recurring basis; and (3) penetration testing conducted by an independent third party twice per year.