

## SPOCKET RETAILER TERMS OF SERVICE

Spocket, Inc ("**Spocket**") owns and operates the website located at [www.spocket.co](http://www.spocket.co) ("**Website**"), the Spocket Platform (as defined below) and the Spocket application available on Shopify, WooCommerce and other providers (the "**Spocket App**"). These terms of use apply to all Retailers (as defined below) who use the Service.

By registering as a Retailer on the Spocket Platform you indicate your acceptance of these Retailer Terms. If you do not accept these terms, then do not use the Spocket Platform or the Services as a Retailer. These Retailer terms may be amended or updated by Spocket from time to time without notice and may have changed since your last visit to the Website or used the Spocket Platform. It is your responsibility to review these Retailer Terms for any changes. Your use after any amendments or updates of these terms of use shall signify your assent to and acceptance of such revised terms. Any new features that may be added to this website from time to time will be subject to these terms of use, unless stated otherwise. You should visit this page periodically to review these terms of use.

If you are agreeing to these terms of use on behalf of an entity, you hereby represent and warrant that you have all necessary permissions and authority to agree to these terms of use and to bind the entity to its terms.

In order to use the Spocket Platform and the Services, you may be required to provide certain information, including personal information. All personal information you provide will be treated in accordance with the Spocket Privacy Policy, the terms of which are incorporated by reference into this agreement.

## SPOCKET SUBSCRIPTION SERVICE TERMS

### DEFINITIONS AND INTERPRETATION

**Definitions.** For the purposes of this Agreement, in addition to the capitalized terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

**"Agreement"** means the Sign-Up Form and these Retailer Terms (as updated from time to time);

**"Dropshipped"** and **"Dropshipping"** means sending Products directly from Supplier to an End Customer on behalf of a Retailer;

**"End Customer"** means an end customer of a Retailer to whom any Products are to be Dropshipped;

**"Listing Price"** means the price that Supplier lists against the Products as being the price that the Supplier shall charge Retailers for selling such products, exclusive of transaction fees, taxes and shipping costs.

**"MSRP"** means the minimum suggested retail price, being the price that Supplier may recommend to Retailers as the sale price for Products to End Customers.

**"Sign-Up Form"** means the online sign-up or registration form completed by Retailer and which refers to these terms, and which may set out certain commercial terms such as the term, fees and features of the Service to be delivered to Retailer;

**"Personal Data"** means any information or data that alone or together with any other information relates to an identified or identifiable natural person ("data subject"), or data considered to be personal data under Privacy Laws. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors

specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**"Privacy Laws"** means any law, statute, directive, or regulation, including any and all legislative and/or regulatory amendments or successors thereto, regarding privacy, data protection, information security obligations and/or the processing of Personal Data (including without limitation the General Data Protection Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as amended or superseded from time to time).

**"Products"** means Supplier's products listed by Supplier through the Service, including without limitation those specified in the Sign Up Form (if any) and as may otherwise be updated by Supplier from time to time in accordance with the terms of this Agreement.

**"Retailer"** means the entity registering as "Retailer" through the sign up form, where the entity wishes to receive Dropshipping services from Suppliers in accordance with these terms

**"Retailer Order"** means an order by a Retailer for Products from the Supplier submitted through the Spocket Platform.

**"Services"** means the services offered by Spocket and subscribed for by Retailer under the Master Agreement;

**"Shipping Price"** means the fee listed on the Spocket Platform by Supplier for Dropshipping any Products to End Customers;

**"Spocket Platform"** means Spocket's online, web-based marketplace platform and linked Shopify and WooCommerce application that allows Retailers to purchase products directly from suppliers who have subscribed to Spocket's services, which products are to be drop shipped by such suppliers to the End Customer;

**"Supplier"** means a supplier who has subscribed to the Spocket Platform, primarily for the purpose of using the Spocket Platform as a marketplace for retailer to list supplier products on their online store and having those products Dropshipped by that supplier to that Retailer's End Customers.

**"Supplier Profile"** means the Supplier's profile on the Spocket Platform, which is available for Retailers to view and on which Suppliers may detail information regarding the Supplier, its location, its terms of supply, Processing Time, Shipping Time and such other information as Spocket may permit or require from time to time.

**"Term"** has the meaning given in Section 11.1;

**"Total Fees"** means, in respect of a Retailer Order, the aggregate of the Listing Price for all Products ordered, the Shipping Price, and transaction fees that Spocket may impose and any applicable sales, value added or similar taxes; and

**"User"** means an employee, contractor or agent of Supplier who is authorized by Supplier to use the Service, and who has been supplied a user account and password by Supplier (or by Spocket at Supplier's request) for the Service.

In this Agreement: (a) words denoting the singular include the plural and vice versa and words denoting any gender include all genders; (b) all usage of the word "including" or the phrase "e.g.," in this Agreement shall mean "including, without limitation," throughout this Agreement; (c) all dollar amounts are expressed in United States dollars (USD) unless expressly provided otherwise on the Sign Up Form.

Headings and the division of this Agreement into articles and sections are for convenience of reference only and shall not affect the interpretation hereof. If there is any conflict or

inconsistency between the terms in the various parts of this Agreement, these Terms will take precedence.

#### **MARKETPLACE AND LICENSE TERMS.**

**Spocket Platform as a Marketplace.** The Spocket Platform is an online marketplace that enables suppliers (including the Supplier) to publish their products (including the Products) on the Spocket Platform for Retailers to view, list on the Retailer's own online stores, and sell directly to End Customers on the basis of the products being Dropshipped by the supplier. As the provider of the Spocket Platform, Spocket does not purchase, sell, resell, provide, control, manage, offer, deliver, supply or Dropship any Products. If a Retailer orders a Product to be Dropshipped by Supplier, Retailer and Supplier are entering into a contract directly with each other. Additional terms required by a Supplier may be published by Supplier on the Supplier Profile through the Spocket Platform, or as otherwise communicated between Retailer and Supplier. Spocket is not and does not become a party to or other participant in any contractual relationship between Retailers and Suppliers. Spocket is not acting as an agent in any capacity for any Retailer nor for the Supplier.

**Provision of Service.** Conditioned on the provisions in this Section 2 and the other terms and conditions of this Agreement, Spocket shall make the Service available to Retailer during the Term for use in Retailer's business on a non-exclusive, non-transferable basis.

**Use Guidelines.** Retailer shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise exploit or make the Service available to any third party; (ii) interfere with or disrupt the integrity or performance of the Service or the data contained therein; (iii) attempt to gain unauthorized access to the Service or its related systems or networks; or (iv) disclose any benchmarking or results of the Service to third parties without Spocket's prior written consent.

**Restrictions.** Retailer shall not (and shall not allow any third party to): (a) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Service; (b) circumvent any user limits or other timing or use restrictions that are built into the Service; (c) remove any proprietary notices, labels, or marks from the Service; (d) frame or mirror any content forming part of the Service; or (e) access the Service in order to (i) build a competitive product or service, or (ii) copy any ideas, features, functions or graphics of the Service.

**Service Changes by Spocket.** Spocket reserves the right to alter, suspend, or discontinue the Service or the Spocket Platform at any time and for any reason or no reason without any liability to Retailer. In such cases, Spocket will endeavour to give notice of such changes. The Service may also be unavailable from time to time due to maintenance or malfunction of computer or network equipment or other reasons. Spocket may periodically add or update the information and materials on the Spocket platform without notice.

#### **RETAILER RESPONSIBILITIES**

**Pricing.** Retailer is free to determine the price that it charges for such Products to its End Customers, unless Minimum Advertised Pricing has been set by Supplier. Supplier shall only charge Retailer the aggregate of the Listing Price for all Products ordered, the Shipping Price and transaction fees that Spocket may impose and any applicable sales, value added or similar taxes.

**Product Information provided by Suppliers.** When listing Products available through the Spocket Platform, Retailer may display any information or images listed by Suppliers in respect of such Products. However, Spocket make no warranty, representation, or covenant as

to the accuracy, completeness or sufficiency of such information or whether such information is in compliance with any legal, statutory or regulatory requirements, and expressly disclaims any and all responsibility in respect of any information made available by Suppliers through the Spocket Platform.

**Images.** Pictures, animations or videos (collectively, "Images") uploaded to the Service in respect of the Products must accurately reflect the quality and condition of the Products. Spocket reserves the right to require that Products have a minimum number of Images of a certain format, size and resolution. All Images must be original with no watermarks or text. Supplier shall use all reasonable endeavors to comply with Spocket's policies on Images as communicated by Spocket to Supplier from time to time. Suppliers give Spocket and Spocket retailers the right to use such images for sales and marketing purposes.

Retailer Profile. Retailer shall complete all the required fields on the Retailer Profile. Retailer is responsible for all content posted and activity that occurs under Retailer's account.

## **RETAIL ORDERS.**

**Contract between Retailer and Supplier.** Where Retailer submits a Retailer Order through the Spocket Platform for Products listed as available, Retailer and Supplier are entering into a legally binding agreement under which Supplier agrees to Dropship the Products to the specified End User at the Listed Price, plus applicable transaction fees, taxes and Shipping Fees. Such agreement shall incorporate the minimum terms set out below and such other lawful and non-conflicting terms as may be set out in Supplier's Supplier Profile at the time of the Retailer Order. SPOCKET IS NOT PART OF, AND HAS NO RESPONSIBILITY OR LIABILITY IN RESPECT OF, ANY SUCH CONTRACT.

**Return Policy.** Each Supplier's return policy is set out in the applicable Supplier Profile. Spocket will work with Retailer in good faith in respect of enforcing such return policy. SPOCKET HAS NO CONTROL OVER THE ACTIONS OF SUPPLIERS AND ACCEPTS NO RESPONSIBILITY OR LIABILITY IN THE EVENT OF A BREACH BY SUPPLIER OF ITS OBLIGATIONS.

**No marketing materials.** When shipping Spocket orders, each Supplier agrees that it will not include any marketing or promotional material such as coupons/gift certificates that encourage the End Customer to buy directly from Supplier's website or otherwise seeks to divert business away from Retailer or Spocket. Each Supplier agrees that only the invoice provided by Spocket will be included in Spocket order packages. This invoice is made available to Supplier with every Retailer Order through the Spocket Platform. SPOCKET HAS NO CONTROL OVER THE ACTIONS OF SUPPLIERS AND ACCEPTS NO RESPONSIBILITY OR LIABILITY IN THE EVENT OF A BREACH BY SUPPLIER OF ITS OBLIGATIONS.

**Processing times.** Supplier must indicate its processing times as well as delivery times on the Supplier Profile. "Processing time" is the number of business days to ship and provide tracking number. "Delivery times" is the estimated time it takes for the package to get to the customer after it is shipped. If the orders are processed late, Retailer may cancel the Retailer Order through the Spocket Platform and Spocket will process a refund from Supplier to Retailer. SPOCKET HAS NO CONTROL OVER THE ACTIONS OF SUPPLIERS AND

ACCEPTS NO RESPONSIBILITY OR LIABILITY IN THE EVENT OF A BREACH BY SUPPLIER OF ITS OBLIGATIONS.

**Retailer Order Total Fees Processing.** The Total Fees in respect of Retailers Order shall be processed in accordance with “Fees and Payment”

**Disclaimer of responsibility.** SPOCKET DOES NOT PROCESS ANY RETAILER ORDERS, IT MERELY FACILITATES COMMUNICATION AND CONTRACT BETWEEN RETAILER AND SUPPLIERS. ACCORDINGLY, WHILE SPOCKET WITH RETAILER AND SUPPLIERS TO RESOLVE ANY ISSUES THAT MAY ARISE, SPOCKET EXPRESSLY DISCLAIMS ANY AND ALL RESPONSIBILITY FOR THE PROCESSING OF ANY RETAILER ORDER, INCLUDING WITHOUT LIMITATION THE DELIVERY OF ANY RETAILER ORDER, THE CONTENT OF ANY RETAILER ORDER, ANY INCORRECT, LATE, DAMAGED, BROKEN, UNSAFE, UNLAWFUL DELIVERY, ANY FAILURE TO MAKE DELIVERY, AND DELIVERY TO A WRONG ADDRESS, OR ANY OTHER ACT, ERROR OR OMISSION IN RESPECT OF THE PROCESSING OF OR FAILURE TO PROCESS A RETAILER ORDER BY ANY SUPPLIER.

## **SERVICE TERMS**

**Provision of Service.** Conditioned on the terms and conditions of this Agreement and payment of the Fees, Spocket shall make the Service available to Retailer during the term of the Retailer’s subscription and provide basic support to Retailer in respect to Retailer’s permitted use of the Service. Retailer acknowledges and agrees that the Service may be unavailable at times during the Term because of: (a) planned downtime; or (b) any unavailability caused by circumstances beyond Spocket's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems, computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within Spocket’s possession or reasonable control, and denial of service attacks.

**Retailer Responsibilities.** Retailer is responsible for all activities that occur in User accounts and for Users’ compliance with this Agreement. Retailer agrees to use the Service solely for lawful purposes only. In this respect Retailer may not, without limitation: (i) use the Service to manage any illegal operations, (ii) use any type of spider, virus, worm, Trojan-horse, time bomb or any other codes or instructions that are designed to distort, delete, damage or disassemble the technology underlying the Service (including Spocket’s proprietary software and apps which may be available for download on the Website), (iii) use the Service to send any unsolicited commercial communication not permitted by applicable law; (iv) endanger any part of any system or Internet connection of Spocket or any third party through use of the Service; or (v) infringe any applicable laws (including without limitation any Privacy Laws) when using the Service or in respect of information collected by Retailer through the use of the Service. Retailer agrees to comply with any and all Privacy Laws applicable to its use of the Service and its processing of Personal Data. In the event that Retailer processes any Personal Data of a data subject resident in the European Economic Area, the terms of Spocket’s Data Processing Addendum (as set out on the Website) shall apply.

**Service Limitations.** The Service is not a back-up service and accordingly Spocket will not be responsible for any lost data due to server crashes or other events outside Spocket’s reasonable control.

**Incremental Services.** From time to time, additional Spocket or third-party functionality (such functionality being deemed not to be part of the Service) may be made available by Spocket to Retailer and which additional functionality may be purchased by Retailer for additional fees in accordance with any additional terms and conditions specified by Spocket.

#### **FEES AND PAYMENT.**

**Collection of Total Fees from Retailer.** Unless otherwise indicated, Spocket will collect the Total Fees from a Retailer at the time that Retailer submits the Retailer Order. Retailer Orders shall not be processed unless and until such time as the Total Fees payment clears. In the event of delay in a clearing of payment (which may be outside of Spocket's control), Retailer Orders may be delayed or subject to cancellation without further liability of Spocket. Failure of payment may result in not processing or cancellation of a Retailer Order without further notice to Retailer. It is Retailer's responsibility to ensure that its payment details are complete and accurate and in good standing.

**Fees.** In consideration for the receipt of the Service, Retailer shall pay Spocket the fees specified in the Sign-Up form, as may be varied by Spocket from time to time by no less than 30 days prior notice in writing to Retailer.

**Invoicing and Payment.** Fees for the Service will be invoiced on a monthly basis unless otherwise specified in Sign Up Form. Unless otherwise stated in an invoice, charges are due on the invoice date and may be deducted automatically from the payment method provided by Retailer. Retailer is responsible for maintaining complete and accurate billing, payment and contact information with Spocket.

**Overdue Payments.** Any payment not received from Retailer by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at Spocket's discretion, late charges at the rate of 1.0% of the outstanding balance per month (12.67% per annum), or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

**Taxes.** Unless otherwise stated, Spocket's fees and Total Fees do not include any direct or indirect local, state, provincial, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, goods and services, harmonized, use or withholding taxes (collectively, "**Taxes**"). Retailer is responsible for paying all Taxes associated with the Service Fees and any Retailer Orders, excluding taxes based on Spocket's net income or property.

**Audit Rights.** Spocket shall have the right to use the capabilities of the Service to confirm Retailer's compliance with this Agreement, including without limitation the fees payable hereunder.

**Suspension of Service.** If Retailer's account is overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies, Spocket reserves the right to suspend the Service provided to Retailer, without liability to Retailer, until such amounts are paid in full.

#### **PROPRIETARY RIGHTS.**

**Reservation of Rights.** Subject to the limited rights expressly granted in this Agreement, Spocket reserves all rights, title and interest in and to the Service, including all related intellectual property rights. No rights are granted to Retailer in this Agreement other than as expressly set forth in this Agreement.

**Retailer Data.** As between Retailer and Spocket, Retailer will own and retain ownership of content provided, stored and processed through the Service ("**Retailer Data**"). Retailer

hereby grant Spocket a worldwide, royalty-free, and non-exclusive license during the Term to access Retailer Data in order to: (i) provide the Service, including storing, hosting and management of such content; and (ii) create Pattern Data (as defined in Section 7.4 below). Together Sections 7.2(i) and (ii) constitute the "**Content License**"). Retailer understand that Spocket, in performing the required technical steps to provide the Service, may (a) transmit or distribute Retailer Data over various public or private networks and in various media; and (b) make such changes to Retailer Data as are necessary to conform and adapt that Retailer Data to the technical requirements of connecting networks, devices, services or media. Retailer confirm and warrant to Spocket that Retailer have all the rights, power and authority necessary to grant the above Content License and that use of the Retailer Data in the manner contemplated will not breach the rights of any third party.

**Content Responsibilities.** Retailer is responsible for any and all content provided hereunder and for compliance with this Agreement including obtaining all necessary licenses, permissions and consents to enable all material comprising Retailer Data to be made available to Spocket for Spocket to transmit, host and store. For greater certainty, Retailer shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Retailer Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service and notify Spocket promptly of any such unauthorized access or use; and (iii) comply with all applicable local, provincial, state, federal and foreign laws in using the Service.

**Pattern Data.** "**Pattern Data**" means non-personally identifiable information, data and reports derived from or compiled through the Service, including but not limited to demographics data, aggregated statistics on user conversion, location data and trend data such as aggregated data and statistics which may indicate frequency and type of use of the Service, and popularity of the Service. For greater certainty, Pattern Data is data that does not identify a specific Retailer, its business contracts or its end users. As between Spocket and Retailer, all right and title to Pattern Data belongs to Spocket and accordingly Spocket is free to use Pattern Data for any purpose including the improvement of the Service.

**Suggestions.** Spocket shall have a royalty-free, worldwide, transferable, sub licensable, irrevocable, perpetual, unrestricted license to use and/or incorporate into its products, services and business any suggestions, enhancement requests, recommendations or other feedback provided by Retailer relating to the operation of the Service.

**Copyright and Trademark Information.** Except for Retailer Data, the Spocket platform, and the information and materials that it contains, are the property of Spocket and its licensors, and are protected from unauthorized copying and dissemination by copyright law, trademark law, international conventions and other intellectual property laws. All Spocket product names and logos are trademarks or registered trademarks. Nothing contained on the Spocket platform should be construed as granting, by implication, estoppel, or otherwise, any license or right to use the Spocket platform or any materials displayed on the Spocket platform, through the use of framing or otherwise, except: (a) as expressly permitted by these terms and conditions; or (b) with the prior written permission of Spocket. Retailer shall not attempt to override or circumvent any of the usage rules or restrictions on the Platform.

## **CONFIDENTIALITY.**

**Definition of Confidential Information.** As used in this Agreement, "**Confidential Information**" means all confidential and proprietary information of a party (the "**Disclosing Party**") disclosed to the other party (the "**Receiving Party**"), whether orally or in writing,

that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the Service, business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.

**Confidentiality.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission.

**Protection.** Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner as it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care).

**Compelled Disclosure.** If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

**Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of confidentiality protections contained in this Agreement, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies may be inadequate.

#### **WARRANTIES AND DISCLAIMERS.**

**General Warranties.** Each party represents and warrants that it has the legal power to enter into this Agreement.

**General Service Warranties.** Spocket represents and warrants that during the Term (i) it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof. For greater certainty, Spocket does not warrant that Retailer's use of the Service will be error-free or uninterrupted. In the event of interruption, Spocket will on receipt of a valid request by Retailer provide the Retailer with a pro-rata credit for each complete day of interruption, which will be applied toward future billings.

**Disclaimers.** The Service is provided by Spocket to Retailer on an 'as is' basis, and except as provided in Section 9.1 and 9.2 there are no warranties, representations or conditions, express or implied, written or oral, arising by statute, operation of law, course of dealing, usage of trade or otherwise, regarding the Service or in connection with this Agreement by Spocket (including its affiliates, licensors, vendors and subcontractors). Spocket (including its affiliates, licensors, vendors and subcontractors) disclaims any implied warranties or conditions of merchantable quality, satisfactory quality, merchantability, durability, fitness for a particular purpose and/or non-infringement. Spocket (including its affiliates, licensors, vendors and subcontractors) does not represent or warrant that the Service will meet any or all of Retailer's particular requirements, that the Service will operate error-free or uninterrupted or that all errors or defects in the Service can be found or corrected.



**Security.** Information sent or received over the Internet is generally unsecure and Spocket cannot and does not make any representation or warranty concerning security of any communication to or from the Spocket platform or any representation or warranty regarding the interception by third parties of personal or other information.

#### **LIMITATION OF LIABILITY.**

**Limitation of Liability.** In no event shall Spocket's aggregate liability arising out of or related to this agreement, whether in contract, tort (including negligence) or under any other theory of liability, exceed actual damages up to a maximum of \$10,000.

**Exclusion of Consequential and Related Damages.** In no event shall either party have any liability to the other party for any indirect, special, incidental, punitive, or consequential damages (including, without limitation, damage for loss of business, loss of revenues, loss of profits, business interruption, loss of data, lost savings or other similar pecuniary loss) however caused and, whether in contract, tort (including negligence) or under any other theory of liability, whether or not a party has been advised of the possibility of such damages.

**Certain Damages Not Excluded.** Notwithstanding the foregoing provisions of this section 10, no limitation of either party's liability set forth in this agreement shall apply to (I) damages arising from a party's breach of its confidentiality obligations, or (II) damages arising from infringement and/or misappropriation of a party's intellectual property rights.

#### **TERM AND TERMINATION.**

**Term of Agreement.** This Agreement shall commence as of the Effective Date and shall continue for the initial term indicated on the Sign-Up Form. On expiry of the Initial Term, this Agreement will automatically continue until terminated by either party on provision of not less than two (2) weeks written notice. The initial term and any continuation collectively constitute the "Term".

**Obligations on Termination or Expiration.** Notwithstanding any termination or expiration of this Agreement, Retailer shall settle any payment obligations incurred pursuant to Section 4.1. Each party will return or destroy at the election of the disclosing party, the Confidential Information of such disclosing party.

**Surviving Provisions.** The following provisions shall survive any termination or expiration of this Agreement: Sections 1, 5-8, 9.2, 9.3 and 10.

#### **GENERAL PROVISIONS.**

**Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**Third-Party Beneficiaries.** Every right, exemption from liability, release, defense, immunity and waiver of whatsoever nature applicable to Spocket under this Agreement shall also be available and shall extend to benefit and to protect Spocket's affiliates and its and their officers, directors and employees and for such purposes Spocket is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of such companies and persons.

**Notices.** All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the second business day after mailing; (iii) the second business day after sending by confirmed facsimile; or (iv) the second business day after sending by email. Notices to each party shall be addressed to such party's signatory of this Agreement.

**Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly

stated in this Agreement, the remedies provided in this Agreement are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**Force Majeure** Except for obligations to pay any fees under this Agreement, neither party shall be deemed to be in breach of this Agreement for any failure or delay in performance caused by reasons beyond its reasonable control, including but not limited to acts of God, earthquakes, wars, terrorism, communication failures, strikes (other than strikes at such party's facility or involving such party). If either party's performance is prevented by a force majeure event for a period of more than thirty (30) calendar days, the other party may terminate this Agreement without further obligation or liability, subject to any payment amounts due and payable immediately prior to the commencement of such force majeure event.

**Assignment.** Neither party may assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, each party may assign this Agreement in its entirety, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its stock or assets. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**Governing Law.** This Agreement shall be governed by the laws of the Province of British Columbia, Canada, without regard to its conflict of law principles. No choice of laws rules of any jurisdiction shall apply to this Agreement. The application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement is expressly excluded. The parties confirm that it is their wish that this Agreement as well as all other documents relating to this Agreement, including notices, be drawn up in English only.

**Venue; Waiver of Jury Trial.** The provincial and federal courts located in Vancouver, British Columbia, Canada, shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party hereby consents to the exclusive jurisdiction of such courts. Each party also hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

**Further Assurances.** Each party will from time to time and at all times do such further acts and execute and deliver such further documents as may be reasonably required in order to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Agreement.

**Complete Understanding.** These Terms, the Sign-Up Form and any external documents referenced therein (including delivery timetables and deliverable requirements), constitutes the final, complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes any prior or contemporaneous agreement, proposal or representation (whether written or oral) concerning its subject matter.

**Last Updated: 20 August, 2019**