

SPARCPAY TERMS OF SERVICE

Last updated: January 13, 2022

This SparcPay Terms of Service (the "**Terms of Service**", together with any Order Forms and any addendum attached to these Terms of Service (each, an "**Addendum**", and collectively, the "**Addenda**"), all as amended from time to time the "**Agreement**") form an agreement between the customer accessing, downloading, installing or otherwise using (the terms "**use**" and "**using**" will refer to any of the foregoing) the Services (such customer, the "**Customer**") and SparcPay USA Inc. ("**SparcPay**"), and is entered into on the earlier of the date Customer first uses any part of the Services and the date Customer agrees to be bound by this Agreement (the "**Effective Date**"). Each of SparcPay and Customer will individually be referred to as a "**Party**" and jointly as the "**Parties**".

By using any Services (including the Website), or using any Free Trial and authorizing or permitting any Permitted User, including any End Customer or Supplier, to access or use the Services or Website, Customer agrees to the terms of this Agreement, acknowledges that Customer has read, accepts and agrees to be bound by and comply with the terms and conditions set out in this Agreement, as amended from time to time in accordance with section 13(k). If Customer does not accept and agree to be bound by this Agreement, Customer will immediately cease any further use of the Services. Customer represents and warrants to SparcPay that Customer has the capacity to enter into this legally binding agreement. If Customer is using the Services on behalf of another Person or Persons, customer hereby represents and warrants to SparcPay that Customer has the authority to bind each such Person to this Agreement, in which case the term "Customer" shall refer to such entity and its affiliates. If the individual accepting this Agreement does not have such authority, or does not agree with these terms and conditions, such individual must not accept this Agreement and may not use the Services.

If you are an End Customer or Supplier or other Person being invited to use the Services, you must first agree to this Agreement. If you do not accept and agree to be bound by this Agreement, you will immediately cease any further use of the Services.

If Customer registers for a Free Trial of Services, the applicable provisions of this Agreement will also govern that Free Trial.

The Services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. SparcPay's direct competitors are prohibited from accessing the Services, except with SparcPay's prior written consent.

1. Definitions

- (a) **"Applicable Law"** means applicable statutes, by-laws, rules, regulations, orders, ordinances or judgments, in each case of any Governmental or Regulatory Authority.
- (b) **"Bills"** means any bills or other accounts payables or accounts receivables records.
- (c) **"Content"** means information obtained by SparcPay from publicly available sources or its third party content providers and made available to Customer through the Services, or pursuant to an Order Form, as more fully described in the Documentation.
- (d) **"Customer Data"** means any data, information, content, records, and files that Customer or any Permitted User loads or enters into, transmits to, or makes available to the Services, including but not limited to Personal Information and User Content. Customer Data excludes Aggregated Data and any other SparcPay Property.
- (e) **"Customer Funding"** means Customer's payment information selected and verified by the Permitted User related to any inbound or outbound Payment.
- (f) **"Documentation"** means any applicable guides and policies, as updated from time to time, accessible via Website or login to the Services.
- (g) **"End Customer"** means any client of the Customer.
- (h) **"Governmental or Regulatory Authority"** means any national, provincial, state, county, municipal, quasi-governmental or self-regulatory department, authority, organization, agency, commission, board, tribunal, regulatory authority, dispute settlement panel or body, bureau, official, minister, Crown corporation, or other law, rule or regulation-making entity having jurisdiction over SparcPay, Customer, the Services, the Customer Data or any other person, property, transaction, activity, event or other matter related to this Agreement, including subdivisions of, political subdivisions of, and other entities created by, such entities.
- (i) **"Loss"** or **"Losses"** means any and all losses, damages, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable legal fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- (j) **"Modifications"** means modifications, improvements, customizations, patches, bug fixes, updates, enhancements, aggregations, compilations, derivative works, translations and adaptations, and **"Modify"** has a corresponding meaning.
- (k) **"Non-SparcPay Application"** any products, content, services, information, websites, or other materials that are owned by third parties and are incorporated into or accessible through the Services.
- (l) **"Order Form"** means an order form that references these Terms of Service and that is executed by both Parties or otherwise accepted by Customer.

- (m) **"Payments"** means a payment from one Person to another Person, verified by Customer and/or its Permitted User, using SparcPay Services.
- (n) **"Payment Method"** means any payment method selected by Customer including but not limited to:
 - (i) via financial institution including by direct electronic funds transfer ("EFT"), ACH, check payment, or foreign exchange;
 - (ii) via indirect EFT with Customer Funding by pre-authorized debit;
 - (iii) via indirect EFT with Customer Funding by e-Transfer or wire; or
 - (iv) via indirect check with Customer Funding by ACH, pre-authorized debit, credit card, e-transfer, wire or any other means made available via the SparcPay Services.
- (o) **"Person"** means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate or Governmental or Regulatory Authority, and where the context requires, any of the foregoing when they are acting as trustee, executor, administrator or other legal representative.
- (p) **"Personal Information"** means information about an identifiable individual.
- (q) **"Permitted User"** means all individuals who are employees or contractors of Customer or any other Person that Customer has given access to and use of the Services via a Permitted User Credential and includes any other users of the Services whether they are End Customers or Suppliers.
- (r) **"Services"** means SparcPay Services; other products and services that are ordered by Customer under an Order Form or online purchasing portal or provided to Customer under a Free Trial or otherwise and made available via the Website by SparcPay and any part thereof. "Services" excludes Content and Non-SparcPay Applications.
- (s) **"SparcPay Services"** means services through which SparcPay makes available its proprietary application for accounts payable automation, accounts receivable automation and related services.
- (t) **"Supplier"** means the supplier of Customer receiving a Payment under the SparcPay Services.
- (u) **"Website"** means any websites used by SparcPay to provide the Services, including the websites located at sparclub.net, sparcpay.com and SparcPay.com.

2. Services

- (a) Provisioning of the Services. Subject to Customer's and its Permitted Users' compliance with the terms and conditions of this Agreement, SparcPay will make the Services available to Customer and Permitted Users on the terms and conditions set out in this Agreement during the Term. Customer is responsible for identifying and authenticating all Permitted Users and for ensuring that only Permitted Users' access and use the Services. Customer shall ensure that all Permitted Users comply with the terms and conditions of this Agreement including but not limited to Addendum A (Permitted User Notice). Customer shall ensure that any End Customer, Supplier or other Person that it invites to use the Services agrees to and is bound by this Agreement prior to such End Customer, Supplier or other Person using the Services.
- (b) Restrictions on Use. Customer will not itself, and will not permit others to:
- (i) sub-license, sell, rent, lend, lease or distribute the Services or any intellectual property rights therein, or otherwise make the Services available to others other than Permitted Users;
 - (ii) use the Services to permit timesharing, service bureau use or commercially exploit the Services;
 - (iii) use or access the Services:
 - (A) in violation of any Applicable Law;
 - (B) in a manner that threatens the security or functionality of the Services;
 - (C) directly via the 'back end' server; or
 - (D) for any purpose or in any manner not expressly permitted in this Agreement;
 - (iv) use the Services to create, collect, transmit, store, use or process any Customer Data:
 - (A) that contains any computer viruses, worms, malicious code, or any software intended to damage or alter a computer system or data;
 - (B) that Customer does not have the lawful right to create, collect, transmit, store, use or process; or
 - (C) that infringes, violates or otherwise misappropriates the intellectual property or other rights of any third party (including any moral right, privacy right or right of publicity);
 - (v) Modify the Services;
 - (vi) reverse engineer, decompile or disassemble the Services;

- (vii) remove or obscure any proprietary notices or labels on the Services, including brand, copyright, trademark and patent or patent pending notices;
 - (viii) attempt to obtain any materials or information through any means not intentionally made available through the Services;
 - (ix) attempt to gain unauthorized access to the Services, other Permitted User Credentials, or computer systems or networks connected to any SparcPay server or to the Services, through hacking, password mining or any other means;
 - (x) access or use the Services for the purpose of building a similar or competitive product or service; or
 - (xi) perform any vulnerability, penetration or similar testing of the Services.
- (c) Minimum System Requirements. In order to use the Services, Customer's equipment and software must meet the minimum system requirements communicated by SparcPay to Customer, which will be subject to changes and updates over time.
- (d) Downloadable Software. Use of the Services may require or include use of downloadable software. SparcPay grants Customer a revocable, non-transferable, non-exclusive, non-assignable, non sublicensable, limited right for Customer and its Permitted Users to use downloadable software that SparcPay provides as part of the Services, during the Term. Any Non-SparcPay Application that consist of downloadable software are subject to the terms of Section 2 (j).
- (e) Payments.
- (i) By accessing and using the SparcPay Services, Customer authorizes SparcPay to provide the SparcPay Services and process Payments on Customer's behalf. In connection with such Payments, Customer shall provide SparcPay with all necessary Customer Funding, including (i) payment information required by SparcPay in order to process the Payment; (ii) additional information necessary to comply with Applicable Law; and (iii) any and all corrections or updates to the foregoing. The accuracy of the Customer Funding shall be Customer's sole responsibility and SparcPay shall have no liability or obligation arising out of incorrect or incomplete Customer Funding. Customer is responsible for any errors or mistakes in its Customer Funding and any Payment. Customer shall verify all Customer Funding and Payments even if SparcPay Services makes suggestions on payment information or other information to Customer or Permitted Users. For clarity and avoidance of all doubt, if Customer's bank incorrectly deducts a Payment from Customer's account howsoever arising including but not limited to any misunderstanding or error or mistake made by Customer, Customer shall be responsible for such circumstances including without limitation for any mistaken, incorrect, erroneous or other Payment; Customer shall provide the means to reimburse SparcPay for any Losses incurred by SparcPay resulting therefrom; and in such an instance, Customer shall immediately reimburse SparcPay any amounts and Losses incurred by SparcPay related to such Payment. In accepting appointment as Customer's service provider for processing Payments, SparcPay assume no liability for any of Customer or its Permitted Users' acts or omissions

or for any incorrect information, Customer Funding or Payment provided by and verified by Customer.

- (ii) When Customer or its Permitted User initiates or requests a Payment through the SparcPay Services, Customer authorizes SparcPay to: (i) disclose Customer's Customer Funding or Customer Data to third parties so SparcPay can complete the Payment; (ii) charge or pay the Customer's Payment Method for the amount of the Payment that Customer or its Permitted Users has indicated; and (iii) process the Payment.
- (iii) SparcPay processes Payments promptly on a best-effort basis, and makes no guarantees, or warranties regarding when a Payment will be processed. Customer acknowledges that despite SparcPay's best effort, payment timing may be impacted by factors outside of SparcPay's control including but not limited to the processing times of the financial institutions involved. SparcPay will not be liable for any fees, penalties, or late payment interest charged to Customer or to be charged by Customer as a result of a delay in Payment.
- (iv) SparcPay will not be liable for any failure in completing any Payment for any reason not directly attributable to gross negligence on the part of a SparcPay's employee or SparcPay's breach of the terms of this Agreement.
- (v) All Payments are non-refundable and non-transferable except as expressly provided in this Agreement.
- (vi) SparcPay is not a party to any relationship between Customer, End Customer, Supplier or any other Person, or in the delivery or completion of underlying contractual obligations. In the event that Customer has a dispute with any End Customer, Supplier or other Person, Customer shall address such dispute directly with such End Customer, Supplier or other Person directly. SparcPay has no liability to Customer in any respect whatsoever for any acts or omissions of any Person (including without limitation any breach by any Person of any Applicable Laws, negligence, fraud, recklessness, wilful misconduct or more culpable act or omission) related to any Payments, Services or in any way connected with this Agreement.
- (vii) SparcPay reserves the right to refuse to process any Payment or to impose limitations on the size, frequency, and time frame of Payments at SparcPay's sole discretion in order to ensure compliance with Applicable Laws or to mitigate risk.
- (viii) SparcPay by default, processes domestic Payments in Canadian funds, and may in future, upon notice, hold, review or charge reasonable additional fees for foreign currency and international payments.

(f) Pre Authorised Payment Method.

A. If Customer elects to provide Customer Funding and make or request a Payment using a pre-authorized debit, Customer will be required to enter into SparcPay's then-current pre-authorized debit agreement (the "**PAD Agreement**"). Customer understands and acknowledges that any pre-authorized debit transaction for a Customer Funding is charged by SparcPay as the intermediary facilitating Payment, and not as agent of customer of otherwise for any good or services to be delivered or received by such Customer.

B. To the maximum extent permitted by Applicable Law, in the event that a pre-authorized debit for a Customer Funding is rejected for any reason or is incorrect or inaccurate after SparcPay has made Payment on behalf of Customer pursuant to Customer's instructions, Customer will be fully liable for the amount paid by SparcPay for that Payment, and Customer will indemnify SparcPay for all liabilities, costs and expenses (including without limitation fees, fines, penalties and reasonable legal fees) incurred by SparcPay resulting from such rejection of pre-authorized debit or any error in any pre-authorized debit.

(g) Permitted Purpose. Customer may access and use the Services in Canada and the United States and solely for Customer's business purposes.(h) Customer's Responsibility for Permitted Users. Customer shall: (1) be responsible for: (i) the accuracy, quality and legality of Customer Data; (ii) verification of all information including but not limited to Customer Funding and Payments by Permitted Users; (iii) the means by which Customer acquired Customer Data; and (iv) Customer's use of Customer Data with the Services; (2) ensure that each Permitted User shall: (i) comply with all Applicable Laws with respect to the Services, including, but not limited to, laws related to the export of technical or personal data; (3) only use the Services with content and data for which Customer has all necessary rights; and (4) use the Services in accordance with any reasonable specifications provided by SparcPay, which may be amended from time to time.(i) Suspension of Access; Modifications. SparcPay may:

(a) suspend and or permanently terminate a Permitted User's access to all or a portion of the Services, all in SparcPay's sole discretion; and

(b) make any Modifications to the Services, in SparcPay's sole discretion.

(j) Non-SparcPay Application. SparcPay or third parties may make available (for example, through a Services or otherwise) third party products or services, including, for example, Non-SparcPay Applications and implementation and other consulting services. Any acquisition by Customer of such products or services, and any exchange of data between Customer and any Non-SparcPay Application provider, product or service is solely between Customer and the applicable Non-SparcPay Application provider. SparcPay does not warrant or support Non-SparcPay Applications or other Non-SparcPay products or services, whether or not they are designated by SparcPay as "certified" or otherwise,

unless expressly provided otherwise in an Order Form. SparcPay is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by such Non-SparcPay Application or its provider. The Services may contain features designed to interoperate with Non-SparcPay Applications. SparcPay cannot guarantee the continued availability of such service features, and may cease providing them without entitling Customer to any refund, credit, or other compensation, if for example and without limitation, the provider of a Non-SparcPay Application ceases to make the Non-SparcPay Application available for interoperation with the corresponding Services features in a manner acceptable to SparcPay.

- (k) Free Trial. If Customer registers on the Website for a free trial ("**Free Trial**"), SparcPay will make the applicable Services available to Customer on a trial basis free of charge until the earlier of: (i) the end of the Free Trial period for which Customer registered to use the applicable Services as may be set out in an Order Form or on the Website; or (ii) the start date of any Services; or (iii) termination by SparcPay in its sole discretion. Additional terms and conditions related to the Free Trial may appear on the Free Trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. ANY CUSTOMER DATA ENTERED INTO THE SERVICES, AND ANY CUSTOMIZATIONS MADE TO THE SERVICES BY OR FOR CUSTOMER, DURING CUSTOMER'S FREE TRIAL WILL BE PERMANENTLY LOST UNLESS CUSTOMER PURCHASES ACCESS AND USE TO THE SAME SERVICES AS THOSE COVERED BY THE FREE TRIAL, PURCHASES APPLICABLE UPGRADED SERVICES, OR EXPORTS SUCH DATA, BEFORE THE EXPIRATION OF THE FREE TRIAL PERIOD. CUSTOMER CANNOT TRANSFER CUSTOMER DATA ENTERED OR CUSTOMIZATIONS MADE DURING THE FREE TRIAL TO ANY NON FREE TRIAL SERVICES; THEREFORE, IF CUSTOMER PURCHASES NON FREE TRIAL SERVICES, CUSTOMER MUST EXPORT CUSTOMER DATA BEFORE THE EXPIRATION OF THE FREE TRIAL PERIOD OR CUSTOMER DATA WILL BE PERMANENTLY LOST. NOTWITHSTANDING THE "WARRANTY AND DISCLAIMER" SECTION AND "INDEMNITIES" SECTION BELOW, DURING THE FREE TRIAL THE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY AND SPARCPAY SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE SERVICES FOR THE FREE TRIAL PERIOD UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE SPARCPAY'S LIABILITY WITH RESPECT TO THE SERVICES PROVIDED DURING THE FREE TRIAL SHALL NOT EXCEED CAD\$100.00. WITHOUT LIMITING THE FOREGOING, SPARCPAY AND ITS AFFILIATES AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO CUSTOMER THAT: (i) CUSTOMER'S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD WILL MEET CUSTOMER'S REQUIREMENTS; (ii) CUSTOMER'S OR PERMITTED USERS' USE OF THE SERVICES DURING THE FREE TRIAL PERIOD WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR; AND (iii) CUSTOMER DATA PROVIDED DURING THE FREE TRIAL PERIOD WILL BE ACCURATE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, CUSTOMER SHALL BE FULLY LIABLE UNDER THIS AGREEMENT TO SPARCPAY AND ITS AFFILIATES FOR ANY DAMAGES ARISING OUT OF CUSTOMER'S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD, ANY BREACH BY CUSTOMER OF THIS AGREEMENT AND ANY OF CUSTOMER'S INDEMNIFICATION OBLIGATIONS HEREUNDER.
- (l) Subcontracting. SparcPay may engage third parties to assist it in providing the Services or any part thereof. Without limiting the foregoing, Customer will cooperate with SparcPay and its third party suppliers and partners (each a "**SparcPay Integration Partners**") during the implementation of the Services for Customer, which includes, but is not limited to, assisting in the enablement of suppliers to receive Payments.

3. **Permitted User Credentials; Communications Rules; Customer Restricted Activities.**

- (a) Customer shall permit only Permitted Users to access and use the Services. SparcPay will issue one administrator account (the “**Administrator Account**”) to Customer that provides Customer with the capability to create user identification and select roles (together, “**Permitted User Credentials**”) for each Permitted User that Customer wishes to have access to and use of the Services. Customer shall ensure that its Permitted Users create passwords of a reasonable length and strength to ensure the security of the Permitted User Credentials. Customer’s Permitted User with an Administrator Account is responsible to issue Permitted User Credentials for Permitted Users.
- (b) SparcPay has no obligation to verify the identity of any person who gains access to the Services by means of Permitted User Credentials. Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use; (b) all information, instructions, and materials provided by or on behalf of Customer or any Permitted User in connection with the Services; (c) Customer’s systems; (d) the security and use of Permitted User Credentials of Customer and its Permitted Users; (e) any use of the Services by any End Customer, Supplier or other Person that Customer invites to use the Services; and (f) all access to and use of the Services directly or indirectly by or through the Customer’s systems or its or its Permitted Users’ Permitted User Credentials, with or without Customer’s knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use. Customer shall employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Permitted User Credentials and protect against any unauthorized access to, or use of, the Services; and (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for processing by the Services. Customer shall immediately take all necessary steps, including providing notice to SparcPay, to effect the termination of Permitted User Credentials for any Permitted User if there is any compromise in the security of Permitted User Credentials or if unauthorized use is suspected or has occurred. For clarity and avoidance of all doubt, SparcPay will not be liable for any loss or damage that Customer or any third party may incur as a result of anyone using the Permitted User Credentials, either with or without Customer’s knowledge or Customer’s breach of its obligations under this Section. SparcPay reserves the right to suspend, deactivate, or replace the Permitted User Credentials if it determines that the Permitted User Credentials may have been used for an unauthorized purpose.
- (c) When Customer uses the Services or sends e-mails, texts or other electronic messages to SparcPay, Customer is communicating with SparcPay electronically and Customer consents to it and Permitted Users receiving communications from SparcPay electronically via email, text or any other type of electronic messages (“**Communications**”). By using the Services, Customer acknowledges and agrees that SparcPay will send Customer and Permitted Users service-related e-mails or other Communications relating to Customer’s account, including service updates. Customer’s consent to receive Communications and do business electronically, and agreement to do so, applies to all of Customer’s interactions and transactions with SparcPay. If Customer is a member of SparcPay’s mailing list Customer and its Permitted Users will also receive email Communications from SparcPay regarding our products, services and initiatives (including collaborations and partnerships). If Customer is a member of SparcPay’s

mailing list Customer will also receive email Communications from SparcPay regarding SparcPay's products, services and initiatives (including collaborations and partnerships). If Customer or a Permitted User does wish to receive these communications, Customer or Permitted User can unsubscribe from such promotional e-mails at any time by clicking on the unsubscribe link in any of our e-mail communications. The withdrawal of consent will not affect the legal validity and enforceability of any obligations or any Communications provided or business transacted prior to withdrawal of consent. Customer shall keep SparcPay informed of any changes in its email and mailing address so that it continues to receive all Communications without interruption. SparcPay may also provide Communications to Customer in writing to the address provide within the Services. If Customer's contact information changes at any time, Customer shall update it within the Services. Customer has a duty to review the records relating to Bills and identify any error with respect to any Communication, which was not authorized by Customer, or otherwise set forth improper or inaccurate information not consistent with the Communications transmitted by Customer. Customer shall notify SparcPay immediately of any Communication that it believes to be unauthorized, improper or inaccurate.

- (d) In connection with Customer's use of any Services, or in the course of Customer's interactions with SparcPay, Customer shall not by itself or permit any Permitted Users to:
- (i) act in a manner that is defamatory, trade libelous, threatening or harassing;
 - (ii) provide SparcPay with false, inaccurate or misleading information;
 - (iii) send or receive potentially fraudulent funds or what SparcPay reasonably believes to be potentially fraudulent funds;
 - (iv) refuse to cooperate in an investigation regarding improper use or receipt of funds or provide confirmation of Customer's identity or any information Customer provide to SparcPay;
 - (v) use an anonymizing proxy;
 - (vi) use the Services in a manner that SparcPay, or members of the electronic funds transfer network reasonably believes to be contrary to applicable network rules, including but not limited to the automated clearing settlement system rules and standards as defined by Payments Canada or any other Applicable Law.
 - (vii) take any action that imposes an unreasonable or disproportionately large load on SparcPay's infrastructure;
 - (viii) use the Services other than for legitimate transactional purposes;
 - (ix) use the Services to operate or engage in any business regulated by the Financial Transaction and Reports Analysis Centre of Canada (FINTRAC) or Crimes Enforcement Network (FinCEN) or any other relevant Governmental or Regulatory Authority. Such businesses include but are not limited to money service businesses or virtual currency exchanges; or
 - (x) breach or attempt to breach the security of any network, servers, data, computers or other hardware relating to or used in connection with the Services

or belonging to or used or leased by any other customer of SparcPay or any third party that is hosting or interfacing with any part of the Services; use or distribute through the Services any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the Services or the operations or assets of any other customer of SparcPay or any third party, including but not limited to viruses, Trojan horses, worms or other computer programming routines.

If SparcPay believes that Customer has engaged in any restricted activities or violated any of the provisions set out in this Section 3 (d) or otherwise in this Agreement, SparcPay may take various actions to protect itself, a third party or Customer from fees, fines, penalties and/or any other liability. These actions may include, but are not limited to the following:

- (a) close, suspend or limit Customer's access to the Services (such as limiting Customer's ability to make or receive any Payments);
- (b) update inaccurate information provided by Customer;
- (c) refuse to provide Services to Customer in the future;
- (d) contact Customer's financial institution or inform law enforcement or impacted third parties of Customer's actions;
- (e) take legal action against Customer.

4. **Ownership; Reservation of Rights**

- (a) As between SparcPay and Customer, Customer retains all ownership and intellectual property rights in and to Customer Data. Customer grants to SparcPay a nonexclusive, worldwide, royalty-free, irrevocable, sublicensable, and fully paid-up right to access, collect, use, process, store, disclose and transmit Customer Data to:
 - (i) provide the Services;
 - (ii) improve and enhance the Services and its other offerings; and
 - (iii) produce and/or generate data, information, or other materials that are anonymized and not identified as relating to a particular individual or company (such data, information and materials, the "**Aggregated Data**").

SparcPay may use, process, store, disclose and transmit the Aggregated Data for any purpose and without restriction or obligation to Customer of any kind. As between SparcPay and Customer, all right, title, and interest in Aggregated Data, and all intellectual property rights therein, belong to and are retained solely by SparcPay.

- (b) SparcPay or its licensors retain all ownership and intellectual property rights in and to:
 - (i) the Services;
 - (ii) all copyright and moral rights to the format and arrangement of any and all reports generated through the Services, but not the content of any such reports;

- (iii) any and all reports generated through the Services ("**Reports**") excluding any Customer Data therein;
 - (iv) anything developed or delivered by or on behalf of SparcPay under this Agreement;
 - (v) all other SparcPay's Confidential Information, including but not limited to, any reports generated from the Services or any Aggregated Data; and
 - (vi) any Modifications to the foregoing (i), (ii), (iii), (iv) and (v),
- (collectively "**SparcPay Property**").

Customer may download, keep or merge Reports generated by Customer's use of the Services.

- (c) Customer grants to SparcPay and its affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services, any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Permitted Users relating to the operation of Services or any of SparcPay's affiliates' services ("**Feedback**"). Nothing in this Agreement will restrict our right to use, profit from, disclose, publish or otherwise exploit any Feedback, without compensation to the Customer or Permitted Users and without any obligation to the Customer or any Permitted User. SparcPay is not obligated to use any Feedback.
- (d) All rights not expressly granted by SparcPay to Customer under this Agreement are reserved.

5. **Privacy**

Customer understands that Personal Information, including the Personal Information of Permitted Users, will be treated in accordance with SparcPay's privacy policy located at <https://www.SparcPay.com/privacy-policy/> ("**Privacy Policy**").

6. **Support**

Customer will generally have access to SparcPay's technical support services from 9:00 AM to 5:00 PM ET Monday through Friday excluding holidays, through email at support@SparcPay.com. SparcPay reserves the right, in its sole discretion, to change the support times noted in this section.

7. **Fees and Payment**

- (a) Fees. Customer will pay to SparcPay the fees described in an Order Form (or other means) or otherwise noted on the Website ("**Fees**"). Fees will be charged by SparcPay and payable by Customer:
 - (i) on a per transaction basis for each Bill processed ("**Transaction Fees**"), with the Transaction Fee amount shown before approved Bills are released and collected via ACH when Bills are released. If the Bills are not released the Transaction Fee will not be charged; or

- (ii) as defined by a separate business fee arrangement between SparcPay and Customer for the Services as agreed to in an Order Form or otherwise agreed by the Customer ("**Fee Arrangement**").
- (b) Changes to the Fees. SparcPay reserves the right to change the Fees and institute new charges by providing not less than 30 days prior notice to Customer.
- (c) Late Payment. Customer may not withhold or setoff any amounts due under this Agreement. Without limiting SparcPay's other rights, SparcPay may suspend Customer's access to the Services until all amounts due are paid in full. Any late payment will be increased by the costs of collection (if any) and will incur interest at the rate of 2.25 % compounded monthly, or the maximum legal rate (if less), plus all expenses of collection, until fully paid.
- (d) Taxes. The Fees set out in this Agreement do not include applicable sales, use, gross receipts, value-added, excise, personal property or other taxes. Customer will be responsible for and pay all applicable taxes, duties, tariffs, assessments, export and import fees or similar charges (including interest and penalties imposed thereon) on the transactions contemplated in connection with this Agreement other than taxes based on the net income or profits of SparcPay.
- (e) Suspension. Any suspension of the Services by SparcPay pursuant to the terms of this Agreement will not excuse Customer from its obligation to make payments under this Agreement.

8. Confidential Information

- (a) Definitions. For the purposes of this Agreement, a Party receiving Confidential Information (as defined below) will be the "**Recipient**", the Party disclosing such information will be the "**Discloser**" and "**Confidential Information**" of the Discloser means any and all information of the Discloser or any of its licensors that has or will come into the possession or knowledge of the Recipient in connection with or as a result of entering into this Agreement, including information concerning the Discloser's past, present or future customers, suppliers, technology or business, and where the Discloser is Customer includes Customer Data; if Discloser is SparcPay includes all SparcPay Property, provided that the Discloser's Confidential Information does not include, except with respect to Personal Information: (i) information already known or independently developed by the Recipient without access to the Discloser's Confidential Information; (ii) information that is publicly available through no wrongful act of the Recipient; or (iii) information received by the Recipient from a third party who was free to disclose it without confidentiality obligations.
- (b) Confidentiality Covenants. The Recipient hereby agrees that during the Term and at all times thereafter it will not, except to exercise its license rights or perform its obligations under this Agreement:
 - (i) disclose Confidential Information of the Discloser to any person, except to:
 - (A) in the case of Customer to its own employees or Permitted Users having a "need to know" and that have entered into written

agreements no less protective of such Confidential Information than this Agreement, and to such other recipients as the Discloser may approve in writing; or

(B) in the case of SparcPay to SparcPay's employees, consultants, agents or affiliates, having a "need to know" and that have entered into written agreements no less protective of such Confidential Information than this Agreement, and to such other recipients as the Discloser may approve in writing and to subcontractors and sub-processors to perform any Services;

(ii) use Confidential Information of the Discloser; or

(iii) alter or remove from any Confidential Information of the Discloser any proprietary legend.

Each Party will take industry standard precautions to safeguard the other Party's Confidential Information, which will in any event be at least as stringent as the precautions that the Recipient takes to protect its own Confidential Information of a similar type.

(c) Exceptions to Confidentiality. Notwithstanding Section 8, the Recipient may disclose the Discloser's Confidential Information: (i) to the extent that such disclosure is required by Applicable Law or by the order of a court or similar judicial or administrative body, provided that, except to the extent prohibited by law, the Recipient promptly notifies the Discloser in writing of such required disclosure and cooperates with the Discloser to seek an appropriate protective order; or (ii) to its legal counsel and other professional advisors, if and to the extent such persons need to know such Confidential Information in order to provide applicable professional advisory services in connection with the Party's business.

(d) Return of Confidential Information. Upon the termination or expiration of this Agreement and all Order Forms under this Agreement, each Party will promptly return to the other Party or destroy all Confidential Information (excluding any Customer Data which is addressed at Section 12 (e) below) of the other Party in its possession or control within a reasonable amount of time, in accordance with the Recipient's data destruction practices. Notwithstanding the foregoing, SparcPay may retain any electronically archived Customer's Confidential Information, provided that such retained information remains subject to the confidentiality obligations in this Agreement.

9. **Warranty and Disclaimer**

(a) Customer Warranty. Customer represents and warrants to and covenants with SparcPay that: (i) the Customer Data will only contain Personal Information in respect of which Customer has provided all notices and disclosures (including to each Permitted User), obtained all applicable third party consents and permissions, and otherwise has all authority, in each case as required by Applicable Laws, to enable SparcPay to provide the Services, including with respect to the collection, storage, access, use, disclosure, processing and transmission of Personal Information, including by or to SparcPay and to or from all applicable third parties; and (ii) Customer will obtain all necessary consents,

permissions and licenses with respect to any and all Customer Funding and Payments to the extent necessary to use the Services.

- (b) GENERAL DISCLAIMER. SPARCPAY MAKES NO REPRESENTATION REGARDING THE ACCURACY OF THE INFORMATION OBTAINED BY USE OF THE SERVICES. SPARCPAY MAKES NO REPRESENTATION THAT THE SERVICES OR ANY MATERIALS PROVIDED THROUGH THE SERVICES, IS APPROPRIATE OR AVAILABLE FOR USE IN LOCATIONS OUTSIDE OF CANADA OR THE UNITED STATES AND ACCESSING THEM FROM TERRITORIES WHERE THEIR CONTENTS ARE ILLEGAL OR IS PROHIBITED. PERMITTED USERS WHO CHOOSE TO ACCESS THE SERVICES FROM OTHER LOCATIONS DO SO ON THEIR OWN INITIATIVE AND ARE RESPONSIBLE FOR COMPLIANCE WITH LOCAL LAWS. SPARCPAY WILL NOT BE RESPONSIBLE FOR ANY THIRD-PARTY SOFTWARE, NON SPARCPAY APPLICATION OR HARDWARE SPARCPAY PROVIDES OR USES IN PROVIDING THE SERVICES. SPARCPAY WILL NOT BE RESPONSIBLE FOR THE INTERCEPTION OR DELAY OF DATA TRANSMITTED TO OR FROM CUSTOMER. CUSTOMER'S USE OF THE SERVICES AND CONTENT, AND ITS USE OF THE SERVICES IS AT CUSTOMER'S SOLE RISK AND DISCRETION AND SPARCPAY HEREBY DISCLAIMS ANY AND ALL LIABILITY TO CUSTOMER, ANY PERMITTED USERS, OR ANY THIRD PARTY RELATING THERETO. SPARCPAY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ALL ERRORS CAN OR WILL BE CORRECTED; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, THE SERVICES (OR ANY PART THEREOF) AND ANY OTHER PRODUCTS PROVIDED BY SPARCPAY TO CUSTOMER ARE PROVIDED "AS IS" AND "AS AVAILABLE". TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SPARCPAY HEREBY DISCLAIMS ALL EXPRESS, IMPLIED, COLLATERAL OR STATUTORY WARRANTIES, REPRESENTATIONS AND CONDITIONS, WHETHER WRITTEN OR ORAL, INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, COMPATIBILITY, TITLE, NON-INFRINGEMENT, SECURITY, RELIABILITY, COMPLETENESS, QUIET ENJOYMENT, ACCURACY, QUALITY, INTEGRATION OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY WARRANTIES OR CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF ANY OF THE FOREGOING, SPARCPAY EXPRESSLY DISCLAIMS ANY REPRESENTATION, CONDITION OR WARRANTY THAT ANY DATA OR INFORMATION PROVIDED TO CUSTOMER IN CONNECTION WITH CUSTOMER'S USE OF THE SERVICES (OR ANY PART THEREOF), IS ACCURATE, OR CAN OR SHOULD BE RELIED UPON BY CUSTOMER FOR ANY PURPOSE WHATSOEVER.

10. Indemnities

- (a)
- (i) SparcPay will indemnify, defend, and hold harmless the Customer and its officers, directors, employees, and agents (each, a "**Customer Indemnitee**") from and against any and all Losses incurred by a Customer Indemnitee arising out of or relating to any claim, action, demand, inquiry, audit, proceeding, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity or otherwise (collectively, an "**Action**") by a third party (other than an Affiliate or a Customer Indemnitee) that the SparcPay Services infringe any third party intellectual property right in Canada or the United States. The foregoing obligation does not apply to any Action or Losses arising out of or relating to any: (A) incorporation of any SparcPay Services into, or any combination, operation,

or use of any SparcPay Services with, any products or services not provided or authorized by SparcPay, unless such infringement would also have resulted solely from the use of the SparcPay Services without their incorporation in, or combination, operation or use, with such other products or services; (B) modification of any SparcPay Services other than by SparcPay or with SparcPay's express written approval; (C) unauthorized use of the SparcPay Services; or (D) Customer's indemnity in Section 10 (b).

- (ii) If the SparcPay Services are, or in SparcPay's opinion are likely to be, claimed to infringe, misappropriate, or otherwise violate any third party Intellectual property right, or if the Customer's use of any SparcPay Services is enjoined or threatened to be enjoined, SparcPay may, at its option and sole cost and expense:
 - (A) obtain the right for the Customer to continue to use the affected SparcPay Services materially as contemplated by this Agreement;
 - (B) modify or replace SparcPay Services, in whole or in part, to seek to make the SparcPay Services (as so modified or replaced) non-infringing while providing materially equivalent features and functionality, in which case such modifications or replacements will constitute SparcPay Services under this Agreement; or
 - (C) if SparcPay determines that neither of the foregoing two options are reasonably available, by written notice to the Customer, terminate the SparcPay Services and this Agreement, in whole or in part, and require the Customer to immediately cease using the SparcPay Services.

This section 10 (a) sets forth Customer's sole remedies and SparcPay's sole liability and obligation for any actual, threatened, or alleged claims that this Agreement or any subject matter hereof (including the SparcPay Services) infringes, misappropriates, or otherwise violates any third party intellectual property rights.

- (b) The Customer will defend, indemnify and hold harmless SparcPay, and its officers, directors, employees and agents (each, a "**Provider Indemnitee**") from and against any and all Losses incurred by a Provider Indemnitee arising out of or relating to any Action that arise from or relate to: (i) Customer Data including but not limited to that any Customer Data infringes the rights, including the intellectual property rights, of any third party; (ii) Customer's or Permitted Users' breach of any obligations, representations, warranties or covenants under this Agreement; (iii) unauthorized use of the Services by the Customer or any Permitted User; (iv) Customer's relationship with any End Customer, Supplier, Person or any other third party involved in the performance of Customer's services including but not limited to related to any dispute with any End Customer, Supplier or other Person; (v) security breaches; (vi) misappropriation of confidential or proprietary information, including without limitation, any infringement, misappropriation, or violation of any patents, copyrights, trademarks, trade secret rights, or other proprietary rights, or personal rights of any persons, firms or entities, including without limitation, rights of publicity or privacy; (vii) negligence or more culpable act or omission (including but not limited to breach of Applicable Laws, criminal conduct, recklessness, wilful misconduct or fraud) by Customer, any Permitted User, End Customer, Supplier or any third party on behalf of Customer or in any way in connection

with any Payment, Services or this Agreement; or (viii) use of the Services (or any part thereof) by Customer or any Permitted User in combination with any third party software, application or service. Customer will fully cooperate with SparcPay in the defense of any claim defended by Customer pursuant to its indemnification obligations under this Agreement and will not settle any such claim without the prior written consent of SparcPay.

- (c) Each Party will promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to this Section 10. 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 take control of the defense and investigation of such Action 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 10 (c) will not relieve the Indemnitor of its indemnity obligations under this Section 10 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.

11. **Limitation of Liabilities**

The Parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk and form an essential basis of the bargain and will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy:

- (a) AMOUNT. IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF SPARCPAY IN CONNECTION WITH OR UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE), OR OTHERWISE, EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER FOR THE SPARCPAY SERVICES IN THE MONTH IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM. FOR GREATER CERTAINTY, THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THIS AGREEMENT WILL NOT INCREASE THIS MAXIMUM LIABILITY AMOUNT. IN NO EVENT WILL SPARCPAY’S THIRD PARTY SUPPLIERS HAVE ANY LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT.
- (b) TYPE. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL SPARCPAY BE LIABLE TO CUSTOMER OR ANY PERMITTED USER FOR ANY: (I) SPECIAL, EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (II) LOST OR LOSS OF (A) SAVINGS, (B) PROFIT, (C) DATA, (D) USE, OR (E) GOODWILL; (III) BUSINESS INTERRUPTION; (IV) COSTS FOR THE PROCUREMENT OF SUBSTITUTE SERVICES; (V) PERSONAL INJURY OR DEATH; OR (VI) PERSONAL OR PROPERTY DAMAGE ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT, REGARDLESS OF CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE), OR OTHERWISE, AND EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITIES OF SUCH DAMAGES.

12. **Term and Termination**

- (a) Term. A subscription to Services will commence on the Effective Date and will remain in effect unless earlier terminated in accordance with this Section 12 (“**Term**”).

- (b) Termination without cause. Notwithstanding any other Sections of this Agreement, SparcPay may, in its discretion, terminate the Services, this Agreement or any part thereof at any time by providing notice to Customer. Customer may cancel the Services and terminate this Agreement at any time by sending an email to SparcPay at support@SparcPay.com. The Agreement is deemed to be terminated by Customer if Customer does not use the Services to make Payments for 90 consecutive calendar days from the last Payment.
- (c) Termination for cause. Without limiting any of SparcPay's other rights in this Agreement, if SparcPay has grounds to believe that Customer is using the Services for any improper purpose, SparcPay may immediately suspend or terminate Customer's access to and use of the Services and Customer will be notified of such suspension or termination. Upon termination of Customer's access and use of the Services, this Agreement will automatically terminate. SparcPay may, in addition to other relief, terminate this Agreement if the Customer commits a material breach of this Agreement and fails to correct such breach within 30 calendar days after receipt of notice of such breach. SparcPay may in its discretion terminate this Agreement effective immediately upon delivery of notice of termination to Customer if Customer becomes insolvent, ceases to conduct business in the ordinary course, takes any step or proceeding available to Customer for the benefit of insolvent debtors, or is subject to a proceeding for liquidation, dissolution or winding up, or a receiver, receiver-manager, liquidator or trustee in bankruptcy.
- (d) Effect of Termination. Upon expiration or earlier termination of this Agreement, Customer will immediately discontinue use of the Services and Customer will delete or, if requested by SparcPay, return any SparcPay Property in its possession, and certify in writing to the SparcPay that the SparcPay Property has been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle the Customer to any refund. All Fees due and payable and any amounts due to SparcPay are immediately due and are to be immediately paid by Customer to SparcPay.
- (e) Retrieval of Customer Data. Within 30 calendar days following termination, SparcPay will, at Customer's written request either: (i) provide to Customer a copy of all of Customer's images of Bill (in a standard format defined by SparcPay); or (ii) delete or otherwise render inaccessible any Customer Data that remains in the hardware or systems used by SparcPay to provide the Services. After such 30 day period, SparcPay will have no obligation to maintain or provide any Customer Data and may thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control, unless legally prohibited. Provided, however, that SparcPay will not be required to remove any Customer Data from its backup media and services that are maintained in accordance with its standard back procedures of record retention policies until such time as such backups are scheduled to be deleted provided that in all cases Customer Data will continue to be protected in accordance with this Agreement.
- (f) Survival. The following Sections, together with any other provision of this Agreement which expressly or by its nature survives termination or expiration, or which contemplates performance or observance subsequent to termination or expiration of this Agreement, will survive expiration or termination of this Agreement for any reason: Section 4 (Ownership; Reservation of Rights), Section 5 (Privacy), Section 7 (Fees and Payment),

Section 8 (Confidential Information), Section 9 (Warranty and Disclaimer), Section 10 (Indemnities), Section 11 (Limitation of Liabilities), Section 12 (f) (Survival), and Section 13 (General Provisions).

13. General Provisions

- (a) Notices. Notices sent to either Party will be effective when delivered in writing and in person or by email, one day after being sent by overnight courier, or five days after being sent by first class mail postage prepaid to the official contact designated by the Party to whom a notice is being given. Notices must be sent: (i) if to SparcPay, to the following SparcPay's address and email contact:

2 Robert Speck Parkway Suite 750
Mississauga ON L4Z 1H8
Email: support@SparcPay.com

and (ii) if to Customer, to the current mailing or email address that SparcPay has on file with respect to Customer. SparcPay may change its contact information by posting the new contact information on the Website or by giving notice thereof to Customer. Customer is solely responsible for keeping Customer's contact information on file with SparcPay current at all times during the Term.

- (b) Assignment. Customer may not assign this Agreement to any third party without SparcPay's prior written consent. Any purported assignment or delegation by Customer in violation of this Section will be null and void. SparcPay may assign this Agreement or any rights under this Agreement to any third party without Customer's consent. This Agreement enures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.
- (c) Governing Law and Attornment. This Agreement and any action related thereto will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflicts of law principles. The Parties will initiate any lawsuits in connection with this Agreement in Toronto, Ontario Canada, and irrevocably attorn to the exclusive personal jurisdiction and venue of the courts sitting therein. The U.N. Convention on Contracts for the International Sale of Goods will not apply to this Agreement. This choice of jurisdiction does not prevent SparcPay from seeking injunctive relief with respect to a violation of intellectual property rights or confidentiality obligations in any appropriate jurisdiction.
- (d) Export Restrictions. Customer will comply with all export laws and regulations that may apply to its access to or use of the Services. SparcPay makes no representation or warranty that the Services may be exported without Customer first obtaining appropriate licenses or permits under Applicable Law, or that any such license or permit has been, will be, or can be obtained.
- (e) Construction. Except as otherwise provided in this Agreement, the Parties' rights and remedies under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. The terms "include" and "including" mean, respectively, "include without limitation" and

"including without limitation." The headings of sections of this Agreement are for reference purposes only and have no substantive effect. The terms "consent" or "discretion" mean the right of a Party to withhold such consent or exercise such discretion, as applicable, arbitrarily and without any implied obligation to act reasonably or explain its decision to the other Party.

- (f) Force Majeure. Neither Party will be liable for delays caused by any event or circumstances beyond that Party's reasonable control (except for Customer's obligation to pay Fees or Customer's indemnities under this Agreement), including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, pandemic, strikes or other labour problems (other than those involving that Party's employees), Internet service failures or delays, or the unavailability or Modification by third parties of telecommunications or hosting infrastructure or third party websites ("**Force Majeure**"). For clarity, a Force Majeure event will not excuse the Customer from its failure to pay Fees or Customer's indemnities under this Agreement.
- (g) Severability. Any provision of this Agreement found by a tribunal or court of competent jurisdiction to be invalid, illegal or unenforceable will be severed from this Agreement and all other provisions of this Agreement will remain in full force and effect.
- (h) Waiver. A waiver of any provision of this Agreement must be in writing and a waiver in one instance will not preclude enforcement of such provision on other occasions.
- (i) Independent Contractors. SparcPay's relationship to Customer is that of an independent contractor, and neither Party is an agent or partner of the other. Neither Party will have, and neither Party will represent to any third party that it has, any authority to act on behalf of the other Party.
- (j) Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements, representations or other communications between the Parties, whether written or oral.
- (k) Amendments. No amendment, supplement, modification, waiver, or termination of this Agreement and, unless otherwise expressly specified in this Agreement, no consent or approval by any Party, will be binding unless executed in writing by the Party or Parties to be bound thereby. NOTWITHSTANDING THE PRECEDING SENTENCE, SPARCPAY MAY UNILATERALLY AMEND THIS AGREEMENT, IN WHOLE OR IN PART (EACH, AN "AMENDMENT"), BY GIVING CUSTOMER PRIOR NOTICE OF SUCH AMENDMENT OR POSTING NOTICE OF SUCH AMENDMENT ON THE WEBSITE. UNLESS OTHERWISE INDICATED BY SPARCPAY, ANY SUCH AMENDMENT WILL BECOME EFFECTIVE AS OF THE DATE THE NOTICE OF SUCH AMENDMENT IS PROVIDED TO CUSTOMER OR IS POSTED ON THE WEBSITE (WHICHEVER IS THE EARLIER).
- (l) Customer Lists. SparcPay may identify the Customer by name and logo as a SparcPay customer on the Website and on other promotional materials. Any goodwill arising from the use of the Customer's name and logo will inure to the benefit of the Customer.

- (m) English Language. It is the express wish of the Parties that this Agreement and all related documents be drawn up in English. C'est la volonté expresse des Parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

Addendum A

Permitted User Notice

The term “you” refers to the person visiting or otherwise using the Services. The terms “we”, “us”, “our” or “SparcPay” refer to 2144482 Ontario Limited (doing business as SparcPay). BY USING THE SERVICES, YOU: (A) REPRESENT AND WARRANT THAT (I) YOU HAVE REACHED THE AGE OF MAJORITY IN YOUR JURISDICTION, (II) YOU HAVE THE CAPACITY TO ENTER INTO BINDING OBLIGATIONS, (III) ALL INFORMATION SUPPLIED BY YOU TO US THROUGH THE SERVICES IS TRUE, ACCURATE, CURRENT, AND COMPLETE; AND (IV) AGREE TO BE BOUND BY AND COMPLY WITH THESE TERMS, AS UPDATED FROM TIME TO TIME BY SPARCPAY.

By accessing or using Services, you acknowledge and agree to be bound by the SparcPay’s Privacy Policy and the terms therein. You are responsible for (and must have sufficient authority to take) all actions that are performed on or through Permitted User Credentials, including any procurement or use of third party products or services (and associated disclosure of data) in connection with the Services. If you have been added or invited to use the Services, the party that administers such Services (and not you) controls your use of the Services including but not limited to adding or removing you from that Services, enabling or disabling third party integrations, and managing permissions. Any User Content that you submit or upload to the Services may be retained, accessed, used, modified, shared, or removed by the party that administers such Services and their appointees. You acknowledge that your Permitted User Credentials and account can become managed by the entity that owns or controls the email address domain or other method with which your account was created or registered, as described in SparcPay’s Privacy Policy.

Additional Terms

Your access to and use of certain functionalities provided in or through the Services may be subject to additional terms and conditions presented to you by SparcPay or its service providers. Such additional terms and conditions are incorporated herein by reference. If there is a conflict or inconsistency between the terms and conditions of such additional terms and these terms, then the provisions of these terms will govern to the extent of such conflict or inconsistency, unless the conflicting term in the additional terms expressly states that the conflicting term in these terms do not apply. If you do not accept and agree to such additional terms and conditions, you may not be able to, and you should not, access or use those functionalities.

Your Responsibilities

You agree to:

- i. keep your Permitted User Credentials and all other login information confidential;
- ii. monitor and control all activity conducted through your account in connection with the Services;
- iii. promptly notify us if you become aware or reasonably suspect any illegal or unauthorized activity or a security breach involving your account, including any loss, theft, or unauthorized disclosure or use of a Permitter User Credentials;
- iv. upload and disseminate only data to which you own all required rights under law and do so only consistent with Applicable Law;
- v. use reasonable efforts to prevent unauthorized access to or use of the Services; and
- vi. comply with all Applicable Laws, including, but not limited to, all intellectual property, data, privacy any export control laws.

No Unlawful or Prohibited Use

You will not use the Services in violation of the Agreement or of any Applicable Law. You will not, without our prior written permission, use the Services for any purpose other than to access and use the Services we make available through the Website. Without limiting the generality of the foregoing, you will not (and will not attempt to) directly or indirectly:

- i. disable, overly burden, impair, or otherwise interfere with servers or networks connected to the Services (e.g., a denial of service attack);
- ii. attempt to gain unauthorized access to the Services, or bypass any measures we may use to prevent or restrict access to the Services;
- iii. access or search any part of the services by any means other than our publicly supported interfaces (for example, “scraping”);
- iv. use Services in violation of any Applicable Law;
- v. send, upload, collect, transmit, store, use, post, publish, or otherwise communicate on the Services any data, information, pictures, videos, audio or other materials or User Content that: (i) contains any computer viruses, worms, malicious code, or any software intended to damage or alter a computer system or data; (ii) you do not have the lawful right to send, upload, collect, transmit, store, use, post, publish, or otherwise communicate; (iii) is false, intentionally misleading, or impersonates any other person; (iv) is defamatory, bullying, harassing, abusive, threatening, vulgar, obscene, or offensive, or that contains pornography, nudity, or graphic or gratuitous violence, or that promotes violence, racism, discrimination, bigotry, hatred, or physical harm of any kind against any group or individual; (v) is harmful to minors in any way or targeted at minors; (vi) infringes, violates or otherwise misappropriates the intellectual property or other rights of any third party (including any moral right, privacy right or right of publicity); (vii) encourages any conduct that may violate any Applicable Laws or would give rise to civil or criminal liability; or (viii) is designed or intended to obtain password, account, or private information from any other Services user;
- vi. use the Services or any part thereof to distribute, promote or otherwise publish any material containing any solicitation for funds, advertising or solicitation for goods or services, promoting any website or use any paid advertising platform to promote links that direct to the SparcPay domain or use the SparcPay trademark;
- vii. misrepresent yourself, or disguise the origin of any User Content (including by “spoofing”, “phishing”, manipulating headers or other identifiers, impersonating anyone else, or falsely implying any sponsorship or association with SparcPay or any third party);
- viii. publish, market, advertise or in any way distribute the Content;
- ix. share, transfer or otherwise provide access to an account designated for you to another person;
- x. use any data mining, robots, or similar data gathering or extraction methods, or copy, modify, reverse engineer, reverse assemble, disassemble, or decompile the Services or any part thereof or otherwise attempt to discover any source code;
- xi. overwhelm or attempt to overwhelm our infrastructure by imposing an unreasonably large load on our systems that consume extraordinary resources (CPUs, memory, disk space, bandwidth, etc.), such as:
 - a. using “robots,” “spiders,” “offline readers,” or other automated systems to send more request messages to our servers than a human could reasonably send in the same period of time by using a normal browser;
 - b. going far beyond the use parameters for any given service as described in its corresponding documentation; or

- c. consuming an unreasonable amount of storage for music, videos, pornography, etc., in a way that's unrelated to the purposes for which the services were designed;
- xii. reproduce, copy, distribute, resell or otherwise use the Services for any commercial purpose;
- xiii. use the Services for the purpose of building a similar or competitive product or service; or
- xiv. authorize, permit, enable, induce or encourage any third party to do the above.

In this Permitted User Notice, the term "User Content" means: (1) any information, data, text, software, code, scripts, music, sound, photos, graphics, videos, messages, tags, interactive features, or other materials that you post, upload, share, submit, or otherwise provide in any manner to the services and (2) any other materials, content, or data you provide to SparcPay or use with the Services. SparcPay reserves the right to remove User Content that is inconsistent with the spirit of the Permitted User Notice or Agreement, even if it's something that is not forbidden by the letter of this Permitted User Notice. In other words, if you do something that isn't listed here verbatim, but it looks or smells like something listed here, we may still remove it.

Communications Not Confidential

We do not guarantee the confidentiality of any communications made by you through the Services. We do not guarantee the security of data transmitted over the Internet or public networks in connection with your use of the Services.

Feedback

You agree that any Feedback that you provide, will not be treated as confidential, and nothing in the Agreement will restrict our right to use, profit from, disclose, publish or otherwise exploit any Feedback, without compensation to you.

Without affecting any other remedies available to us, SparcPay may permanently or temporarily terminate or suspend a Permitted User's account or access to the Services without notice or liability if SparcPay (in its sole discretion) determines that a Permitted User has violated this Permitted User Notice or any terms and conditions of the Agreement.