General Terms & Conditions to the ACP Agreement

last updated: May 2022

1.   Introduction

1.1 Spryker is a provider of cloud based commerce technologies and offers around its main PaaS+ platform "Spryker Cloud Commerce OS" (hereinafter "Spryker Software") various software products for temporary use for B2B, D2C, Enterprise Marketplace and B2C. Spryker Cloud Customers (hereinafter "Customers") who use the Spryker Software and additional services to build a digital commerce platform and experience. In this context, Spryker also offers its Customers the opportunity to use third-party technology services that are connected to the Spryker Software via its so-called App Composition Platform ("ACP") to a software connector (hereinafter "App") which is connected to a Partners products or Services.

1.2 The Partner operates as such a third party technology service provider (or vendor) and wishes to connect a pre-defined and agreed part or the full portfolio of services and products (hereinafter "Partner Service(s)") via the ACP to the Spryker Software and to Spryker's Customers. The Customers' usage of the Partners Service(s) is based on a separate contract (between the Partner and the Customers, unless the Partner's Service(s) is sold by Spryker directly to the Customers ("Reselling").

1.3 To this end, Spryker intends to establish the App as a connection between its Spryker Software via its ACP and Partner's Service(s), maintain the App during the term of the ACP Agreement, and subsequently offer the Partner's Service(s) to Customers for use via the ACP. The Partner shall be solely responsible for the content of its Service(s).

1.4 The purpose of these General Terms and Conditions ("GTC") between the Partner and Spryker is to specify and supplement the ACP Agreement, in particular to regulate the initial development, connection and maintenance of the App to the Spryker Software and to describe the project flow necessary for this. For the avoidance of doubt, neither the ACP Agreement nor these GTC grant the Partner any rights to use the Spryker Software.

2.   Subject of this General Terms & Conditions and the ACP - Agreement

2.1 The purpose of these GTC is to supplement and specify the provisions of the ACP Agreement.

2.1 The subject matter of the ACP Agreement is the initial development and maintenance of the App connecting the Partner's Service(s) to the Spryker Software by way of agile project management. Agile project management means that the Parties, in particular during the initial development of the App, always work together collaboratively and jointly work out and determine in a constant dialogue how exactly the App will be developed. In a number of manageable development steps, the App, which is explicitly defined at the beginning of the project, is developed in the course of the project in agreement between the Parties. Both parties are obliged to contribute, to make decisions jointly and, in particular, to provide participatory actions. In particular, Spryker shall provide the following contractual services:

a) The preparation of the project together with the Partner, in particular the development of an initial App scope, including a clear scope, needed references to integration documents, API version, technical specifications, workflow diagrams (where needed) and other scoping related documentation of the project goal and of the services to be provided by the Parties under the ACP Agreement.

b) The development of the App. In any event, Spryker does not develop any of the Partner's Service(s).

c) The maintenance and support of the App during the term of the ACP Agreement, based on the Service Level Agreement in Annex 2.

d) During and after the successful initial development of the App, Spryker will conduct the following assessments/reviews for the Partner's Service(s), that will be listed on the ACP App Store:

    (a)   Branding Review
    (b)   Business/Compliance Review
    (c)   Technical Review (Architecture)
    (d)   Security Review (Security Practices)
    The Partner needs to cooperate with Spryker on the Security Review by providing environments, credentials, and resources for the successful completion of the review.

    Spryker will perform the Security Review for the App as an assessment using its own resources or by an approved Third-Party Provider. The Security Assessment fee will be charged with 2,500.- EUR. The Security Review consists of the following:

    (1)   Pen-Testing following the OWASP Top 10 and Spryker defined standards - Mandatory
    (2)   Threat Modeling for the integration - Optional/Add-on with additional cost of 2,500.- EUR

Though Threat Modeling is optional, it is highly recommended. If during a Customer sales cycle, there is an ask by the Customer for Threat Modeling of the App, the Partner will agree to get it completed at that time. If the cost is different at that time, the Partner will bear that cost.

2.2 The Partner undertakes to clarify with Spryker any open questions that arise on an ongoing basis and to supply all necessary specifications. In particular, the Partner shall provide Spryker with the information and documents agreed upon or required from Spryker's point of view for the performance of the contractual services and shall provide other collaborative actions required for the performance of this contract.

2.3 Spryker offers to all its Customers the Partner's Service(s) via ACP for possible integration, whereby the actual use requires a further contractual relationship between the Customers and the Partner (except in case of Reselling by Spryker).

3.   Process description and project procedure of the initial development of the App

3.1 The parties agree to proceed according to the agreed requirements and to follow an agile project methodology when creating the App. This means that the development of the App shall be based on a collaborative approach in which both Parties shall use their best efforts to work together in the development of the App.

3.2 The Partner shall provide Spryker with all information and documents required for the performance of the contractual services and shall provide any other cooperation required for the performance of this contract as an independent obligation.

3.3 Unless otherwise agreed, Spryker may use expert subcontractors for the execution of the services. Spryker will employ properly trained staff with the necessary expertise and will continuously supervise and control them during the execution of the services. Spryker shall also decide at its own discretion which employees or subcontractors are to be deployed or replaced.

4.   Change Request Procedure

4.1 The change request procedure described in the following is used to restrict, change, or extend a request of the scope defined in Annex 1 of the ACP Agreement between the Partner and Spryker.

4.2 Each Party can initiate the change request procedure with a corresponding change request. The change request must be made in writing and must contain sufficient information to enable the other party to evaluate the change request. Each change request must contain at least the following information:

   a) Description of the required change request,
   b) Meaning and purpose of the desired change request,
   c) Urgency of the desired change request, and
   a) Time of the required conversion of the change request

4.3 If the partner submits a change request, Spryker will always check it within a reasonable period of time after receipt of the change request. However, in the event that Spryker assumes that a change request requires a detailed analysis of more than one (1) person-day ("larger change request analysis"), Spryker will first provide a non-binding rough estimate (maximum price estimate with an accuracy of -20% / +20% - "Level Zero Estimate") together with an estimate of the analysis costs. The Partner can then decide whether it wants a chargeable analysis of the change request. The chargeable analysis shall be remunerated in accordance with the Spryker daily rates.

5.   Release of the App

5.1 After initial development of the App in full and complete by Spryker, the Partner shall examine the App. The prerequisite for release is that Spryker will notify the Partner of readiness for release. The Partner will check the contractual services immediately after notification with the support of Spryker within the scope of suitable and thorough tests for faultlessness and usability in the concrete situation. If a defect is found, the Partner shall notify Spryker immediately and without culpable delay in writing - in any case not later than within 10 business days. The Partner shall take appropriate precautions in the event that the App does not function properly (e.g. by fault diagnoses, test runs, regular checking of the results). The entire acceptance test and inspection obligation of the Partner must not exceed the length of 10 business days.

5.2 If the Partner fails to notify Spryker in time of any defect, the App shall be deemed approved and released. If a defect, that was not identifiable during the release, appears later, notification must be made in writing within a period of two weeks after discovery; otherwise the App shall be deemed accepted even in view of this defect.

5.3 If there are only slight and insignificant defects that only insignificantly impair the proper use of the contractual services, the Partner will declare release.

5.4 If the release fails, the Partner shall provide Spryker with a list of all defects hindering the release. This list of deficiencies shall contain at least the following information: (i) essential information about the defect, including a detailed description of the defect, (ii) steps required to reproduce the defect, (iii) current error behavior, (iv) expected behavior, and (v) the name and version of the linked bundle. After the expiration of a reasonable period of time, Spryker shall provide a defect-free and acceptable version of the contractual services or other work results. If the release fails even after this deadline has been set, the Partner shall provide an additional reasonable grace period to Spryker. Within the framework of the subsequent inspection, only the recorded defects are inspected, insofar as they can be the subject of an isolated inspection in Terms of their function.

5.5 In order to realize the release of the App, the Partner is obligated to any reasonable and appropriate cooperative action towards Spryker within the scope of the joint cooperation (Mitwirkungspflicht).

5.6 In addition, the Partner is obliged to release all necessary marketing information such as descriptions, screenshots of services, branding material, logos, videos, etc. to be provided by the Partner.

5.7 The Parties are entitled to and will coordinate and publish agreed PR and social media campaigns (announcements regarding the collaboration and in particular the release of the App) with each other via various social media channels and professional networks (e.g., but not conclusively via LinkedIn, Twitter, etc.) at the latest at the time of the release of the App and hereby grant each other all rights required for this purpose.

6. Support & Maintenance Services

The support and maintenance services to be provided by Spryker are described in detail in Annex 2 "ACP App Support SLA".

7. Remuneration

7.1 Unless otherwise agreed, the remuneration for the Services specified in these GTC shall be governed by the provisions of the ACP Agreement.

7.2 If the Parties have not agreed on the remuneration for a further service of Spryker beyond the contractual services of the ACP Agreement, the contractual service of which the Partner could only expect according to the circumstances against remuneration, the Partner shall pay the customary remuneration for such service. In case of doubt, the remuneration rates charged by Spryker for its services shall be deemed customary.

7.3 Daily rates (plus VAT))

Type of Contractual Service	Daily rate net in Euros
Spryker ACP App Services	€ 1,500.00

8. Free trial phase of the Partner's Service(s)

8.1 The Partner shall offer each Customer, who wants to subscribe for the Partner's Service(s) via the App and ACP, a free trial phase for the Partner's Service(s) over a period of min. 2 maximum 6 weeks.

8.2 For the avoidance of doubt, no referral fee or commission shall be payable under the ACP Agreement (which may also have been agreed in a separate referral/commission agreement between the Parties) during such trial period of each Customer between the Partner and Spryker.

8.3 Any referral fee is not invoiced until the Customer finally accepts the Partner's Service(s) and subscribes for a full, paid contractual relationship with the Partner.

8.4 If Customer does not enter into a full, paid contractual relationship with the Partner within the aforementioned period of the free trial phase, or is not generated by Spryker as a joint Customer within the framework of Reselling within this period of time, this Customer shall not be deemed to be a Spryker ACP Customer. Consequently, no payment claims will arise under the ACP Agreement.

9. Rights of Use

The Partner grants Spryker all necessary rights to enable and publish the Partner's Service(s) on the Spryker ACP. For the avoidance of doubt, all Intellectual property rights referring to the App remain with Spryker. For Informational Purposes: Spryker grants the Customer a simple, non-exclusive and non-transferable right to use the App in order to connect the Partner's Service(s) and the Spryker Software on Spryker ACP.

10. Activating and publication of the App and the Partner's Service(s) on ACP

10.1 The activation and publication of the Partner's Service(s) in the Spryker ACP App Store as well as the related obligations of the Parties are governed by the following regulations:

a) The Spryker ACP Agreement and these GTC offer an opportunity for the Partner to have its Partner Service(s) listed as a Certified Partner Service via the Spryker ACP App Store. Spryker will certify the Partner's Service(s) if the Partner is eligible for certification based on its completion of the Certified Partner requirements and if Spryker decides, in its good faith discretion, that the Partner's Service(s): (i) is of potentially significant benefit to the Spryker Customers, (ii) protects its users' data, (iii) has achieved a minimum adoption level among our Customers, (iv) complies with any relevant Spryker Policy, which is incorporated by reference into these GTC and (iv) meets the interoperability, support, usage and other minimum requirements set forth in the Spryker ACP Agreement, its Annexes and its GTC.

b) Rights to the Partner's Service(s). Subject to the terms and conditions of this GTC, the Partner hereby grants Spryker a non-transferable, non-exclusive, royalty-free license to internally use the Partner's Service(s), solely for (i) testing and certifying interoperability between the Partner's Service(s) and the Spryker Software, and (ii) providing maintenance support to the Customers as set forth in the Spryker ACP Agreement. Unless otherwise agreed in writing between the Parties, in no event Spryker will: (a) modify, enhance, translate, supplement, create derivative works from reverse engineer, reverse compile or otherwise reduce the Partner's Service(s) to human readable form, (b) sell, lease, transfer or sublicense the Partner's Service(s) to any third party, (c) disclose or otherwise provide all or any portion of the Partner's Service(s) to any person, (d) use the Partner's Service(s) or any component thereof in a business production mode. Title to and ownership of the Partner's Service(s), and all patents, copyrights and property rights applicable thereto, shall at all times remain solely and exclusively with the Partner.

c) Compliance with any Spryker Policies. The Partner agrees to comply with the regulations of any Spryker Policy at all times, in effect from time to time, which is incorporated herein by reference. Spryker Policies may include requirements that the Partner must complete in order to qualify for the Spryker ACP Program benefits. Any relevant Spryker Policy is located at: https://spryker.com/en/legacy-terms/.

d) Audit Rights. Spryker may ask the Partner to assist Spryker in determining the Partner's compliance with these GTC and any relevant Spryker Policies. The Partner will use all reasonable efforts to help Spryker in this effort, including, but not limited to, allowing Spryker to review the Partner's Service(s), the Partner's access logs, the Partner's systems, or appointing an independent party to conduct an audit.

e) The Partner's Duties and Restrictions. During the term of the Spryker ACP Agreement, the Partner agrees that it shall (a) make its Partner's Service(s) commercially available to the Customers, (b) give the Customers with qualified support and service for use of the Partner's Service(s) in conjunction with the Spryker Software, (c) give Customers a Service Level Agreement according to the Spryker ACP Agreement (d) promptly give Spryker all reasonably requested information regarding the use of the Partner's Service(s) in conjunction with the Spryker Software, including appropriate documentation on the setup and configuration of the Partner's Service(s) in conjunction with the Spryker Software (not exhaustive, but listed as example content of the ACP App Store: (i) Overview/description of the Partner's Service(s); (ii) Technical Specifications; (iii) Quality Report; (iv) Release Notes; (v) Support; (vi) Q & A; (vii) Reviews; (viii)) logo, pricing, screenshots and/or videos (e) comply with all applicable laws and regulations, and (f) give Spryker a written notification within twenty-four (24) hours of problem identification describing any technical issues that may impact the performance of the Partner's Service(s) when used with the Spryker Software.

The Partner will not: (i) willfully tamper with the security of the Spryker Software or tamper with the Customer accounts, (ii) access data on the Spryker Software not intended for the Partner, (iii) log into a server or account on the Spryker Software that the Partner is not authorized to access, (iv) attempt to probe, scan or test the vulnerability of any Spryker Software or to breach the security or authentication measures without proper authorization, (v) willfully render any part of the Spryker Software unusable, (vi) unless agreed in writing, distribute, license, sell or otherwise commercially exploit the Spryker Software or make the Spryker Software available to a third party.

10.2 The activation and publishing of the App and the Partner's Service(s) in the Spryker ACP App Store should be done according to the following scheme, once the Spryker ACP is fully live and can support the listing process:

a) Until Spryker ACP supports self-service listing, Spryker will create a listing for the Partners Service(s) on the Spryker App Store based on the listing-related information provided by the Partner. After that, the Partner should be able to create and maintain listings on its own,

b) Spryker will conduct reviews (business, technical and security assessment) for the Partner's Service(s)

c) Once these assessments are completed, the Partner's Service(s) can be be made available for Customers via the App

d) At this stage the App and the Partner's Service(s) are activated on the Spryker ACP App Store

e) Customers can connect to the Partner's Service(s) directly via the App from the ACP App Store

f) If the Partner's system support direct activation or trial, the Customer can start using it right away

g) If manual intervention is needed, Spryker or the Partner will complete the necessary configuration steps to enable the Partner's Service(s) for the Customer via the App

h) Upon completion of the trial, the Customer can decide to buy via the Partner directly or via Spryker. In that case, a

switch will need to be turned on for the connection to make it active. The partner will only enable its Partner Service(s) or features that the Customer has purchased through a Spryker Reselling Agreement or the Customer has referred to the Partner as a Referral with respect to an existing Referral Agreement between the Partner and Spryker. If there are additional or newer features that the Customer is interested in, the Partner should work with Spryker in getting them added to the Customer's contract and instance.

i) Again, depending on the automation available some steps may or may not be needed on the Partner's side
j) Once activated, the Customer can continue using the Partner's Service(s)
k) If the Customer doesn't want to use the Partner's Service(s) via the App after the trial period, they can turn off the connection in the Spryker ACP App Store. Spryker or the Partner may need to assist.

10.3 Spryker is enabled to delete any app of any Partner and the Partner's Service(s) at any time from the Spryker ACP App Store for any reason.

11. Liability

11.1 Each Party shall be liable without limitation for

a) willful intent and gross negligence (including on the part of its legal representatives or vicarious agents);
b) damage due to injury to life, body or health (including damage caused by its legal representatives or vicarious agents);
c) intent to deceive/ fraudulent conduct by a party (including on the part of its legal representatives or vicarious agents);
d) a quality it has warranted;
e) any other liability that cannot be legally excluded or limited, including under the German Product Liability Law (Produkthaftungsgesetz);

11.2 None of the Parties shall be liable to the other for indirect damages, punitive damages, consequential damages or incidental damages, or for claims for lost or expected profits, even if advised of the possibility of such damages.

11.3 If one of the Parties or one of its legal representatives or vicarious agents breaches an obligation due to slight negligence, the fulfillment of which is a prerequisite for the proper performance of the ACP Agreement ("cardinal obligation"), the liability of the parties shall be limited to the amount reasonable to compensate for the foreseeable damage. In any event, however, such amount shall not exceed the total amount paid to Spryker under these conditions in the last twelve (12) months prior to the harmful event. The aggregate liability of the Parties arising out of or in connection with these Terms or any of the additional Terms is therefore limited.

11.4 Liability for damage above and beyond that shall be excluded; in particular, any strict liability shall be excluded.

11.5 The limitation period for claims for damages shall be one (1) year, except in the cases of Section 11.1.

11.6 For the avoidance of doubt, Spryker shall in no event be liable for any damages arising from or in connection with Partner's operation of the Partner's Service(s) or the use of the Partner's Service(s) by the Customers. Spryker shall only be liable vis-a-vis Partner to the aforementioned extent for such damages that occur in connection with Spryker's provision of the contractual services. The ACP Agreement shall not be construed in a way that determines any liability of Spryker towards the Customers as users of the Partner Service(s).

12. Indemnification

12.1 By the Partner. Subject to Section 12.3, the Partner (as "Indemnitor") shall defend and indemnify Spryker and its officers, employees, directors, agents and Affiliates (each as an "Indemnitee") from and against any and all claims, losses, damages, judgments, costs, and expenses (including reasonable attorneys' fees) which Spryker may suffer or incur arising out of or in connection with (a) any action by a third party against Spryker that is based on a claim that any Partner Application or Customers' use thereof, infringe or misappropriate such third party's Intellectual Property Rights; (b) any action by a third party (including a Customer) against Spryker relating to (i) a representation or warranty made by Partner to such third party (unless such representation or warranty was authorized in writing by Spryker) or (ii) any claim of unfair or deceptive business practices not arising directly from a statement expressly authorized by Spryker; (c) a breach of Partner's representations or warranties in the Spryker ACP agreement or any applicable Addendum and its GTC; or (d) any claim specified to subject to indemnity in an applicable Addendum.

12.2 By Spryker. Subject to Section 12.3, Spryker (as "Indemnitor") shall defend and indemnify Partner and its officers, employees, directors, agents and Affiliates (each as an "Indemnitee") from and against any and all claims, losses, damages, judgments, costs, and expenses (including reasonable attorneys' fees) which Partner may suffer or incur arising out of or in connection with any action by a third party against Partner arising directly from a claim by such third party that the Spryker ACP infringe or misappropriate such third party's Intellectual Property Right. The foregoing defense and indemnification obligations do not apply to the extent any infringement or misappropriation claim of any kind arises from: (i) the combination, operation or use of the Spryker ACP with equipment, devices, software (including a Partner Application) or data (including

without limitation the Partner's Confidential Information) not supplied by Spryker, if a claim would not have occurred but for such combination, operation or use; or (ii) use of the Spryker ACP other than in accordance with the Spryker ACP Agreement and its GTC and/or any relevant Spryker Policy.

12.3 Conditions of Indemnification. As a condition to an Indemnitor's obligations under this Section , an Indemnitee will: (i) promptly notify the Indemnitor of the claim for which the Indemnitee is seeking indemnification; (ii) grant the Indemnitor sole control of the defense and settlement of the claim; (iii) provide the Indemnitor, at the Indemnitor's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim; (iv) preserve and will not waive legal, professional or any other privilege attaching to any of the records, documents, or other information in relation to such claim without prior notification of consent by the Indemnitor. The Indemnitor will not settle any claim that involves a remedy other than payment without the Indemnitee's prior written consent, which may not be unreasonably withheld or delayed. An Indemnitee has the right to retain counsel, at the Indemnitee's expense, to participate in the defense or settlement of any claim. The Indemnitor will not be liable for any settlement or compromise that an Indemnitee enters into without the Indemnitor's prior written consent.

13. Force Majeure

13.1 The Parties shall not be liable for losses, damage, non-fulfillment or delayed fulfillment of all or individual obligations under the ACP Agreement due to fire, flooding, pandemics, earthquake, strike (by their own employees or those of third parties), labor unrest, war (declared or undeclared), embargoes, blockades, statutory prohibitions, insurrection, public disorder, rioting or other unavoidable and serious events that were not foreseeable by the Party not fulfilling its obligation and that mean that fulfillment of the obligation in question is hampered or rendered impossible ("Force Majeure"). In such a case, the Party not fulfilling its obligation shall notify the other Party as soon as the incident of Force Majeure occurs and confirm said notification in text form, accompanied by a description of the causes of why the obligation cannot be fulfilled, within five (5) Business Days.

13.2 Both Parties shall be discharged from their contractual service obligations toward each other for as long as such an incident of Force Majeure lasts. Both Parties shall work jointly to enable the interruption in performance of their obligations caused by Force Majeure to be remedied as soon as possible or shall at least agree on a temporary, provisional solution ("Provisional Solution"). If a Provisional Solution is created, the Partner shall pay Spryker the agreed remuneration or otherwise the customary local remuneration for the respective Provisional Solution. When the incident of Force Majeure is over, Spryker shall provide the original Services again within a reasonable period of time. The arrangements of the ACP Agreement shall continue to apply as of that time. The Parties shall still be obligated to fulfill the ACP Agreement, with the exception of the contractual service obligations that were affected by an incident of Force Majeure and do not have to be fulfilled.

14. Non-Solicitation Clause

14.1 The Partner shall not entice away, or attempt to entice away, any employees, consultants or subcontractors of Spryker during the Term of the ACP Agreement and for a period of twenty-four (24) months after the ACP Agreement ends without the prior written consent of Spryker ("Prohibition on Solicitation"). A violation of this Prohibition on Solicitation shall also exist if the Partner induces another natural or legal person to entice employees away from Spryker. "Solicitation" of an employee of Spryker denotes actively inducing the person to end his or her employment relationship with Spryker and establish an employment relationship with the Partner. The Prohibition on Solicitation shall not relate to nationwide job advertisements that are open to any prospective employees and are not aimed specifically at the afore-mentioned persons. The Prohibition on Solicitation shall also apply to Affiliated Companies of the Partner.

14.2 Other offers and agreements under which the employee's labor no longer benefits Spryker (or the Affiliated Company of Spryker), but wholly or partly the Partner (or the Affiliated Companies of the Partner) shall be tantamount to establishment of an employment relationship within the meaning of Section 14.1.

15. Non-Disclosure Agreement

15.1 "Confidential Information" of a Party within the meaning of this Clause shall denote all trade secrets of that Party in accordance with Clause 2 No. 1 of the German Trade Secrets Act (Geschäftsgeheimnisgesetz – GeschGehG) and its know-how, bases of costing and calculation, concepts, business plans, product and program specifications, strategies, Partner Data, and sales and marketing data the Party communicates or has communicated, or otherwise makes or has made available, to the other Party in writing, orally or in another way, or of which the other Party otherwise gains or has gained knowledge, unless the following demonstrably applies in full or in part to the information in question:

a) the information was already known to the Party receiving it before it was communicated to it;
b) the information was already public domain before the Party receiving it gained knowledge of it;
c) the information becomes public domain after being communicated without the involvement of, and regardless of any omissions by, the Party receiving the information; or
d) the information has been made known by a third party without involving a violation of an obligation to maintain confidentiality by the third party.

15.2 Each Party shall be obligated:

a) to treat all Confidential Information of the other Party it receives in connection with the ACP Agreement with

confidentiality;

b) not to copy or reproduce it without the prior written consent of the other Party, unless that is absolutely necessary for it to fulfill its obligations under the ACP Agreement;

c) to apply no less stringent security measures and no lesser degree of care to such Confidential Information than it applies to protect its own confidential information and than, at least, a reasonable person or reasonable company would apply to protect its own confidential information;

d) to use such Confidential Information only insofar as it is absolutely necessary to fulfill its obligations or exercise its rights under the ACP Agreement;

e) subject to Section 14.3 not to disclose such Confidential Information to third parties without: (i) informing the recipient that the information is confidential; (ii) ensuring that the recipient concludes, and complies with, an agreement with the other Party in which it undertakes to protect the Confidential Information subject to conditions that are at least equivalent to those specified in this non-disclosure agreement; and (iii) obtaining the prior written consent of the other Party (such consent has been granted in relation to Affiliated Companies of the Partner); and

f) upon request, and when the ACP Agreement ends (for whatever reason), to return all materials (in whatever form) in which such Confidential Information is contained, embodied or recorded, and which are in its possession or under its control, to the other Party without undue delay and, upon request, to give the other Party written confirmation that it has done so.

15.3 Either Party shall be authorized to disclose the Confidential Information of the other Party if it is obligated by law, or ordered by a court of law, a public authority, a Supervisory Authority or another competent authority, to do so (but only to the extent absolutely necessary to comply with such an obligation or order).

15.4 The obligations under this Section 15 shall survive for a period of three (3) years after expiry of the term of the ACP Agreement.

16.   Term & Notice

16.1 Unless otherwise agreed, the ACP Agreement is concluded for an indefinite period. The parties are free to terminate the ACP Agreement in writing with three months' notice to the end of the month or to dissolve the ACP Agreement by mutual agreement. In this case, however, the parties shall continue to provide their services until the end of the respective term agreed upon by a Customer with Spryker or the Partner regarding the Services. Only upon expiry of the agreed minimum contract term of a Customer via the Services the respective obligations of the Parties to provide Services shall actually end.

16.2 After termination of the ACP Agreement and after expiry of the respective term of the Customer, neither the Partner nor Spryker shall have any further obligations under this Agreement, with the exception of the payment of already determined remuneration/claims for damages as well as the obligations under the Non-Disclosure agreement in section 14 or the Non-Solicitation section.

16.3 Consequently, in case of termination, the App will no longer connect the Partner's Service(s) to the Spryker Software and the Partner's Service(s) will be deleted from the Spryker ACP App Store accordingly.

17.   Marketing Measures

17.1 The Partner will undertake to publish a press release and social media (incl. but not limited to LinkedIn) about the partnership and release in coordination with Spryker each time the contract is signed and the App is released, and to distribute the same through the Partner's own press networks or contacts.

17.2 The Partner and Spryker agree to communicate with each other about the Partner status. The other Party's application is submitted at regular intervals via the social media channels available (Facebook, Xing, LinkedIn, Twitter) and the company's own blogs or newsletters. The Partner agrees to support Spryker's ACP campaigns by own promotion on available social media channels, podcast formats, newsletters, blogs and webinars.

17.3 The Partner and Spryker agree to display at least the other Party's company name and logo on their own website in order to name the other Party as a reference Partner for any online and offline marketing. The Parties grant each other a nonexclusive, non-transferable, royalty-free right to use and display the other Party's trademarks, service marks and logos in connection with the Spryker ACP Program and these GTC for the duration of the collaboration. A Party shall not acquire any interest, right, or title in any of the other Party's trademarks, copyrights, or content, and all associated goodwill shall reside with the respective Party. During the term of the ACP Agreement, the Parties may use the other Party's trademark as long as each Party follows the usage requirements in this section. Each Party   must: (i) only use the images of the other Party's trademark that the Party makes available, without altering them in any way, (ii) only use the Party's trademarks in connection with the Spryker ACP Program and these Agreement, and (iii) immediately comply if one Party request that the other Party discontinue use. Each Party must not: (i) use the other Party's trademark in a misleading way, (ii) use the other Party's trademark in a way that implies that a Party endorse, sponsor or approve of the other Party's services or products, or (iii) use the Party's trademark in violation of applicable law or in connection with an obscene, indecent, or unlawful topic or material. Further, each Party will not make any express or implied statement or suggestion, or use the other Party's trademark in a manner that dilutes, tarnishes, degrades, disparages or otherwise reflects adversely on the other Party, or its business,

products or services.

17.4 Spryker offers the Partner the chance to participate as co-exhibitor or as part of a co-branding at events according to availability, whereby the general conditions and any costs incurred will be agreed separately prior to each event.

17.5 Depending on availability, Spryker also offers the Partner the opportunity to participate in Spryker roadshows or similar events. Costs and schedules are also determined separately for each individual case. Conversely, the Partner will also provide Spryker with the opportunity to participate in various Partner's events.

17.6 The Parties agree to inform each other (electronically via email is sufficient) prior to one of the aforementioned advertising measures. Each of the Parties reserves the right to object to the specific use within two business days. If there is no objection, the advertising measure shall be deemed as having been approved. The Parties shall send the notifications of use to the email address of Spryker info@spryker.com and for the Partner to the email to be nominated by Partner.

18. Assignment, Right of Retention and Offsetting

18.1 The assignment of claims which are not monetary claims is only permitted upon prior written consent of the other Party. Such consent shall not be unreasonably withheld.

18.2 A right of retention can only be asserted due to counterclaims from the respective contractual relationship.

18.3 The Parties to the may only set off claims that have been legally established or are undisputed.

19. Non-Impediment

19.1 The ACP Agreement is signed on a non-exclusive basis and, therefore, the Parties are free to enter into similar agreements with third Parties or any other type of agreement with the same purpose and object similar.

19.2 Nothing in the ACP Agreement shall be construed as precluding or limiting in any way the right of Spryker to provide services of any kind to any individual or entity, including without limitation performing services or developing materials which are similar to and/or competitive with the contractual services hereunder.

20. Conciliation Proceedings, Applicable Law and Place of Jurisdiction

20.1 In the event of differences of opinion on the contents of the ACP Agreement or contractual services or these GTC ("Dispute"), the Parties shall endeavor to find an amicable solution through the named contact persons before taking litigation. If no solution is reached at that level, the matter shall be escalated to the top management level. If an amicable solution can also not be reached at the top management level, the Parties shall hold conciliation proceedings before an officially approved conciliation office in Berlin, Germany/in accordance with the Hamburg Arbitration Board's arbitration rules for IT disputes in the version applicable at the time of initiating arbitration proceedings, with the aim of settling legal disputes out of court. If the conciliation proceedings fail, the Parties can resort to the competent court of law in Hamburg/Berlin, which shall have exclusive jurisdiction with regard to any disputes under the ACP Agreement. The right of the Parties to seek interim relief remains unaffected.

20.2 The law of the Federal Republic of Germany shall apply to the ACP Agreement and these GTC, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated April 11, 1980 (CISG).

21. Relationship to other agreements

Unless expressly agreed, any previously concluded agreement between the parties shall generally continue to apply and shall not be automatically replaced by the ACP Agreement.

22. General Provisions

22.1 All arrangements modifying, supplementing or concretizing the ACP Agreement and/or these GTC, and any warranties or understandings, must be agreed in writing. For the avoidance of doubt, text form shall not be considered written form. Such agreements as stated above can be made by the Parties using the DocuSign application, in which case they shall satisfy the requirements specified in Sentence 1 of this Section 22.1.

22.2 If a provision in this ACP Agreement and/or these GTC is or becomes invalid, this shall not affect the validity of the other provisions. In such a case, the Parties undertake to agree a valid arrangement that corresponds as closely as possible to the intended economic purpose of the invalid provision. The same shall apply mutatis mutandis to any gaps in the ACP Agreement as well as in these GTC.

22.3 The ACP Agreement can be concluded in any number of copies, which all together constitute one and the same contractual system. Each Party can conclude the ACP Agreement by signing such a counterpart.

22.4 General Terms and conditions of the Partner shall not apply. Differing, conflicting or additional General Terms and

Conditions of the Partner shall become part of the ACP Agreement only and insofar as Spryker has explicitly agreed in writing that they shall apply. For the avoidance of doubt, Spryker's acceptance of the Partner's payments without reservation in awareness of the Partner's General Terms and Conditions shall not be deemed Spryker's acceptance of the Partner's General Terms and Conditions.

22.5 Spryker reserves the right to change these T&Cs, including all rules and Spryker Policies, at its sole discretion, if unforeseeable changes occur after the conclusion of the contract and/or gaps are disclosed and the relationship between performance and consideration is thereby disturbed, by publishing a notice of such changes on the Spryker website at https://spryker.com/en/legacy-terms/. Affiliate is responsible for reviewing and familiarizing itself with all additional terms, changes (including new terms, updates, revisions, amendments, modifications, and additional rules, policies, terms and conditions) communicated to it or posted by Spryker and expressly agreeing to them in text form (via email is sufficient) within 14 days. Any additional terms are hereby incorporated into these Terms by this reference.

23.   Definitions and interpretation

23.1 Definitions: In the ACP Agreement and this General Terms & Conditions to the ACP Agreement, the following Terms and processes shall have the following meanings, to the extent visible from the context, in alphabetical order:

Affiliate	is a legal entity that directly or indirectly controls, is controlled by, or is under common control with another legal entity, where control means the direct or indirect ownership of 50% or more of the voting power or equity in a legal entity or de facto control by a legal entity of another legal entity's decision making;
ACP Agreement	has the meaning ascribed in the the Introduction of these GTC;
ACP App Store	all apps offered by various Technology Partners as third party service providers and which can be used by the Customer via the ACP; refers to the Spryker App Composition Platform App Store in the sense of a Catalog/Directory where the Partner's Service(s) can be listed and offered to Spryker Customers;
App Composition Platform ("ACP")	has the meaning ascribed in the the Introduction of these GTC;
App	has the meaning ascribed in the the Introduction of these GTC;
Branding Review	Spryker will define branding guidelines that each app listing will need to follow. These will include logos, color schemes, fonts, etc.;
Business/Compliance Review	include compliance checks for areas like denied party lists, business relations with sanctioned entities, etc.;
Contractual Services	has the meaning ascribed in Section 2.1 of these GTC;
General Terms and Conditions to the ACP Agreement	these Terms and Conditions relating to the App, its development and maintenance, as well as the activation of the App and publication of the Partner's Service(s) via the ACP and the rights and obligations of the Partner / Spryker in connection therewith, which supplement and specify the ACP Agreement;
Security Review (Security Practices)	assessment based on OWASP Top 10 (standard awareness document for developers and web application security) and Spryker defined security guidelines;
Spryker Software	has the meaning ascribed in the the Introduction of these GTC;

Partners Services

has the meaning ascribed in the the Introduction of these GTC;

Technical Review (Architecture)

architecture review of the solution to ensure the Partner's Service(s) follows best practices;

23.2 Interpretation: In these GTC as well as the ACP Agreement (including its annexes), unless the context requires otherwise:

a) where a person is referred to, that includes legal entities (such as a limited liability company) and natural persons;

b) where these Terms and/or the ACP Agreement is referred to, that includes all annexes and other documents that are attached to or are part of by way of reference (in their valid version, if applicable as modified, supplemented or replaced from time to time);

c) headings are provided only for the purpose of greater clarity and do not have an effect on the content of the provisions in the respective section;

d) the word "including" and similar Terms relate only to examples and do not confine the interpretation of the preceding passages in these Terms ot the ACP Agreement; and

e) references to legal provisions relate to the legal provisions in their valid version at the time, if applicable as modified, extended or reenacted, and to all secondary provisions enacted as part of these legal provisions