

HOOTSUITE SAAS AGREEMENT

This agreement ("**Agreement**") is made and entered as of the Effective Date (as defined herein) by and between Hootsuite Inc., a Canadian corporation, with offices at 5 – East 8th Avenue, Vancouver, British Columbia, V5T 1R6, CANADA ("**Hootsuite**"), and [INSERT NAME OF CUSTOMER], with offices at [INSERT ADDRESS OF CUSTOMER AS DETAILED ON THE AUTH FORM] ("**Customer**"), and (Customer and Hootsuite may each be referred to as a "**Party**" and collectively referred to as the "**Parties**").

1. Definitions.

"**Affiliate**" means a person or entity that owns, is owned by, or is under common control with a Party, and "control" in this definition means that a person or entity owns more than 50% of the equity interest of any entity and/or has the ability to control the management of such entity.

"**Authorization Form**" means a document issued by Hootsuite and executed or otherwise agreed upon by authorized representatives of the Customer which specifies, among other things and as applicable, a description of the Services, the Fees, the number of Seats and/or units purchased, and any other details specifically related to the Services.

"**Authorized Users**" means individuals who are authorized by Customer to use the Services with varying levels of control and access specified by Customer and who have been supplied user identifications and passwords by Customer. Authorized Users may include the employees, consultants, contractors, agents, or other designees of Customer and its Affiliates, but shall not include any employee or agent of any Hootsuite competitor.

"**Customer Content**" means all information and data (including text, images, photos, videos, audio, and documents) or any other content in any media and format provided or made available to Hootsuite by or on behalf of Customer in connection with its use of the Services, but excluding Customer Information.

"**Customer Information**" means all information and data submitted to Hootsuite by or on behalf of Customer in connection with the creation and management of Customer's account for the Services.

"**Mentions**" means the information, including links, posts, and excerpts, that has been made publicly available and obtained by Hootsuite on Customer's behalf from the Internet, and data derived therefrom, including reports, summaries, graphs, and charts.

"**Seat**" means a single subscription associated with a single log-in to a Service, assigned by Customer to one Authorized User.

"**Services**" means the products and services that are ordered by Customer under an Authorization Form and made available by Hootsuite, but expressly excluding any Third-Party Services (as defined herein).

"**Service Start Date**" means, for each Authorization Form, the earlier of (i) the date set forth on the Authorization Form and (ii) the first date on which Customer is granted access to the Services purchased pursuant to the Authorization Form.

"**Supported Platform(s)**" means the social networking site(s) supported by the Services, including Twitter, Facebook,

LinkedIn, Instagram, and other social networking sites as described further at www.hootsuite.com.

"**Taxes**" means all taxes, assessments, charges, fees, and levies that may be levied or based upon the sale or license of goods and/or services, as the case may be, including all sales, use, goods and services, value added, and excise taxes, custom duties, and assessments together with any installments with respect thereto, and any interest, fines, and penalties with respect thereto, imposed by any governmental authority (including federal, state, provincial, municipal, and foreign governmental authorities).

2. Hootsuite Services.

2.1 **Services.** During the Term (as defined herein), subject to the terms and conditions of this Agreement and the applicable Schedule for such Services, and solely for Customer's internal business purposes, Hootsuite shall make the Services available to Customer in accordance with the applicable Authorization Form describing such Services.

2.2 **Customer Affiliates.** Each Customer Affiliate that wishes to have a separate account or to be billed separately for its use of the Services shall enter into a separate Authorization Form substantially in the form of the initial Authorization Form, which incorporates the terms of this Agreement by reference.

2.3 **Updates and Functionalities.** Customer acknowledges that from time to time Hootsuite may apply updates to any of the Services and that such updates may result in changes in the appearance and/or functionality of such Services (including the addition, modification, or removal of functionality, features, or content). Excluding the addition of wholly new products, Hootsuite will provide, implement, configure, install, support, and maintain at its own cost any and all updates, upgrades, enhancements, improvements, releases, corrections, bug fixes, patches, and modifications to the Services (collectively, the "**Updates**"). Customer acknowledges that such Services may interoperate with several Supported Platforms, and that such Services are highly dependent on the availability of such Supported Platforms. If at any time any Supported Platforms cease to make their features or programs available to Hootsuite on reasonable terms (each an "API Change"), Hootsuite may cease to provide access to such features or programs to Customer without entitling Customer to refund, credit, or other compensation.

2.4 **Acceptable Use.** Customer shall:

- (i) be responsible for Authorized Users' compliance with this Agreement and for any breach of this Agreement by Authorized Users as if it were a breach by Customer;
- (ii) be solely responsible for the accuracy, quality, integrity, and legality of Customer Content and of the means by which it acquired or generated Customer Content;
- (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, including keeping passwords and user names confidential and not permitting any third party to access or use its or any of its Authorized Users' user names, passwords, or account for the Services;
- (iv) be solely responsible and liable for all activity conducted through its account in connection with the Services;

- (v) promptly notify Hootsuite if Customer becomes aware of or reasonably suspects any security breach relating in any way to the Services, including any loss, theft, or unauthorized disclosure or use of Customer's (or any Authorized User's) user name, password, or account;
- (vi) use, or otherwise access in connection with Customer's use thereof, the Services only in accordance with applicable laws and government regulations; and
- (vii) comply in all respects with all applicable terms of the Third-Party Services that it accesses or subscribes to in connection with the Services, including the applicable terms for Supported Platforms such as the Twitter Terms of Service published at www.twitter.com/tos, the Facebook Statement of Rights and Responsibilities published at www.facebook.com/legal/terms, the LinkedIn User Agreement published at www.linkedin.com/legal/user-agreement, and the YouTube Terms of Service published at www.youtube.com/t/terms, as applicable. Without limiting the foregoing, Customer represents and warrants that (i) Customer is not a public sector entity who will be using the Services to access or use content from Twitter for surveillance purposes; (ii) Customer is not a public sector entity whose primary function includes conducting surveillance/gathering intelligence; and (iii) Customer will not use the Services to access or use content from Twitter for any unlawful, discriminatory purposes and/or profiling based on sensitive categories of information prohibited by law (see Section VII.A. User Protection of the Twitter Developer Agreement published at <https://developer.twitter.com/en/developer-terms/agreement>).

Customer must not:

- (a) make the Services available to anyone other than its Authorized Users;
- (b) except as expressly provided herein, allow more than one individual Authorized User to use a Seat (if applicable);
- (c) sell, trade, or otherwise transfer its Seats to another party;
- (d) use the Services to store or transmit any content, including Customer Content, that may be infringing, defamatory, threatening, harmful, or otherwise tortious or unlawful, including any content that may violate intellectual property, privacy, rights of publicity, or other laws, or send spam or other unsolicited messages in violation of applicable law;
- (e) upload to, or transmit from, the Services any data, file, software, or link that contains or redirects to a virus, Trojan horse, worm, or other harmful component;
- (f) attempt to reverse engineer, de-compile, hack, disable, interfere with, disassemble, modify, copy, translate, or disrupt the features, functionality, integrity, or performance of the Services or the Supported Platforms (including any mechanism used to restrict or control the functionality of the Services or the Supported Platforms), any third-party use of

the Services or the Supported Platforms, or any third-party data contained therein (except to the extent such restrictions are prohibited by applicable law);

- (g) attempt to gain unauthorized access to the Services, the Supported Platforms, or related systems or networks or to defeat, avoid, bypass, remove, deactivate, or otherwise circumvent any software protection or monitoring mechanisms of the Services or the Supported Platforms;
- (h) access the Services in order to build a similar or competitive product or service or copy any ideas, features, functions, or graphics of the Services or the Supported Platforms; or
- (i) authorize, permit, or encourage any third party to do any of the above.

Customer agrees that Hootsuite may temporarily suspend its access to the Services for a violation of this Section 2.4 or for any abusive practices that degrade the performance of any Service for Customer and/or other Hootsuite customers. Examples of abusive practices include tracking singular high-frequency terms such as "love", "yes", or "the" and using the Services for redistribution, syndication, or deceitful activities.

2.5 Mentions. Customer understands that by using the Services it may be exposed to third-party content, information, and Mentions that might be unlawful, offensive, harmful, inaccurate, or otherwise inappropriate. Unless Customer creates the content of the Mentions, Mentions shall not be considered "Customer Content" under any circumstances. Hootsuite has no obligation to preview, verify, flag, modify, filter, or remove any Mentions, even if requested to do so, although Hootsuite may do so in its sole discretion. Customer's use of Mentions is at Customer's sole risk, and Hootsuite shall not be liable to Customer or any third party in relation to Mentions.

2.6 Agency. If Customer operates as an agency (an "Agency Customer") representing various clients ("Clients"), Agency Customer shall also contractually bind each Client for which Agency Customer is acting as agent in its use of the Services or that Agency Customer otherwise permits to use the Services under Agency Customer's account to the terms of this Agreement and Agency Customer will be liable for any breach of this Agreement by its Clients. In addition, as an Agency Customer, Agency Customer represents and warrants that (i) it has obtained all necessary authorizations, consents, and licenses from each Client to bind such Client to this Agreement (including each Authorization Form) and act as such Client's agent and, more particularly, it has obtained all necessary approvals for the use and subscription to the Services by, and on behalf of, such Client; and (ii) all of Agency Customer's actions related to this Agreement will be within the scope of Agency Customer's agency with its Clients. Agency Customer will defend, indemnify, and hold harmless Hootsuite from all damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising from Agency Customer's breach of this Section 2.6.

2.7 Third-Party Products and Services. Customer acknowledges that the Services may enable or assist it to access, interact with, and/or purchase services from Supported Platforms and other third parties via third-party websites or applications (collectively, the "Third-Party Services"). When Customer accesses the Third-Party Services, it does so at its own risk. Any use of Third-Party

Services is subject solely to the terms and conditions governing such Third-Party Services (and Customer shall comply with all such terms and conditions), and any contract entered into, or any transaction completed via any Third-Party Services, is between Customer and the relevant third party, and not Hootsuite. Hootsuite makes no representation and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such Third-Party Services or any contract entered into and any transactions completed by Customer with any such third party. Further, Customer acknowledges and agrees that, if Customer or an Authorized User installs or enables a Third-Party Service, Customer grants Hootsuite permission to allow the provider of such Third-Party Service to access its Customer Content and Customer Information solely to the extent required for the interoperation of the Third-Party Service with the Services or as Customer may otherwise authorize or direct. Without limiting the generality of the foregoing, if Customer subscribes in an Authorization Form to any Third-Party Services listed in the Third-Party Services — Applicable Terms of Use published at www.hootsuite.com/legal/third-party-terms, Customer is expressly agreeing to be bound by the terms and conditions applicable to such services.

2.8 **Non-Exclusivity.** Customer acknowledges that the rights granted to it under this Agreement and any Authorization Form are non-exclusive and that nothing in this Agreement or any Authorization Form will be interpreted or construed to prohibit or in any way restrict Hootsuite's right to license, sell, or otherwise make available the Services to any third party or perform any services for any third party.

2.9 **Beta Testing.** From time to time, Hootsuite may offer Customer the opportunity to install, use and test (the "Beta Testing") certain Hootsuite services prior to their commercial release (the "Beta Services"). Beta Services are intended for evaluation purposes and not for production use and are subject to following additional terms: (i) Hootsuite grants Customer a limited right to use the Beta Services for Beta Testing purposes during the applicable testing period; (ii) Customer agrees to provide suggestions, comments, or other feedback with respect to the Beta Services as reasonably requested, including ideas for modifications and enhancements (the "Beta Feedback"). Customer hereby assigns to Hootsuite all right, title and interest in and to the Beta Feedback. All Beta Services and Customer's Beta Feedback are Hootsuite's Confidential Information, and Hootsuite may use Customer's Beta Feedback in advertising and promotional materials with Customer's prior consent (not to be unreasonably withheld); (iii) Hootsuite reserves the right to modify the Beta Services or terminate Customer's participation in the Beta Testing for any reason, without liability to Customer. Hootsuite will use commercially reasonable efforts to provide Customer with reasonable advance notice of such termination; (iv) Customer acknowledges that the Beta Services are not at the level of performance or compatibility of a final, generally available product offering, and may be substantially modified prior to commercial availability, or withdrawn. Hootsuite is under no obligation to provide technical support with regards to the Beta Services, and Hootsuite provides no assurance that any specific errors or performance issues in the Beta Services will be corrected; and (v) the Beta Services are provided on an "as is" and "as available" basis without any warranties or conditions of any kind, whether express, implied, statutory or otherwise. Use of the Beta Services is at Customer's sole risk. In no event will Hootsuite be liable to Customer for any

damage whatsoever arising out of the use of or inability to use the Beta Services.

2.10 **App Directory.** Customer may access the Hootsuite App Directory located at <http://appdirectory.hootsuite.com/> (the "App Directory") in order to install and use one or more software applications, technology, data and other digital materials (each, an "App") in connection with the Services. By installing an App, Customer hereby agrees to the Hootsuite App Directory Terms of Service published at <https://hootsuite.com/legal/app-directory-TOS>.

3. **Intellectual Property and Security.**

3.1 **Services.** As between Customer and Hootsuite, Hootsuite retains all right, title, and interest in and to the Services. Nothing herein shall be construed to restrict, impair, encumber, alter, deprive, or adversely affect the Services or any of Hootsuite's rights or interests therein or any other Hootsuite intellectual property, brands, information, content, processes, methodologies, products, goods, services, materials, or rights, tangible or intangible. All rights, title, and interest in and to the Services not expressly granted in this Agreement are reserved by Hootsuite.

3.2 **Feedback.** Customer may (but has no obligation to) provide suggestions, comments, or other feedback to Hootsuite with respect to the Services ("Feedback"). Feedback, even if designated as confidential by Customer and notwithstanding Article 5 of this Agreement, shall not create any confidentiality obligation for Hootsuite. Where Customer provides Feedback, Customer shall and hereby does grant to Hootsuite a non-exclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid-up license to use and exploit the Feedback for any purpose.

3.3 **Customer Content and Customer Information.** Customer hereby grants Hootsuite a limited, worldwide, non-exclusive, non-transferable (except as set forth in Section 10.1) license, without a right of sublicense, to access, use, reproduce, electronically distribute, transmit, perform, format, display, store, archive, and index the Customer Content for the purpose of providing the Services to Customer and supporting Customer's use of the Services. Hootsuite may also use Customer Content for the purpose of developing the Services, provided that when doing so, Hootsuite shall only use Customer Content in an anonymized and aggregated way. Subject only to the limited license expressly granted herein, Customer and its Authorized Users shall retain all right, title and interest in and to, and all intellectual property rights in, the Customer Content and the Customer Information. Nothing in this Agreement will confer on Hootsuite any right of ownership or interest in or to, or the intellectual property rights in, the Customer Content or the Customer Information.

3.4 **Responsibility for Customer Content and Mentions.** Customer is solely responsible for the Customer Content that Authorized Users upload, publish, display, link to, or otherwise make available via the Services, and Customer agrees that the Services are only a passive conduit for the online distribution and publication of the Customer Content and the online display of Mentions. Hootsuite will not review, share, distribute, or reference any Customer Content or Mentions, except as provided herein, as provided in Hootsuite's privacy policy published at <https://hootsuite.com/legal/privacy> (the "Privacy Policy") and Hootsuite's copyright policy published at <https://hootsuite.com/legal/copyright> (the "Copyright

Policy”), or as may be required by law. Notwithstanding the foregoing, Hootsuite retains the authority to remove any Customer Content uploaded that it deems in violation of this Agreement, in its sole discretion.

3.5 **Security Requirements.** Hootsuite has implemented technical and organizational security measures consistent with the prevailing industry standards. However, Hootsuite cannot guarantee that unauthorized third parties will never be able to defeat those measures and expressly denies any responsibility for damages, monetary or otherwise, resulting from unauthorized third party access to Customer’s account or use, alteration, or disclosure of the Customer Content or the Customer Information.

4. **Fees and Payment.**

4.1 **Fees.** Customer will pay all fees as and when described in the Authorization Form(s) (the “**Fees**”).

4.2 **Invoicing.** Hootsuite shall invoice Customer for the Fees in the currency set forth on the applicable Authorization Form. Unless otherwise stated on the Authorization Form, all invoices shall be payable within 30 days of the invoice date. Any disputed amounts shall not affect payment of non-disputed amounts. Customer shall make payments to the entity and address set forth in the invoice.

4.3 **Late Payment.** If any amounts invoiced hereunder are not received by Hootsuite by the due date, then at Hootsuite’s discretion, such charges may accrue late interest at the rate of 12% per year or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid. In addition, upon 30 days’ written notice to Customer provided after the due date, Hootsuite may suspend Customer’s access to the Services if Hootsuite has not received the amounts invoiced hereunder at the expiration of such period.

4.4 **Taxes.** Customer is responsible for paying all Taxes associated with the subscription to the Services. If Hootsuite has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section 4.4, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Hootsuite with a valid tax exemption certificate authorized by the appropriate taxing authority.

4.5 **Withholdings.** Any and all payments by or on account of the compensation payable under this Agreement shall be made free and clear of and without deduction or withholding for any Taxes. If Customer is required to deduct or withhold any Taxes from such payments, then the sum payable shall be increased as necessary so that, after making all required deductions or withholdings, Hootsuite receives an amount equal to the sum it would have received had no such deduction or withholding been made.

5. **Confidential Information.**

5.1 **Confidential Information.** Each Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) and will not disclose or use any Confidential Information (as defined below) of the other Party for any purpose outside of the scope of this Agreement, and each Party shall limit access to Confidential Information to those of its, or its Affiliates’, employees, contractors, and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the receiving Party containing protections no less stringent than those herein. In this Agreement,

“**Confidential Information**” means all confidential business information and commercial strategies, as well as non-public information regarding a Party’s pricing, personnel, customers, products, or services, that is made available by one Party (the “**discloser**”) to the other Party (the “**recipient**”) but excludes any information that the recipient proves (i) was lawfully in the recipient’s possession before receiving it from the discloser; (ii) is provided in good faith to the recipient by a third party without breaching any rights of the discloser or any other party; (iii) is or becomes generally available to, or accessible by, the public through no fault of the recipient; or (iv) was or is independently developed by the recipient without reference to the discloser’s Confidential Information. In the event that the recipient or any representative of the recipient becomes legally compelled (by law, rule, regulation, subpoena, or similar court process) to disclose any of the Confidential Information, the recipient will (if permitted to do so) provide the discloser with notice of such circumstances and will limit such disclosure to the required disclosure.

6. **Term and Termination.**

6.1 **Term of Agreement.** This Agreement shall commence on the Service Start Date of the first Authorization Form (the “**Effective Date**”) and shall continue in effect until all Authorization Forms have expired or this Agreement has been terminated in accordance with Section 6.3 or Section 8.1(c) below (the “**Term**”).

6.2 **Term of Authorization Forms.** The term of each Authorization Form shall start on the Service Start Date specified on the Authorization Form and shall continue for the term specified therein. Except as expressly stated otherwise in an Authorization Form, all Authorization Forms shall automatically renew for subsequent one-year renewal periods, unless a Party gives the other Party written notice of non-renewal at least 60 days prior to the end of the then-current term. Upon renewal, Hootsuite reserves the right to increase the Fees for Services by providing Customer written notice thereof (which notice may be provided by email) at least 60 days prior to the end of the then-current term.

6.3 **Termination for Cause.** A Party may terminate this Agreement for cause (i) upon 30 days’ written notice to the other Party of a material breach if such breach remains uncured at the expiration of such period; or (ii) immediately if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.

6.4 **Effects of Termination.** Upon termination of this Agreement for any reason, all Authorization Forms will automatically terminate and: (i) Customer will immediately cease all use of the Services; (ii) Customer will have no further access to its accounts provided by Hootsuite; and (iii) Customer will pay Hootsuite all unpaid amounts owing to Hootsuite. If Customer terminates this Agreement in accordance with Section 6.3, Hootsuite will refund to Customer any unearned Fees that Customer paid in advance for the Services. If Hootsuite terminates this Agreement in accordance with Section 6.3, then, without limiting any other remedies that may be available, Customer will pay any unpaid Fees covering the remainder of the term of each Authorization Form after the date of termination. In no event will termination relieve Customer of its obligation to pay any amounts payable to Hootsuite for the period prior to the date of termination.

6.5 **Survival.** Any provision of this Agreement that, either by its terms or to give effect to its meaning, must survive, and such other provisions that expressly or by their nature are intended to survive termination shall survive the expiration or termination of this Agreement. Without limiting the foregoing, Sections 3.1, 3.2, 3.3, and 4.4 and Articles 5, 8, and 9 shall survive the expiration or termination of this Agreement.

7. Warranties and Warranty Disclaimer.

7.1 **Mutual Warranties.** Each of Hootsuite and Customer represents and warrants that it has the power and authority to enter into this Agreement and to perform its obligations and duties under this Agreement.

7.2 **Hootsuite Warranties.** Hootsuite warrants that (i) subject to an API Change, the functionality of the Services will not be materially decreased during the term of the applicable Authorization Form; and (ii) the Services do not knowingly contain any malicious code or viruses. For any breach of an above warranty, Customer's exclusive remedies are those described in Sections 6.3 and 6.4.

7.3 **Disclaimer.** SOME COUNTRIES AND JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OF IMPLIED TERMS IN CONTRACTS WITH CONSUMERS AND AS A RESULT THE CONTENTS OF THIS SECTION 7.3 MAY NOT APPLY TO CUSTOMER. EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HOOTSUITE EXPRESSLY EXCLUDES AND DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, HOOTSUITE SPECIFICALLY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUALITY, AND NONINFRINGEMENT, THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, OR THAT THE SERVICES WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, OR ERROR-FREE. IN ADDITION, HOOTSUITE DOES NOT WARRANT ANY CONNECTION TO OR TRANSMISSION FROM THE INTERNET. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM HOOTSUITE OR ELSEWHERE WILL CREATE ANY WARRANTY OR CONDITION NOT EXPRESSLY STATED IN THIS AGREEMENT. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN.

HOOTSUITE DISCLAIMS ANY AND ALL RESPONSIBILITY OR LIABILITY IN RELATION TO THE CONTENT MADE AVAILABLE THROUGH THE SERVICES, INCLUDING CUSTOMER CONTENT, MENTIONS, AND ANY CONTENT OR SERVICES PROVIDED BY THIRD PARTIES. HOOTSUITE DOES NOT CONTROL OR VET CUSTOMER CONTENT OR MENTIONS AND IS NOT RESPONSIBLE FOR WHAT USERS POST, TRANSMIT, OR SHARE ON OR THROUGH THE SERVICES. HOOTSUITE IS NOT RESPONSIBLE OR LIABLE IN ANY MANNER FOR ANY SUPPORTED PLATFORMS OR THIRD-PARTY SERVICES ASSOCIATED WITH OR UTILIZED IN CONNECTION WITH THE SERVICES, INCLUDING THE FAILURE OF ANY SUCH SUPPORTED PLATFORMS OR THIRD-PARTY SERVICES. HOOTSUITE EXPRESSLY DENIES ANY RESPONSIBILITY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR CUSTOMER'S ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

8. Mutual Indemnification.

8.1 **Indemnification by Hootsuite.** Subject to Customer's compliance with Section 8.3, Hootsuite shall defend Customer from and against any and all third-party claims that the use of the Services as permitted hereunder directly infringes a valid U.S. or Canada patent or copyright or misappropriates a third party's trade secret (a "Claim") and shall indemnify Customer for any damages finally awarded against, and for reasonable attorneys' fees incurred by, Customer in connection with any such Claim.

Hootsuite will have no liability for any Claim to the extent it arises from:

- (i) a modification of the Services by or at the direction of Customer or an Authorized User;
- (ii) use of the Services in violation of this Agreement or applicable law;
- (iii) use of the Services after Hootsuite notifies Customer to discontinue use because of an infringement or misappropriation claim;
- (iv) the combination, operation, or use of the Services with any other software, program, or device not provided or specified by Hootsuite to the extent such infringement would not have arisen but for such combination, operation, or use; or
- (v) Customer's use of the Services in a manner that is inconsistent with its intended use.

For avoidance of doubt, Hootsuite's indemnification obligations in this Section 8.1 will not apply to third-party content, Supported Platforms, and/or Third-Party Services accessed through the Services and/or Customer Content and/or Mentions.

If a Service has become, or in Hootsuite's opinion is likely to become, the subject of any such Claim, Hootsuite may at its option and expense:

- (a) procure for Customer the right to continue using the Service as set forth hereunder;
- (b) replace or modify the Service or certain functionalities to make it non-infringing; or
- (c) if options (a) or (b) are not reasonably practicable, terminate either this Agreement or the Authorization Form for such Service.

This Section 8.1 sets forth Hootsuite's sole liability (and Customer's sole remedy) regarding infringement or misappropriation of third party rights.

8.2 **Indemnification by Customer.** Customer shall defend, indemnify, and hold harmless Hootsuite, its Affiliates, directors, officers, employees, and agents from and against all claims, losses, damages, penalties, liability, and costs, including reasonable attorneys' fees, of any kind or nature that are in connection with or arising out of a claim (i) alleging that Customer Content or Customer's use of the Services infringes or violates the intellectual property rights, privacy rights, or other rights of a third party or violates any applicable law; (ii) relating to, or arising from, Customer Content, Customer Information, or Customer's breach of Section 2.4 or Section 2.7; or (iii) relating to, or arising from, Customer's use of any Third-Party Services (including Customer's breach of any terms or conditions applicable to any Third-Party Services).

8.3 **Indemnification Procedure.** The indemnified Party shall (i) give written notice of the claim to the indemnifying Party promptly and in any event no later than 10 days after the indemnified Party received the claim; (ii) give the indemnifying Party sole control of the defense and settlement of the claim (provided that the indemnifying Party may not settle or defend any claim without the indemnified Party's prior written consent unless it unconditionally releases the indemnified Party of all liability); and (iii) provide the indemnifying Party with reasonable cooperation and assistance at the indemnifying Party's expense.

9. Limitation of Liability.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, IN NO EVENT SHALL HOOTSUITE'S AGGREGATE LIABILITY TO CUSTOMER FOR ALL CLAIMS OF ANY KIND, INCLUDING ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER BY STATUTE, CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE FEES PAID BY CUSTOMER FOR THE SERVICES SUBJECT TO THE CLAIM DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE. CUSTOMER'S EXCLUSIVE REMEDIES FOR ANY INTERRUPTION OR CESSATION OF ACCESS OR TRANSMISSION TO OR FROM THE SERVICES ARE SET FORTH IN THE APPLICABLE SERVICE LEVEL AGREEMENT. FOR CLARITY, THE CALCULATION OF HOOTSUITE'S LIABILITY UNDER THIS SECTION 9 EXCLUDES ANY FEES PAID BY CUSTOMER TO A THIRD PARTY OR AS PAYMENT FOR ANY THIRD-PARTY SERVICES, EVEN WHERE HOOTSUITE'S SERVICES ARE BUNDLED WITH OR OTHERWISE PROVIDED IN CONJUNCTION WITH SUCH THIRD-PARTY SERVICES.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL HOOTSUITE, ITS DIRECTORS, EMPLOYEES, AGENTS, OR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL USE, OR DATA OR OTHER INTANGIBLE LOSSES, THAT RESULT FROM THE USE OF, OR INABILITY TO USE, THE SERVICES OR ANY OTHER ASPECT OF THIS AGREEMENT. UNDER NO CIRCUMSTANCES WILL HOOTSUITE BE RESPONSIBLE FOR ANY DAMAGE, LOSS, OR INJURY RESULTING FROM HACKING, TAMPERING, OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR CUSTOMER'S ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

THE PARTIES ACKNOWLEDGE AND AGREE THAT THE ESSENTIAL PURPOSE OF THIS SECTION 9 IS TO ALLOCATE THE RISKS UNDER THESE TERMS BETWEEN THE PARTIES AND LIMIT THEIR POTENTIAL LIABILITY GIVEN THE FEES CHARGED UNDER THIS AGREEMENT, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF HOOTSUITE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. THE PARTIES HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO ENTER INTO THESE TERMS. NOTHING IN THIS AGREEMENT IS INTENDED TO EXCLUDE OR RESTRICT OR SHALL BE CONSTRUED AS EXCLUDING OR RESTRICTING THE LIABILITY OF HOOTSUITE FOR (I) DEATH OR PERSONAL INJURY CAUSED BY THE NEGLIGENCE OF HOOTSUITE, ITS EMPLOYEES, OR ITS AGENTS; (II) WILLFUL MISCONDUCT OF HOOTSUITE OR ITS EMPLOYEES; OR (III) ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED BY APPLICABLE LAW.

10. General.

10.1 **Assignment.** Neither Party may assign or otherwise transfer any of its rights or obligations hereunder, whether by merger, sale of assets, change of control, operation of law or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld), and any attempted assignment without such consent will be void. Notwithstanding the foregoing, Hootsuite may assign this Agreement in its entirety (including all Authorization Forms), without consent of Customer, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its shares or assets.

10.2 **Relationship of the Parties.** No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither Party has any authority of any kind to bind the other in any respect.

10.3 **Publicity.** Customer agrees that Hootsuite may use Customer's name and may disclose that Customer is a customer of the Services in Hootsuite advertising, press, promotion, and similar public disclosures, including at trade shows and similar events. In addition to the foregoing, Customer hereby grants Hootsuite a non-exclusive license during the Term to list Customer's name and display Customer's logo as a Hootsuite customer on Hootsuite's website.

10.4 **Force Majeure.** Except for payment obligations, neither Party shall be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond such Party's reasonable control, including the elements; fire; flood; severe weather; earthquake; vandalism; accidents; sabotage; power failure; denial of service attacks or similar attacks; Internet failure; acts of God and the public enemy; acts of war; acts of terrorism; riots; civil or public disturbances; strikes lock-outs or labor disruptions; and any laws, orders, rules, regulations, acts or restraints of any government or governmental body or authority, civil or military, including the orders and judgments of courts.

10.5 **Counterparts and Interpretation.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the Parties. Headings are for convenience only and are not to be considered in construing or interpreting this Agreement. This Agreement shall be construed and interpreted fairly, in accordance with the plain meaning of its terms, and there shall be no presumption or interference against the Party drafting this Agreement in construing or interpreting the provisions hereof.

10.6 **Amendment.** No amendment, supplement, restatement, or termination of any provision of this Agreement shall be valid unless it is in writing and signed by each Party to this Agreement at the time of the amendment, supplement, restatement, or termination.

10.7 **Severability.** Each provision of this Agreement is severable. If any provision of this Agreement is or becomes illegal, invalid, or unenforceable in any jurisdiction, the illegality, invalidity, or unenforceability of that provision will not affect the legality, validity, or enforceability of the remaining provisions of this Agreement or of that provision in any other jurisdiction.

10.8 **Notices.** For purposes of service messages and notices about the Services, Hootsuite may place a banner notice across the Services or website to alert Customer. Alternatively, notice may consist of an email from Hootsuite

to an email address associated with Customer's account, even if Hootsuite has other contact information. For communication about Customer's account and services associated with Hootsuite, Hootsuite may contact Customer or its Authorized Users through its Hootsuite account or through other means including email, mobile number, telephone, or delivery services such as the postal service. Customer acknowledges and agrees that Hootsuite shall have no liability associated with or arising from Customer's failure to maintain accurate contact or other information, including, but not limited to, Customer's failure to receive critical information about the Services. Notices to Hootsuite must be delivered by email to legal@hootsuite.com with a duplicate copy sent via registered mail to the following address: Hootsuite Inc., 5 East 8th Avenue, Vancouver, British Columbia, V5T 1R6; Attention: General Counsel. This contact information provided may be updated by giving notice in accordance with this Section 10.8.

10.9 Waivers. No waiver of any provision of this Agreement is binding unless it is in writing and signed by all Parties to this Agreement, except that any provision that does not give rights or benefits to particular Parties may be waived in writing, signed only by those Parties who have rights under, or hold the benefit of, the provision being waived if those Parties promptly send a copy of the executed waiver to all other Parties. No failure to exercise, and no delay in exercising, any right or remedy under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

10.10 Governing Law. This Agreement and each of the documents contemplated by or delivered under or in connection with this Agreement are governed exclusively by, and will be enforced, construed, and interpreted exclusively in accordance with, the laws applicable in British Columbia, Canada. All disputes under this Agreement will be resolved by the courts of British Columbia in Vancouver. In any action or proceeding to enforce rights under this Agreement, (i) the prevailing party shall be entitled to recover costs and

attorneys' fees and (ii) if applicable, the Parties irrevocably waive any right to a trial by jury.

10.11 Export Compliance and Use Restrictions. Customer shall not use or access the Services if Customer is located in any jurisdiction in which the provision of the Services is prohibited under Canadian, U.S. or other applicable laws or regulations (a "Prohibited Jurisdiction") and Customer shall not provide access to the Services to any government, entity or individual located in any Prohibited Jurisdiction. Customer represents, warrants and covenants that (a) it is not named on any Canadian or U.S. government list of persons or entities prohibited from transaction with any Canadian or U.S. person; (b) it is not a national of, or a company registered in, any Prohibited Jurisdiction; (c) it shall not allow Authorized Users to access or use the Services in violation of any Canadian, U.S. or other applicable export embargoes, prohibitions or restrictions; and (d) it shall comply with all applicable laws regarding the transmission of data exported from the country in which Customer (or its Authorized Users) are located to Canada and the United States.

10.12 Entire Agreement. The terms of this Agreement, together with any applicable Authorization Form, all Schedules, and Hootsuite's Privacy Policy and Copyright Policy, constitute the entire agreement between the Parties with respect to the subject matter thereof and supersede any prior or inconsistent agreements, negotiations, representations, and promises, written or oral, with respect to the subject matter and is binding upon the Parties and their permitted successors and assigns. In the event of any conflict between this Agreement and the terms of an Authorization Form, the provisions of the Authorization Form shall prevail. The terms of this Agreement will apply to all orders submitted to Hootsuite and shall supersede any additional terms that may be incorporated in a purchase order form or any other Customer-generated form. Any such Customer terms shall be null and void.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

[INSERT CUSTOMER NAME]

HOOTSUITE INC.

By: _____
Name: _____
[Type or Print]
Title: _____
Date: _____

By: _____
Name: _____
[Type or Print]
Title: _____
Date: _____

SCHEDULE TO HOOTSUITE SAAS AGREEMENT:

HOOTSUITE ENTERPRISE, HOOTSUITE IMPACT, AND HOOTSUITE INSIGHTS

If Customer purchases Hootsuite Enterprise and/or Hootsuite Impact and/or Hootsuite Insights in an Authorization Form, the following additional terms shall apply to Customer's access and use of such Services.

1. Additional Definition.

"Connection" means, with respect to the Hootsuite Impact Application, any one of the following: (i) a Supported Platform profile page; (ii) an ads account for a Supported Platform profile page; or (iii) a Google Analytics or Adobe Analytics website domain.

"Hootsuite Enterprise Platform" means Hootsuite's proprietary software, content, text, images, media, and other materials delivered through its web platform www.hootsuite.com (including successor domain names and sites) and mobile applications (including Amplify) that provide for a single log-in, centralized dashboard that enables Authorized Users to manage and publish social media content to multiple Supported Platforms, including any modifications or Updates, but which, for greater certainty, does not include any Third-Party Services.

"Hootsuite Impact Application" means Hootsuite's proprietary software, content, text, images, media, and other materials delivered through the web platform www.hootsuite.com (including predecessor and successor domain names and sites, including without limitation www.liftmetrix.com) and mobile application that provides analytics for Customer Content.

"Hootsuite Insights Application" means Hootsuite's proprietary software, content, text, images, media, and other materials delivered through the web platform www.hootsuite.com (including predecessor and successor domain names and sites, including www.ubervu.com) and mobile applications that summarize, analyze, and provide links to the Mentions relevant to all Queries that Customer and its Authorized Users have set up, including any modifications or Updates.

"Query" means, with respect to the Hootsuite Insights Application, a search string that an Authorized User uses to define what words and phrases must be present in a Mention for that Mention to be included in the applicable stream, and any such individual Query is referred to as a "Stream" in an applicable Authorization Form.

2. Hootsuite Enterprise Platform, Hootsuite Impact Application, and Hootsuite Insights Application.

2.1 Hootsuite Enterprise Platform, Hootsuite Impact Application, and Hootsuite Insights Application. During the term of any applicable Authorization Form, subject to the terms and conditions of the Agreement and this Schedule, and solely for Customer's internal business purposes, Hootsuite shall make the Hootsuite Enterprise Platform, Hootsuite Impact Application, and Hootsuite Insights Application, as applicable, available to Customer and its Authorized Users for the number of Seats, Connections, and Queries, as applicable, as set out in such Authorization Form.

2.2 Hosting Services; Service Levels. Hootsuite shall use commercially reasonable efforts to host and serve the Hootsuite Enterprise Platform, Hootsuite Impact Application, and Hootsuite Insights Application, as applicable, in accordance with the service level criteria and performance metrics set forth in the service level agreement published at www.hootsuite.com/legal/enterprise-service-level-agreement.

3. Intellectual Property.

3.1 Responsibility for Queries. Customer agrees that the Services are only a passive conduit for the online display of Queries.

SCHEDULE TO HOOTSUITE SAAS AGREEMENT:
HOOTSUITE PROFESSIONAL SERVICES

If Customer purchases Hootsuite Professional Services in an Authorization Form, the following additional terms shall apply to Customer's access and use of such Services.

1. Additional Definitions.

"Background IP" means the various content, information, data, tools, processes, methods, designs, and know-how, whether or not copyrightable or patentable, that Hootsuite may use in connection with the Professional Services and the Deliverable, whether pre-existing or created or invented during the performance of the Professional Services. Background IP specifically excludes any Deliverable and Customer Content.

"Professional Services" means the training or other services set forth in the applicable Authorization Form.

"Deliverables" means the training or other offering to be developed by Hootsuite and specifically identified by Hootsuite as a deliverable in the applicable Authorization Form, or, where applicable, Statement of Work.

2. Professional Services and Deliverables.

2.1 Professional Services and Deliverables. During the term of any applicable Authorization Form, subject to the terms and conditions of the Agreement and this Schedule, and solely for Customer's internal business purposes, Hootsuite shall provide the Professional Services and the Deliverables, if any, to Customer as set out in such Authorization Form.

2.2 Cooperation. In order for Hootsuite to perform the Professional Services and deliver the Deliverables, if any, Customer shall, in a timely manner: (i) make itself reasonably available at such times and locations as Hootsuite may require; (ii) allocate sufficient resources, perform any tasks, and deliver any materials, including Customer Content, reasonably necessary to enable Hootsuite to perform its obligations under the applicable Authorization Form; (iii) respond to Hootsuite's inquiries related to the Professional Services; and (iv) provide complete, accurate, and timely information, data, and feedback all as reasonably required by Hootsuite. For greater certainty, Sections 2.4, 3.3, and 3.4 of the Agreement apply to Customer Content provided to Hootsuite in connection with the Professional Services.

2.3 Time of Performance. Subject to Section 10.4 of the Agreement, Hootsuite shall use commercially reasonable efforts to provide the Professional Services and deliver the Deliverables, if any, according to the schedule set forth in the applicable Authorization Form. Notwithstanding the foregoing, Hootsuite may, in its sole discretion, alter the schedule for the Professional Services or extend the delivery date for any Deliverables by giving reasonable notice to Customer; provided further that Hootsuite shall use commercially reasonable efforts to minimize further delays.

2.4 Scope Changes. Customer may, from time to time, request changes in the scope of the Professional Services (a "Change Request"). Upon receipt of a written Change Request, Hootsuite will evaluate such requested changes and, within 10 days of such Change Request, submit to Customer a written response (the "Change Order") to the Change Request. The Change Order shall indicate, among other things, the extent to which the Change Request will impact the Fees, the Deliverables, if any, and/or other terms set forth in the applicable Authorization Form. If Customer accepts such Change Order (such acceptance to be indicated in writing), the Change Order will be incorporated by reference into the applicable Authorization Form and will be deemed to amend and modify the applicable Authorization Form to the extent specified in the Change Order. Should Customer not accept the Change Order, the applicable Authorization Form shall continue in full force and effect, unamended.

2.5 Term. If an end date is not specified in an applicable Authorization Form, such Authorization Form shall remain in effect until the date on which both Parties have fully performed their obligations thereunder.

2.6 Acceptable Use of Deliverables. Customer shall use the Deliverables only as permitted herein and in accordance with applicable laws and government regulations.

2.7 Hootsuite's Employees/Contractors. Customer will not directly or indirectly at any time during the term of the applicable Authorization Form and for 12 months thereafter, (i) induce or encourage any of Hootsuite's employees or contractors to leave their employment or engagement with Hootsuite; or (ii) employ, attempt to employ, assist any person to employ, or retain as an employee, consultant, or contractor any of Hootsuite's employees or contractors or former employees or contractors, without Hootsuite's prior written consent.

3. Intellectual Property.

3.1 License for Deliverables. During the term of the applicable Authorization Form, subject to the terms and conditions of the Agreement and this Schedule, and solely for Customer's internal business purposes, Hootsuite grants to Customer a limited, worldwide, non-exclusive, non-transferable license, without a right to sublicense, to use and display the Deliverables as set out in such Authorization Form.

3.2 Professional Services and Background IP. As between Customer and Hootsuite, Hootsuite retains all right, title, and interest in and to the Professional Services, the Deliverables, and the Background IP. Nothing herein shall be construed to restrict, impair, encumber, alter, deprive, or adversely affect any of Hootsuite's rights or interests therein. Hootsuite reserves all rights, title, and interest in and to the Professional Services, the Deliverables, and the Background IP not expressly granted herein.

4. Additional Warranty.

4.1 Additional Hootsuite Warranty. Hootsuite warrants that the Professional Services will be performed in a professional manner in accordance with generally accepted industry standards. For any breach of the above warranty, Customer's exclusive remedy and Hootsuite's entire liability will be the re-performance of the applicable Professional Services. If Hootsuite is unable to re-perform the Professional Services as warranted, Customer's exclusive remedy will be to seek recovery of any fees paid to Hootsuite for the deficient Professional Services. Customer must make any claim under the foregoing warranty to Hootsuite in writing within 30 days of performance of such Professional Services in order to receive the foregoing remedies.

SCHEDULE TO HOOTSUITE SAAS AGREEMENT:
HOOTSUITE CAMPAIGNS FOR CONTESTS

If Customer purchases Hootsuite Campaigns in an Authorization Form, the following additional terms shall apply to Customer's access and use of such Services.

1. Additional Definitions.

"Brand" means an individual brand of Customer or its Affiliate.

"Brand Subscription" means a subscription for Campaigns for a Brand, as set out in the applicable Authorization Form.

"Campaigns" means campaigns created by Customer or its Authorized Users, including contests, sweepstakes, galleries, and other market data gathering activities on Supported Platforms, via the Hootsuite Campaigns Platform.

"Campaign Page" means a webpage for a particular Campaign that may display or publish Customer Content, Mentions, and/or Submitted Content.

"Campaign Participant" means a person who participates in a Campaign.

"Hootsuite Campaigns for Contests" or "Hootsuite Campaigns Platform" means Hootsuite's proprietary software, content, text, images, media, and other materials delivered through its web platform campaigns.hootsuite.com (including successor domain names and sites) and mobile applications that enable Authorized Users to create and manage Campaigns, including any modifications or Updates.

"Submitted Content" means all information (including personal information) and data (including text, images, graphics, pictures, photos, videos, audio, and documents) or any other content in any media and format provided or made available to Customer by Campaign Participants, including by submission of such content on a Campaign Page or via a Supported Platform.

2. Hootsuite Campaigns for Contests.

2.1 Hootsuite Campaigns for Contests. During the term of any applicable Authorization Form, subject to the terms and conditions of the Agreement and this Schedule, and solely for Customer's internal business purposes, Hootsuite shall make the Hootsuite Campaigns Platform available to Customer and its Authorized Users for the number of Brand Subscriptions set out in such Authorization Form.

2.2 Hosting Services; Service Levels. Hootsuite shall use commercially reasonable efforts to host and serve the Hootsuite Campaigns Platform in accordance with the service level criteria and performance metrics set forth in the service level agreement published at www.hootsuite.com/legal/enterprise-service-level-agreement.

2.3 Campaigns.

(i) Customer shall:

- (a) be responsible for the Campaigns and content published and distributed on the Campaign Pages;
- (b) ensure that each Campaign complies with all applicable laws, rules, and regulations;
- (c) establish, provide, and administer official rules for each Campaign that accomplish the following:
 - (1) to the extent applicable to the Campaign, informs each Campaign Participant that Customer may be collecting personally-identifiable information about them in connection with the operation of the Campaign, Customer's use of the foregoing information will be subject to Customer's privacy policy, and Hootsuite's use of the foregoing information will be subject to the Privacy Policy;
 - (2) to the extent applicable to the Campaign, obtains each Campaign Participant's consent as required by applicable law to Customer's and Hootsuite's use of such information for purposes of operating the Campaign and for the statistical purposes set forth in these Terms of Services or the applicable privacy policies;
 - (3) notifies each Campaign Participant that the Campaign is in no way sponsored, endorsed, or administered by, or associated with, Hootsuite and that any references to any of Customer's products, services, or offerings by trade name, trade-mark, manufacturer, supplier, or otherwise do not constitute or imply endorsement, sponsorship, or recommendation thereof by Hootsuite; and
 - (4) states that each Campaign Participant unconditionally releases and holds harmless Hootsuite from any and all liability associated with the Campaign;
- (d) require each Campaign Participant to agree to the official rules for the applicable Campaign; and

- (e) not request the submission of personal medical information, social security information, payment card details, or financial information with respect to a Campaign or on a Campaign Page.
- (ii) Customer acknowledges and agrees that:
 - (a) the Services do not assist with the compliance of the Campaigns with any laws, rules, or regulations;
 - (b) Hootsuite is not responsible or liable for the failure of any Campaign Participant (or any other third party) to comply with the rules, terms, conditions, policies, or applicable laws, rules, or regulations governing any Campaign;
 - (c) Hootsuite is not liable for the content or customized display of any Campaign or Campaign Page and disclaims any warranty as to the completeness of the Mentions and Submitted Content obtained on behalf of Customer and displayed on any Campaign Page;
 - (d) Customer may not refer to Hootsuite nor use Hootsuite's name, trade-marks, or trade names in connection with a Campaign or in the rules or materials relating to a Campaign, except to refer to the Privacy Policy and the Copyright Policy where required in accordance Section 2.3(i)(c) above;
 - (e) if Campaign Participants provide Customer with Submitted Content that is personal information, Hootsuite is not responsible or liable for Customer's use or distribution of such information; and
 - (f) Hootsuite is not responsible for monitoring Customer's compliance with the obligations in this Section 2.3. If Customer is in breach of such obligations with respect to a Campaign, Hootsuite may temporarily suspend such Campaign and its Campaign Page and Customer's access to the Services.
- (iii) Customer shall use commercially reasonable efforts to notify Hootsuite at least 48 hours in advance of any anticipated periods of high traffic to any Campaign Page (such as a Campaign timed to coincide with a high-profile live event, or the launch of a large advertising campaign).

For greater certainty, Sections 2.4, 3.3, and 3.4 of the Agreement apply to Customer Content provided to Hootsuite in connection with any Campaign.

2.4 Acceptable Use of Hootsuite Campaigns for Contests. Customer shall (i) be solely responsible for the means by which it acquires and generates Submitted Content; and (ii) not allow a Brand Subscription to be used for a brand other than the applicable Brand.

2.5 Submitted Content. Customer understands that, by using the Services, Customer may be exposed to Submitted Content that might be unlawful, offensive, harmful, inaccurate, or otherwise inappropriate. Unless Customer creates the content of the Submitted Content, Submitted Content shall not be considered "Customer Content" under any circumstances. Hootsuite has no obligation to preview, verify, flag, modify, filter, or remove any Submitted Content, even if requested to do so, although Hootsuite may do so in its sole discretion. Customer's use of Submitted Content is at Customer's sole risk, and Hootsuite shall not be liable to Customer or any third party in relation to Submitted Content.

3. Intellectual Property.

3.1 Submitted Content. To the extent Submitted Content is required, solicited, or accepted for a Campaign, Customer shall (i) require each Campaign Participant to be responsible for its own Submitted Content and the consequences of posting or publishing such Submitted Content; and (ii) require each Campaign Participant to affirm, represent, and warrant that such Campaign Participant (a) owns or has the necessary licenses, rights, consents, and permissions to use and authorize Customer and Hootsuite to use all intellectual property rights in and to its Submitted Content and (b) if applicable, has the written consent, release, and/or permission of each and every identifiable individual person in its Submitted Content to use the name and likeness of every such person, in order to enable inclusion and use of the Submitted Content in the manner contemplated by the Campaign and applicable official rules and on the Campaign Page.

3.2 Responsibility for Campaigns and Submitted Content. Customer agrees that the Services are only a passive conduit for the online display of Campaigns and Submitted Content. Hootsuite will not review, share, distribute, or reference any Campaigns or Submitted Content, except as provided herein, as provided in the Privacy Policy and the Copyright Policy, or as may be required by law. Notwithstanding the foregoing, Hootsuite retains the authority to remove any Submitted Content uploaded that it deems in violation of this Agreement, in its sole discretion.

4. Additional Indemnification.

4.1 Additional Indemnification by Customer. Customer shall defend, indemnify, and hold harmless Hootsuite, its Affiliates, directors, officers, employees, and agents from and against all claims, losses, damages, penalties, liability, and costs, including reasonable attorneys' fees, of any kind or nature which are in connection with or arising out of a claim (i) alleging that any Campaign or Submitted Content infringes or violates the intellectual property rights, privacy rights, or other rights of a third party or violates applicable law; or (ii) relating to, or arising from, (a) any Campaign or Submitted Content, including any claims related to the posting or removal of Customer Content, Submitted Content, or entries to or from a Campaign or a Campaign Page, or (b) Customer's breach of its obligations, representations, or warranties in Section 2.3, 2.4, or 3.1 of this Schedule.

SCHEDULE TO HOOTSUITE SAAS AGREEMENT:

HOOTSUITE ADS

If Customer purchases Hootsuite Ads in an Authorization Form, the following additional terms shall apply to Customer's access and use of such Services.

1. Additional Definitions.

"Ads Content" includes all information, text, images, photos, videos, audio, documents and other content in any media and format which is provided or made available to Hootsuite in connection with Customer's use of Hootsuite Ads, but expressly excludes Customer Content and/or Customer Information.

"Hootsuite Ads" means Hootsuite's proprietary software, content, text, images, media, and other materials delivered through Hootsuite's web platform (including successor domain names and sites) and mobile applications that enable Authorized Users to create and manage Facebook and Instagram advertisements, including any modifications or Updates.

"Ads Transitional Services" means services purchased in an Authorization Form for which Hootsuite will provide Customer with assistance to deploy Ads Content through Customer's Hootsuite Ads account as directed by Customer.

2. Hootsuite Ads

2.1 **Hootsuite Ads.** During the term of any applicable Authorization Form, subject to the terms and conditions of this Agreement, and solely for Customer's internal business purposes, Hootsuite shall make Hootsuite Ads available to Customer and the Authorized Users for the type of subscription set out in such Authorization Form. Customer's total actual ad spend with Facebook or Instagram shall not exceed the spend limit included with Customer's Hootsuite Ads subscription.

2.2 **Facebook or Instagram Account.** Hootsuite Ads provides Customer with a technical application which allows Customer to publish and manage ads on www.facebook.com ("**Facebook**") and www.instagram.com ("**Instagram**"). Therefore, in order to use Hootsuite Ads, Customer must be a registered Facebook or Instagram user and have an advertising account with Facebook or Instagram.

2.3 **Payment to Hootsuite.** Customer is responsible for paying for the Hootsuite Ads subscription purchased through the applicable Authorization Form. Should Customer exceed the spend limit included in Customer's purchased subscription (the "**Ad Spend Limit**"), Hootsuite reserves the right to immediately upgrade Customer's subscription to the appropriate subscription level with an increased Ad Spend Limit for the remainder of the Term of the applicable Authorization Form and Customer shall pay the additional fees associated with any such upgrade. In addition, Hootsuite reserves the right to give Customer notice of such upgrade prior to reaching the Ad Spend Limit and revoke Customer's access to Hootsuite Ads when Customer reaches the Ad Spend Limit if Customer does not agree to pay the additional amounts associated with an upgrade. Customer may also elect to upgrade its subscription with an increased Ad Spend Limit at any point during the Term of the applicable Authorization Form.

2.4 **Payment to Facebook and Instagram.** In addition to the payment of Customer's subscription fees to Hootsuite, Customer remains responsible at all times for the payment of the ads purchased through Hootsuite Ads directly to Facebook or Instagram.

3. Ads Transitional Services

3.1 **Ads Transitional Services.** During the term of any applicable Authorization Form and as set out therein, Hootsuite will provide the Ads Transitional Services to Customer.

3.2 **Customer Responsibilities.** In connection with the Ads Transitional Services, Customer shall provide Hootsuite, in a timely manner:

- a. with all Ads Content or other materials or resources, as well as any instructions or approvals (including, without limitation, any approvals sought by Hootsuite for planned advertising deployment, strategy, timing, or targeting) reasonably necessary for the performance of the Ads Transitional Services; and

Customer shall not:

- b. Provide Hootsuite with any Ads Content or other materials or resources that contains any personally-identifiable information.

3.3 **Hootsuite Responsibilities.** In Connection with the Ads Transitional Services:

- a. Hootsuite shall conduct activity through Customer's Hootsuite Ads account solely at Customer's express direction; and
- b. Hootsuite shall not create any Ads Content.

4. Intellectual Property and Responsibility

4.1 **Ads Content.** Customer retains all right, title and interest to Customer Ads Content, which Customer may upload to or in connection with Hootsuite Ads. Hootsuite will only use Customer Ads Content for the purposes of providing, supporting and improving Hootsuite Services and in full compliance with this Agreement.

4.2 Responsibility for Ads Content. Customer is solely responsible for all Ads Content uploaded, published, displayed, linked to, or otherwise made available via Hootsuite Ads by or on behalf of Customer. Hootsuite has the right but no obligation to review, filter, block, or remove any Ads Content that Customer publishes or makes available via Hootsuite Ads. UNDER NO CIRCUMSTANCES WILL HOOTSUITE BE LIABLE IN ANY WAY FOR ANY ADS CONTENT POSTED ON OR MADE AVAILABLE THROUGH HOOTSUITE ADS, OR FOR ANY ACTIVITY IN OR THROUGH CUSTOMER'S HOOTSUITE ADS ACCOUNT, EXCEPT TO THE EXTENT CAUSED BY HOOTSUITE'S WILLFUL MISCONDUCT.

4.3 Supported Platforms and Third Party Services. Hootsuite is not responsible for any services provided by Facebook or Instagram, or for any other Third-Party Services, information or content accessed or purchased through Hootsuite Ads, which Customer may be able to access, use or connect to with Hootsuite Ads. If Customer accesses a Third-Party Service through Hootsuite, Customer does so at its own risk. When accessing Facebook or Instagram services, Customer is responsible for complying with all of their terms, conditions, policies and guidelines which they may impose on their users including those published at <https://www.facebook.com/terms.php>, and <https://www.facebook.com/policies/ads/>.

5. Additional Indemnification

Additional Indemnification by Customer. Customer shall defend, indemnify, and hold harmless Hootsuite, and Hootsuite's directors, officers, employees, and agents from and against all claims, losses, damages, penalties, liability, and costs, including reasonable attorneys' fees, of any kind or nature that are in connection with or arising out of a claim (i) alleging that Customer Ads Content infringes or violates the intellectual property rights, privacy rights, or other rights of a third party or violates any applicable law; (ii) relating to, or arising from, Ads Content or Customer's breach of these Additional Terms.

SCHEDULE TO HOOTSUITE SAAS AGREEMENT:

APPLICATION PROGRAMMING INTERFACE (API) SERVICES

If Customer purchases API Services (as defined below) in an Authorization Form, the following additional terms as well as the terms and conditions located at <https://hootsuite.com/legal/dev-api-terms> (the “Developer Terms and API License Agreement”) will apply to Customer’s access and use of such services.

1. Additional Definitions.

“API” means the Application Programming Interface and associated API Documentation provided by Hootsuite, as updated from time to time. There may be more than one API, and in this Agreement the term is both singular and plural.

“API Documentation” means the documentation, data and information that Hootsuite provides regarding the use of the API through the website published at <https://developer.hootsuite.com>.

“API Services” means access to and use of the API, as set forth in the API Documentation.

“API Seat” means a single subscription to the API Services.

Capitalized terms not defined in this Schedule have the meaning ascribed to them in the Developer Terms and API License Agreement.

2. API Services.

- 2.1 API Services. During the term of any applicable Authorization Form, subject to the terms and conditions of the Agreement, this Schedule and the Developer Terms and API License Agreement, and solely for Customer’s internal business purposes, Hootsuite shall provide the API Services to Customer for such number of API Seats as set forth in the Authorization Form.
- 2.2 Data Exchange. The Customer acknowledges that use of the API Services will involve the exchange of Customer Content and Customer Information between the Services and certain Third-Party Services and internal services used by the Customer. The Customer hereby consents to such exchange of data and represents and warrants that such exchange complies with the terms of such Third-Party Services (including Supported Platforms) and Applicable Law.
- 2.3 Conflicting Terms. In the event of a conflict between this Agreement (including this Schedule) and the Developer Terms and API License Agreement, the terms of this Agreement (including this Schedule) will govern to the extent of such conflict.