

**Carahsoft Rider to Manufacturer Commercial Supplier Agreements
(for U.S. Government End Users)
Revised 20161213**

- 1. Scope.** This Carahsoft Rider and the Manufacturer's Commercial Supplier Agreement (CSA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").

- 2. Applicability.** The terms and conditions in the attached Manufacturer's CSA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a) (1) (B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's CSA is inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's Multiple Award Schedule Contract, GS-35F-0119Y, including, but not limited to the following:
 - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", defined as an entity authorized to order under Government contracts as set forth in General Services Administration Order OGP 4800.2I, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.

 - (b) Changes to Work and Delays.** Subject to General Services Administration Acquisition Regulation (GSAR) 552.238-81 Modifications (Federal Supply Schedule) (APR 2014) (Alternate I – APR 2014) and GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) regarding which of the GSAR and the FAR provisions shall take precedence.

 - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

- (d) Audit.** During the term of this CSA: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this CSA. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this CSA.
- (e) Termination.** Clauses in the Manufacturer's CSA referencing suspension, termination or cancellation of the Manufacturer's CSA, the License, or the Customer's Account are hereby deemed to be deleted. Termination, suspension or cancellation shall be governed by the GSAR 552.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:
- Carahsoft may request cancellation or termination of the CSA on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section (q) below or if such remedy is otherwise ordered by a United States Federal Court.
- (f) Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41 U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider and the CSA will be governed by and construed in accordance with the laws of the United States. All clauses in the Manufacturer's CSA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer's CSA referencing unilateral termination rights of the Manufacturer's CSA are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer's CSA are hereby deemed to be deleted.
- (i) Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (MAY 2014), and all clauses governing waiver of jury trial in the Manufacturer's CSA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All of the Manufacturer's CSA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All of the Manufacturer's CSA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) **Renewals.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to GSAR 552.212-4(k) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) and GSAR 552.212-4 (w) (1) (x) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored).
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer's CSA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer's CSA and to this Rider shall be resolved in accordance with the FAR, the GSAR and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. See GSAR 552.212-4 (w) (1) (iii) Contract Terms and Conditions – Commercial Items, Law and Disputes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). The Ordering Activity expressly acknowledges that Carahsoft, as the vendor selling the Manufacturer's licensed software, shall have standing under the Contract Disputes Act to bring such claims that arise out of licensing terms incorporated into Multiple Award Schedule Contract GS-35F-0119Y.

(r) Limitation of Liability: Subject to the following:

Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

(s) Advertisements and Endorsements. Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

(t) Public Access to Information. Manufacturer agrees that the CSA and this Rider contain no confidential or proprietary information and acknowledges the CSA and this Rider will be available to the public.

(u) Confidentiality. Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court. The Licensee may provide information to other components of the United States Government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.).

EULA

Hootsuite End User License Agreement

EULA as of the Effective Date

Subject to change by Hootsuite, as per below

Last modified: May 2, 2017

This end user license agreement (this “[EULA](#)”) governs your access to and use the Enterprise products and services offered by Hootsuite Media Inc. (“[Hootsuite](#)”, “[we](#)”, “[us](#)” or “[our](#)”). In addition to the Terms Applicable to All Services below, certain terms in the following schedules only apply to your access to and use of certain products and services:

- Hootsuite Enterprise
- Hootsuite Insights (formerly uberVU via Hootsuite)
- Hootsuite Impact (formerly LiftMetrix by Hootsuite)
- Hootsuite Professional Services
- Hootsuite Campaigns Enterprise
- Hootsuite API Access

THIS EULA SHOULD BE READ IN CONJUNCTION WITH HOOTSUITE’S PRIVACY POLICY AND COPYRIGHT POLICY.

Wherever used in this EULA, “you”, “your”, “Customer”, and similar terms mean the person or legal entity accessing or using the Services.

We reserve the right, at any time, to update and change any or all of this EULA, in our sole discretion. When we change this EULA, we will modify the "Last Modified" date above.

A. Terms Applicable to All Services

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.

“Authorized Users” means individuals who are authorized by you to use the Services with varying levels of control and access as specifiable by you and who have been supplied user identifications and passwords by you. Authorized Users may include your employees, consultants, contractors, agents, or other designees or those of your Affiliates, but will 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 you or on your behalf in relation to the use of the Services, but excluding Customer Information.

“Customer Information” means information and data submitted by or for you to Hootsuite in connection with the creation and management of your account for the Services.

“Mentions” means the information, including links, posts, and excerpts, that has been made publicly available and obtained by Hootsuite on your behalf from the Internet, and data derived therefrom, including reports, summaries, graphs, and charts.

“Order Form” means a document issued by us or the Solution Partner and executed or otherwise agreed upon by your authorized representative that specifies a description of the Services and any other details related to the Services.

“Party” means either of you or us and “Parties” means, collectively, you and us.

“Seat” means a single subscription associated with a single log-in to a Service, assigned to one Authorized User.

“Services” means the products and services that are ordered by you under an Order Form and made available by us, but expressly excluding any Third-Party Services (as defined herein).

“Solution Partner” means the party reselling the Services pursuant to an agreement between such party and Hootsuite.

“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 via <http://www.hootsuite.com>.

2. Hootsuite Services.

2.1 Services. During the Term (as defined herein), subject to the terms and conditions of this EULA, and solely for your internal business purposes, we shall make the Services available to you in accordance with the applicable Order Form describing such Services. You acknowledge that the Services may be subject to usage limits, including any quantities specified in an Order Form. If you exceed a usage limit, we may work with you to seek to reduce your usage so that it conforms to that limit. If, notwithstanding our efforts, you are unable or unwilling to abide by a usage limit, we will invoice you in accordance with the Prompt Payment Act or submit a claim in accordance with the Contract Disputes Act for additional quantities of the applicable Services.

2.2 Updates and Functionalities. You acknowledge that from time to time we 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, we will provide, implement, configure, install, support, and maintain at our own cost any and all updates, upgrades, enhancements, improvements, releases, corrections, bug fixes, patches, and modifications to the Services (collectively, the “Updates”). You acknowledge that the 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 us on reasonable terms, we may cease to provide access to such features or programs without entitling you to refund, credit, or other compensation.

2.3 Acceptable Use. You shall:

- (i) be responsible for your Authorized Users' compliance with this EULA and for any breach of this EULA by your Authorized Users as if it were your breach;
- (ii) be solely responsible for the accuracy, quality, integrity, and legality of Customer Content and of the means by which you acquire or generate 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 your (or any of your Authorized Users') user name, password, or account for the Services;
- (iv) be solely responsible and liable for all activity conducted through your account in connection with the Services;
- (v) promptly notify us if you become aware of or reasonably suspect any security breach relating in any way to the Services, including any loss, theft, or unauthorized disclosure or use of your (or any of your Authorized Users') user name, password, or account;
- (vi) use, or otherwise access in connection with your 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 you access or subscribe to in connection with the Services, including the applicable terms for Supported Platforms, such as the Twitter Terms of Service published at <https://twitter.com/tos?lang=en>, the Facebook Statement of Rights and Responsibilities published at https://www.facebook.com/terms_pages_gov.php, and the LinkedIn User Agreement published at https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/212/2015/09/Amendment-to-LinkedIn-User-Agreement_Federal.pdf, as applicable.

You must not:

- (a) make the Services available to anyone other than your 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 your 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.

You agree that we may temporarily suspend your access to the Services for a violation of this Section 2.3 or for any abusive practices that degrade the performance of any Service for you and/or our other 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.

2.4 Mentions. You understand that, by using the Services, you may be exposed to third-party content, information, and Mentions that might be unlawful, offensive, harmful, inaccurate, or otherwise inappropriate. Unless you create the content of the Mentions, Mentions shall not be considered “Customer Content” under any circumstances. We have no obligation to preview, verify, flag, modify, filter, or remove any Mentions, even if requested to do so, although we may do so in our sole discretion. Your use of Mentions is at your sole risk, and we shall not be liable to you or any third party in relation to Mentions.

2.5 Third-Party Products and Services. You acknowledge that the Services may enable or assist you 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 you access the Third-Party Services, you do so at your own risk. Any use of Third-Party Services is subject solely to the terms and conditions governing such Third-Party Services, and any contract entered into, or any transaction completed via any Third-Party Services, is between you and the relevant third party, and not Hootsuite. We make 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 you with any such third party. Further, you acknowledge and agree that, if you install or enable a Third-Party Service, you grant us permission to allow the provider of such Third-Party Service to access your Customer Content and Customer Information solely to the extent required for the interoperation of the Third-Party Service with the Services or as you may otherwise authorize or direct. Without limiting the generality of the foregoing, if you subscribe in an Order 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, you are expressly agreeing to be bound by the terms and conditions applicable to such services. However, to the extent such terms and conditions in the Third party terms or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

2.6 Non-Exclusivity. You acknowledge that the rights granted to you under this EULA and any Order Form are non-exclusive and that nothing in this EULA or any Order Form will be interpreted or construed to prohibit or in any way restrict our right to license, sell, or otherwise make available the Services to any third party or perform any services for any third party.

2.7 Beta Testing. From time to time, we may offer you the opportunity to install, use and test (the “Beta Testing”) certain of our 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) we grant you a limited right to use the Beta Services for Beta Testing purposes during the applicable testing period;

(ii) you agree 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”). You hereby assign to us all right, title and interest in and to the Beta Feedback. All Beta Services and your Beta Feedback are Hootsuite’s Confidential Information. Hootsuite may use a quotation provided by you, as well as your name and logo, in Hootsuite marketing, advertising, press, promotion, and similar public disclosures with your prior consent;

(iii) we reserve the right to modify the Beta Services or terminate your participation in the Beta Testing for any reason, without liability to you. We will use commercially reasonable efforts to provide you with reasonable advance notice of such termination;

(iv) you acknowledge 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. We are under no obligation to provide technical support with regards to the Beta Services, and we provide 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 your sole risk. In no event will we be liable to you for any damage whatsoever arising out of the use of or inability to use the Beta Services.

2.8 App Directory. You 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, you hereby agree to the Hootsuite App Directory Terms of Service published at <https://hootsuite.com/legal/app-directory-TOS>. To the extent the terms and conditions in the App Directory or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

3. Intellectual Property and Security.

3.1 Services. As between you and us, we retain 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 our rights or interests therein or any other of our 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 EULA are reserved by us.

3.2 Feedback. You may from time to time provide suggestions, comments, or other feedback to us with respect to the Services (“Feedback”). Feedback, even if designated as confidential by you, shall not create any confidentiality obligation for us. You shall, and hereby do, grant to us 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. You hereby grant us 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 your Customer Content for the purpose of providing the Services to you

and supporting your use of the Services. We may also use Customer Content for the purpose of developing the Services, provided that when doing so, we shall only use Customer Content in an anonymized and aggregated way. Subject only to the limited license expressly granted herein, you and your Authorized Users shall retain all right, title, and interest in and to, and all intellectual property rights in, your Customer Content and your Customer Information. Nothing in this EULA will confer on us 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.** You are solely responsible for the Customer Content that Authorized Users upload, publish, display, link to, or otherwise make available via the Services, and you agree that the Services are only a passive conduit for the online distribution and publication of the Customer Content and the online display of Mentions. We will not review, share, distribute, or reference any Customer Content or Mentions, except as provided herein, as provided in our privacy policy published at <https://hootsuite.com/legal/privacy> (the "Privacy Policy") and our copyright policy published at <https://hootsuite.com/legal/copyright> (the "Copyright Policy"), or as may be required by law. Notwithstanding the foregoing, we retain the authority to remove any Customer Content uploaded that we deem in violation of this EULA, in our sole discretion. To the extent the terms and conditions in the Privacy Policy, Copyright Policy, or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

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

4. **Suspension of Services.**

4.1 **Late Payment.** Upon 30 days' written notice to you from Hootsuite or the Solution Partner provided after the due date of any fees for the Services, we may suspend your access to the Services if you have not paid fees owing for the Services at the expiration of such period.

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 EULA, 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 EULA and who have signed confidentiality

agreements with the receiving Party containing protections no less stringent than those herein. In this EULA, “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. The term (the “Term”) of this EULA will commence on the date: (i) you enter into a resale agreement for the Services with a Solution Partner, or (ii) you (as a Solution Partner) enter into an agreement with us (either, the “Effective Date”), and will continue in effect for the term described in such agreement or in the applicable Order Form. Except as expressly stated otherwise in the applicable agreement or Order Form, the Term will automatically renew for subsequent one-year renewal periods unless you, we or the Solution Partner gives written notice to the other Party of non-renewal at least 60 days prior to the end of the then-current Term. The fees for Services may be increased for the renewal Term by providing you written notice (which notice may be provided by email) at least 60 days prior to the end of the then-current Term. Notwithstanding the foregoing, in no event shall the Term exceed the term agreed to in writing between Hootsuite and Solution Partner for your account.

6.2 Termination for Cause. A Party may immediately terminate this EULA (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.

6.3 Effects of Termination. Upon termination of this EULA for any reason, all Order Forms will automatically terminate and: (i) you shall immediately cease all use of the Services; and (ii) you will have no further access to its accounts provided by Hootsuite. If you terminate this EULA in accordance with Section 6.2, Hootsuite will refund to you any unearned Fees that you paid in advance for the Services. If Hootsuite terminates this EULA in accordance with Section 6.2, then, without limiting any other remedies that may be available, you will pay any unpaid Fees covering

the remainder of the term of each Order Form after the date of termination. In no event will termination relieve you of your obligation to pay any amounts payable for the period prior to the date of termination.

6.4 Survival. Any provision of this EULA which, either by its terms or to give effect to its meaning, must survive, and such other provisions which expressly, or by their nature, are intended to survive termination shall survive the expiration or termination of this EULA. Without limiting the foregoing, Sections 3.1, 3.2 and 3.3, and Articles 5, 8, 9 and 10 will survive the expiration or termination of this EULA.

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 EULA and to perform its obligations and duties under this EULA.

7.2 Hootsuite Warranties. We warrant that (a) subject to Section 2.2, the functionality of the Services will not be materially decreased during the Term; and (b) the Services do not knowingly contain any malicious code or viruses. For any breach of an above warranty, your exclusive remedies are those described in Section 6.2.

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 MAY NOT APPLY TO YOU. EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, WE EXPRESSLY EXCLUDE AND DISCLAIM ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE SPECIFICALLY DISCLAIM ALL EXPRESS OR IMPLIED WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUALITY, AND NON-INFRINGEMENT, THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, OR THAT OUR SERVICES WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, OR ERROR-FREE. IN ADDITION, WE DO NOT WARRANT ANY CONNECTION TO OR TRANSMISSION FROM THE INTERNET. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM US 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.

WE DISCLAIM 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. WE DO NOT CONTROL OR VET CUSTOMER CONTENT OR MENTIONS AND WE ARE NOT RESPONSIBLE FOR WHAT OTHER USERS POST, TRANSMIT, OR SHARE ON OR THROUGH THE SERVICES. WE ARE 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. WE EXPRESSLY DENY ANY RESPONSIBILITY RESULTING FROM HACKING, TAMPERING, OR OTHER

UNAUTHORIZED ACCESS OR USE OF THE SERVICES OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

8. Mutual Indemnification

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

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

- (i) a modification of the Services by or at your direction or the direction of an Authorized User;
- (ii) use of the Services in violation of this Agreement or applicable law;
- (iii) use of the Services after we notify you 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 us to the extent such infringement would not have arisen but for such combination, operation, or use; or
- (v) your use of the Services in a manner that is inconsistent with its intended use.

For avoidance of doubt, our indemnification obligations in this Section 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 our opinion is likely to become, the subject of any such Claim, we may at our option and expense (a) procure for you 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) terminate either this EULA or the Order Form for such Service. This Section sets forth our sole liability (and your sole remedy) regarding infringement or misappropriation of third party rights.

8.2 Indemnification Procedure. The indemnified Party shall (a) promptly give written notice of the Claim to the indemnifying Party; (b) 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 (c) 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 OUR AGGREGATE LIABILITY TO YOU FOR ALL CLAIMS OF ANY KIND, INCLUDING ANY CLAIMS ARISING OUT OF OR RELATED TO THIS EULA, WHETHER BY STATUTE, CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE FEES PAID BY YOU FOR THE SERVICES HEREUNDER DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE. YOUR 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 OUR LIABILITY UNDER THIS SECTION 9 EXCLUDES ANY FEES PAID BY YOU TO THIRD PARTIES OR AS PAYMENT FOR ANY THIRD-PARTY SERVICES, EVEN WHERE OUR 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 THIS EULA BETWEEN THE PARTIES AND LIMIT THEIR POTENTIAL LIABILITY GIVEN THE FEES CHARGED FOR THE SERVICES, 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 EULA 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 OR OF ITS EMPLOYEES OR ITS AGENTS; (II) WILLFUL MISCONDUCT OF EITHER PARTY; OR (III) ANY LIABILITY WHICH 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 without the prior written consent of the other parties (not to be unreasonably condition, delayed or withheld), and any attempted assignment without such consent will be void. Notwithstanding the foregoing, we may assign this EULA in its entirety, without your consent, to our Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of our assets or business.

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

10.3 **Force Majeure.** A Party shall not 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 Amendment. We reserve the right to modify, supplement, or replace this EULA.

10.6 Severability. Each provision of this EULA is severable. If any provision of this EULA 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 EULA or of that provision in any other jurisdiction.

10.7 Notices. For purposes of service messages and notices about the Services, we may place a banner notice across the Services or the Hootsuite website (www.hootsuite.com) to alert you of certain changes such as modifications to this EULA. Alternatively, notice may consist of an email from us to an email address associated with your account, even if we have other contact information. For communication about your account and services associated with Hootsuite, we may also communicate with you or your Authorized Users through your Hootsuite account or through other means including email, mobile number, telephone, or delivery services including the postal service about your Hootsuite account or services associated with Hootsuite. You acknowledge and agree that we shall have no liability associated with or arising from your failure to maintain accurate contact or other information, including, but not limited to, your failure to receive critical information about the Services. Notices to us must be delivered by email to legal@hootsuite.com with a duplicate copy sent via registered mail to the following address: Hootsuite Media Inc., 5 East 8th Avenue, Vancouver, British Columbia, V5T 1R6; Attention: Head of Legal. This email address provided may be updated as part of any update to this EULA.

10.8 Waivers. No waiver of any provision of this EULA is binding unless it is in writing and signed by all Parties, except that any provision which 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 EULA will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this EULA will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

10.9 Governing Law and Jurisdiction. This EULA and each of the documents contemplated by or delivered under or in connection with this EULA are governed exclusively by, and will be enforced, construed, and interpreted exclusively in accordance with, the federal laws the United States.

10.10 Entire Agreement. The terms of this EULA, together with all Exhibits, the terms and conditions of Carahsoft Technology Corporation's (Carahsoft's) GSA Multiple Award Schedule (MAS) Contract, the Privacy Policy, and the 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 EULA and the terms of an Order Form, the provisions of this EULA shall prevail except to the extent that the order form makes specific reference to such discrepancy and the applicable provision of this EULA. The terms of this EULA will apply to all orders submitted to us by you and shall supersede any additional terms which may be incorporated in a purchase order form or any other Customer-generated form. Any such Customer terms shall be null and void. Notwithstanding the foregoing, any conflict between any of the documents that comprise the Agreement shall be resolved in accordance with General Services Administration Acquisition Regulation (GSAR) 552.221-4(s) Order of Precedence.

10.11 Export Compliance and Use Restrictions. You shall not use or access the Services if you are 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 you shall not provide access to the Services to any government, entity or individual located in any Prohibited Jurisdiction. You represent, warrant and covenant that (a) you are 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) you are not a national of, or a company registered in, any Prohibited Jurisdiction; (c) you 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) you shall comply with all applicable laws regarding the transmission of data exported from the country in which you (or your Authorized Users) are located to Canada and the United States. Hootsuite will have the right to terminate this EULA and your access to the Services with immediate effect if it deems that the provision of Services may be a breach of any international and national export control laws, restrictions and regulations that apply to the Services.

B. Hootsuite Enterprise–Additional Terms

If you purchase Hootsuite Enterprise in an Order Form, the following Additional Terms apply to your access to and use of such Services in addition to the Terms Applicable to All Services.

1. **Additional Definition.**

“Hootsuite Enterprise Platform” means our proprietary software, content, text, images, media, and other materials delivered through our 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.

2. **Hootsuite Enterprise Platform.**

2.1 Hootsuite Enterprise Platform. During the term of any applicable Order Form, subject to the terms and conditions of this Agreement, and solely for your internal business purposes, we shall make the Hootsuite Enterprise Platform available to you and your Authorized Users for the number of Seats purchased in accordance with the applicable Order Form.

2.2 Hosting Services; Service Levels. We shall use commercially reasonable efforts to host and serve the Hootsuite Enterprise 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. To the extent the terms and conditions in the Service Level Agreement or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

C. Hootsuite Insights – Additional Terms

If you purchase Hootsuite Insights (formerly uberVU via Hootsuite) in an Order Form, the following Additional Terms apply to your access to and use of such Services in addition to the Terms Applicable to All Services. For greater clarity, uberVU via Hootsuite is now Hootsuite Insights, and all references to uberVU via Hootsuite in any Order Form shall be deemed to be references to Hootsuite Insights.

I. **Additional Definitions.**

“Query” means 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 Order Form.

“Insights Application” (formerly the uberVU Application) means our proprietary software, content, text, images, media, and other materials delivered through our 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 you and your Authorized Users have set up, including any modifications or Updates.

2. **Insights Application.**

2.1 Insights Application. During the term of any applicable Order Form, subject to the terms and conditions of this EULA, and solely for your internal business purposes, we shall make the Insights Application available to you and your Authorized Users for the number of Queries purchased in accordance with the applicable Order Form.

2.2 Hosting Services; Service Levels. We shall use commercially reasonable efforts to host and serve the Insights Application 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. To the extent the terms and conditions in the Service Level Agreement or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

3. **Intellectual Property.**

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

D. Hootsuite Impact – Additional Terms

If you purchase Hootsuite Impact (formerly LiftMetrix by Hootsuite) in an Authorization Form, the following Additional Terms apply to your access to and use of such Services in addition to the Terms Applicable to All Services.

1. Additional Definitions.

“Connection” means, with respect to the 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.

“Impact Application” (formerly the LiftMetrix Application) means the 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.liftmetrix.com) and mobile applications that provide analytics for Customer Content.

2. Impact Application.

2.1 Impact Application. During the term of any applicable Authorization Form, subject to the terms and conditions of this Agreement, and solely for your internal business purposes, we shall make the Impact Application available to you and your Authorized Users for the number of Connections purchased in accordance with the applicable Authorization Form.

2.2 Hosting Services; Service Levels. We shall use commercially reasonable efforts to host and serve the Impact Application 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. To the extent the terms and conditions in the Product Guide or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

E. Hootsuite Professional Services – Additional Terms

If you purchase Hootsuite Professional Services in an Order Form, the following Additional Terms apply to your access to and use of such Services in addition to the Terms Applicable to All 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 we 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 Order Form.

“Deliverables” means the training or other offering to be developed by us and specifically identified by us as a deliverable in the applicable Order Form.

2. Professional Services and Deliverables.

2.1 Professional Services and Deliverables. During the term of any applicable Order Form, subject to the terms and conditions of this Agreement, and solely for your internal business purposes, we shall provide the Professional Services and the Deliverables, if any, to you as set out in such Order Form.

2.2 Cooperation. In order for us to perform the Professional Services and deliver the Deliverables, if any, you shall, in a timely manner: (i) make yourself reasonably available at such times and locations as we may require; (ii) allocate sufficient resources, perform any tasks, and deliver any materials, including Customer Content, reasonably necessary to enable us to perform our obligations under the applicable Order Form; (iii) respond to our inquiries related to the Professional Services; and (iv) provide complete, accurate, and timely information, data, and feedback all as reasonably required by us. If you do not comply with your obligations in this Section 2.2 in a timely manner, delays may result or we may charge you additional fees. For greater certainty, Sections 2.4, 3.3, and 3.4 of the Terms Applicable to All Services apply to Customer Content provided to us in connection with the Professional Services.

2.3 Time of Performance. Subject to Section 10.4 of the Terms Applicable to All Services, we 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 Order Form.

2.4 Scope Changes. You may, from time to time, request changes in the scope of the Professional Services (a "Change Request"). Upon receipt of a written Change Request, we shall evaluate such requested changes and, within 10 days of such Change Request, submit to you 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 Order Form. If you accept such Change Order (such acceptance to be indicated in writing), the Change Order will be incorporated by reference into the applicable Order Form and will be deemed to amend and modify the applicable Order Form to the extent specified in the Change Order. Should you not accept the Change Order, the applicable Order Form shall continue in full force and effect, unamended.

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

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

3. Intellectual Property.

3.1 License for Deliverables. During the term of the applicable Order Form, subject to the terms and conditions of this EULA, and solely for your internal business purposes, we grant to you a limited, worldwide, non-exclusive, non-transferable license, without a right to sublicense, to use and display the Deliverables as set out in such Order Form.

3.2 Professional Services and Background IP. As between you and us, we retain 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 our rights or interests therein. We reserve 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, your exclusive remedy and our entire liability will be the re-performance of the applicable Professional Services. If we are unable to re-perform the Professional Services as warranted, your exclusive remedy will be to seek recovery of any Fees paid to us for the deficient Professional Services. You must make any claim under the foregoing warranty to us in writing within 30 days of performance of such Professional Services in order to

receive the foregoing remedies.

F. Hootsuite Campaigns Enterprise – Additional Terms

If you purchase Hootsuite Campaigns Enterprise in an Order Form, the following Additional Terms apply to your access to and use of such Services in addition to the Terms Applicable to All Services.

1. Additional Definitions.

“Brand” means an individual brand of yours or your Affiliate.

“Brand Subscription” means a subscription for Campaigns for a Brand, as set out in the applicable Order Form.

“Campaigns” means campaigns created by you or your 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 Platform” means our proprietary software, content, text, images, media, and other materials delivered through our 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 you by Campaign Participants, including by submission of such content on a Campaign Page or via a Supported Platform.

2. Hootsuite Campaigns.

2.1 Hootsuite Campaigns. During the term of any applicable Order Form, subject to the terms and conditions of this EULA, and solely for your internal business purposes, we shall make the Hootsuite Campaigns Platform available to you and your Authorized Users for the number of Brand Subscriptions set out in such Order Form.

2.2 Hosting Services; Service Levels. We 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. To the extent the terms and conditions in the Service Level Agreement or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

2.3 Campaigns.

(i) You 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 a 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 your privacy policy, and our use of the foregoing information will be subject to our Privacy Policy;

(2) to the extent applicable to a Campaign, obtains each Campaign Participant's consent as required by applicable law to your and our 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, us and that any references to any of your products, services, or offerings by trade name, trade-mark, manufacturer, supplier, or otherwise do not constitute or imply endorsement, sponsorship, or recommendation thereof by us; and

(4) states that each Campaign Participant unconditionally releases and holds harmless us 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) You acknowledge and agree that:

(a) the Services do not assist with the compliance of the Campaigns with any laws, rules, or regulations;

(b) we are 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) we are not liable for the content or customized display of any Campaign or Campaign Page and disclaim any warranty as to the completeness of the Mentions and Submitted Content obtained on behalf of Customer and displayed on any Campaign Page;

(d) you may not refer to us nor use our 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 our Privacy Policy and our Copyright Policy where required in accordance with Section 2.3(i)(c) above;

(e) if Campaign Participants provide you with Submitted Content that is personal information, we are not responsible or liable for your use or distribution of such information; and

(f) we are not responsible for monitoring your compliance with the obligations in this Section 2.3. If you are in breach of such obligations with respect to a Campaign, we may temporarily suspend such Campaign and its Campaign Page and your access to the Services.

(iii) You shall use commercially reasonable efforts to notify us 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 Terms Applicable to All Services apply to Customer Content provided to us in connection with any Campaign.

2.4 Acceptable Use of Hootsuite Campaigns. You shall (i) be solely responsible for the means by which you acquire or generate Submitted Content; and (ii) not allow a Brand Subscription to be used for a brand other than the applicable Brand.

2.5 Submitted Content. You understand that, by using the Services, you may be exposed to Submitted Content that might be unlawful, offensive, harmful, inaccurate, or otherwise inappropriate. Unless you create the content of the Submitted Content, Submitted Content shall not be considered “Customer Content” under any circumstances. We have no obligation to preview, verify, flag, modify, filter, or remove any Submitted Content, even if requested to do so, although we may do so in our sole discretion. Your use of Submitted Content is at your sole risk, and we shall not be liable to you or any third party in relation to Submitted Content.

3. Intellectual Property.

3.1 Submitted Content. To the extent Submitted Content is accepted for a Campaign, you 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 you and us to use all intellectual property rights in and to its Submitted Content and (b) 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. You agree that the Services are only a passive conduit for the online display of Campaigns and Submitted Content. We will not review, share, distribute, or reference any Campaigns or Submitted Content, except as provided herein, as provided in our Privacy Policy and our Copyright Policy, or as may be required by law.

Notwithstanding the foregoing, we retain the authority to remove any Submitted Content uploaded that we deem in violation of this EULA, in our sole discretion.

G. Hootsuite API Access – Additional Terms

If you purchase API Access (as defined below) in an Order 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 the extent the terms and conditions in the API License Agreement or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

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

“API Documentation” means the documentation, data and information that we provide regarding the use of the API through the website published at <https://developer.hootsuite.com>. To the extent the terms and conditions in the API Documentation or this EULA are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under this EULA.

“API Seat” means an API Access license for a single user.

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

API Services.

2.1 API Access. During the term of any applicable Order Form, subject to the terms and conditions of the EULA, this Schedule and the Developer Terms and API License Agreement, and solely for your internal business purposes, Hootsuite shall provide API Access to you for such number of API Seats as set forth in the Order Form.

2.2 Data Exchange. You acknowledge that use of the API Access will involve the exchange of Customer Content and Customer Information between the Services and certain Third-Party Services and internal services used by you. You hereby consent to such exchange of data and represent and warrant 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 EULA (including this Schedule) and the Developer Terms and API License Agreement, the terms of this EULA (including this Schedule) will govern to the extent of such conflict. Notwithstanding the foregoing, any conflict

between any of the documents that comprise the Agreement shall be resolved in accordance with General Services Administration Acquisition Regulation (GSAR) 552.221-4(s) Order of Precedence.

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