

Service Order



35163

Agreement For	City of Long Beach	Subscription Start Date	1-30-19
Subscription Term	24 Month	Billing Method	Annual
		Payment Terms	Net 30

Start Date	End Date	Product	Amount
01/30/2019	01/29/2021	12 Enterprise Plan Licensed Users	
		45 Social Profiles	
		Advanced Listening (10 topics)	
		Premier Success	

*Subscription total is the annual total. Contract total is the total over 24 months.
City of Long Beach agrees to work with Sprout Social on a future case study.
Pricing is valid through 1/30/19

One Time Total	
	\$ 25,000.00
Subscription Total	
	\$ 50,000.00
Contract Total	

Service Order



Full Legal Business Name		Sprout Social, Inc.	
Name		Name	Andrew Zobrist
Title		Title	Director, Enterprise Sales
Signature		Signature	
Date	1/30/19	Date	1-23-19
VAT Number (if applicable)		VAT Number (if applicable)	

Tom Modica
Assistant City Manager
EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

Special Contract Terms

This Service Order is executed between Sprout Social, Inc. ("Sprout Social") and the above named subscriber ("Subscriber"), and is governed by the terms and conditions of the Sprout Social, Inc. Service Subscription Agreement dated January ____, 2019. The services described above may only be used by the Subscriber, and subject to the scope limitations set forth herein.

Unless otherwise set forth above, Sprout Social requires payment made in advance of the subscription period. Pro-rated refunds are not provided for early cancellation and Subscriber may not terminate prior to the end of the subscription term for convenience.

All payments required by this Service Order are exclusive of federal, state, local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes and value added taxes).

Subscriber shall be responsible for the payment of all such charges (excluding taxes based upon Sprout Social's net income), which amount will be reflected on the invoice issued by Sprout Social. All amounts payable by Subscriber hereunder shall be grossed-up for any withholding taxes imposed by any foreign government on Subscriber's payment of such amounts to Sprout Social.

This Service Order, including any additional users, profiles, brand keywords, groups, mentions, or any other add-ons, will automatically renew for additional periods equal to the length of the subscription term set forth above unless either party provides written notice to the other party at least 30 days prior to expiration. Subscriber must email its account manager or sales@sproutsocial.com to provide such notice.

Subscriber agrees that Sprout Social may use Subscriber's name and logo on a representative customer list on Sprout Social's website and/or other marketing materials. Sprout Social will comply with any reasonable written logo guidelines provided by Subscriber.

APPROVED AS TO FORM
1/29, 2019
CHARLES PARKIN, City Attorney
By
LINDA T. VU
DEPUTY CITY ATTORNEY

**CITY OF LONG BEACH
PURCHASE ORDER – GENERAL CONDITIONS**

1. Issuance of this Purchase Order by City constitutes acceptance of Supplier's offer on the terms and conditions stated herein, and forms a contract. In the event of conflict between this Purchase Order and the Subscription Agreement dated January ____, 2019 entered into between City and Supplier "Terms"), the Terms shall control.
 2. City will not pay charges for taxes, transportation, boxing, packaging, crating or returnable containers unless separately stated hereon. All sales, use, excise or similar taxes to be paid by City must be itemized separately hereon and on invoices. City is exempt from payment of Federal Excise Tax under Certificate Number 95-730502K and supplier shall not charge this tax to City.
 3. City's obligation to pay the sum herein stated for any one fiscal year shall be contingent upon the City Council appropriating the necessary funds. A fiscal year commences on October 1 and ends on September 30 of the following year. If the City Council fails to appropriate the necessary funds for any fiscal year, then the Purchase Order shall terminate at no additional cost or obligation to City.
 4. Time is of the essence. If at any time Supplier believes that goods, materials, equipment, supplies ("item"), labor or services will not be made as scheduled, supplier shall immediately give written notice stating the cause of the delay to City. Deliveries must be prepaid. City will not accept COD shipments.
 5. City reserves the right at any time to make changes in drawings and specifications, in methods of shipment and packaging, and in place(s) of delivery. If necessary, there will be an equitable adjustment in price and time of performance mutually satisfactory to Supplier and City; but any claim by Supplier for such an adjustment must be made in writing within thirty (30) days after such change.
 6. Supplier warrants that the items delivered and the work or services performed shall, in all material respects, conform to the specifications, drawings, samples or other description provided by Supplier and shall be fit and sufficient for the purpose intended, merchantable, of good materials and workmanship, in good working order and free from defect or faulty workmanship for a period of at least ninety (90) days, after delivery. When defective items or faulty workmanship is discovered, Supplier shall provide all labor, materials, parts and equipment to correct such defect or make such replacement at no expense to the City. Defective items not meeting City's specifications shall be held for Supplier's instructions at Supplier's risk and; if Supplier so directs, will be returned at Supplier's expense.
 7. Subject to Section 11.2 of the Terms, Supplier shall defend, indemnify and hold harmless City, its officials, employees and agents harmless from all loss, damage, liability, demands, claims, causes of action, costs and expenses (including reasonable attorneys' fees) for injuries to persons (including death) or damage or destruction to property connected with or arising from the negligent acts or omissions, willful misconduct or misrepresentations of Supplier, its agents or employees in the performance of this Purchase Order or relating to a claim of infringement of a patent, trademark or copyright.
 8. INTENTIONALLY OMITTED.
 9. City reserves the right to terminate this Purchase Order or any part of it and reject delivery of items if delivery is not made when and as specified. Supplier shall be charged for any direct losses, but not any consequential damages, sustained by City by reason of such delay or failure, except losses caused by a delay for reasons beyond Supplier's reasonable control. Direct losses shall include any costs to City in excess of the Purchase Order price of obtaining items or services from other sources similar to those terminated or rejected.
 10. Supplier shall not substitute items without written approval of the City Purchasing Agent or designee.
 11. All license fees for City's use of patented or copyrighted items for items furnished under this Purchase Order shall be included in the Purchase Order price.
 12. In cases where a price subject to escalation has been agreed upon, all claims for such price escalation must be received by City within sixty (60) days after date of final shipment. The price escalation shall be shown as a separate item on the invoice. Unless an escalator clause has been shown as a specific part of this Purchase Order, Supplier shall not be entitled to reimbursement for costs incurred due to escalation.
 13. All items or services provided under this Purchase Order shall comply with the Safety Orders and Regulations of the California Division of Industrial Safety, Title 8, California Code of Regulations (CAL/OSHA) and all applicable OSHA regulations as well as all other applicable sections of the California Code of Regulations. Subject to Section 11.2 of the Terms, Supplier shall defend, indemnify and hold harmless City, its officials, employees and agents from any loss, claim, cause of action, liability, cost or expense, including but not limited to fines, penalties, corrective measures, and attorney's fees, City may sustain by reason of Supplier's failure to comply.
 14. Supplier shall keep confidential and not disclose or use in any way confidential business or technical information that the City may disclose in conjunction with this Purchase Order or Supplier may learn as a result of entering City property to deliver items or services or to perform work hereunder that is, in each case, (i) marked as confidential or proprietary, or (ii) by its nature or content is reasonably distinguishable as confidential or proprietary to Supplier.
 15. Supplier shall not assign this Purchase Order or any part hereof or any payments due hereunder or delegate any duties without City's prior written approval.
 16. City's remedies herein are cumulative and additional to any other remedies at law or in equity. The waiver of any breach of this Purchase Order shall not be deemed a waiver of any other or subsequent breach. Either party's failure to object to provisions contained in any communication from the other party shall not be deemed an acceptance of such provisions or a waiver of the provisions of this Purchase Order.
 17. This Purchase Order shall not be amended, modified or rescinded, except by written agreement signed by the parties and expressly referring to this Purchase Order.
 18. Any indebtedness of Supplier to City may, at the City's option, be credited against amounts owing by City hereunder.
 19. Supplier shall furnish further itemization and breakdown of the Purchase Order price when requested by City.
 20. Supplier and its subcontractor(s) shall not discriminate against any person in the performance of this Purchase Order on the basis of race, religion, national origin, color, age, sex, sexual orientation, AIDS, HIV status, handicap or disability, and shall comply with applicable federal and state equal employment opportunity laws, ordinances, rules and regulations.
 21. Supplier shall materially comply with all applicable federal, state and local laws, rules, regulations and ordinances pertaining to the subject matter hereof, and shall obtain all necessary licenses and permits related to the items, work or services.
 22. Supplier, its employees, and agents shall be considered independent contractors and not employees or agents of City.
 23. City's purchases are based on its actual needs and requirements: City is obligated only to purchase those items and those quantities that City needs and requires, regardless of any estimated quantities provided to the Supplier.
 24. The issuance of this Purchase Order does not make Supplier the exclusive supplier of items or services that are the subject of this Purchase Order.
- THE FOLLOWING ADDITIONAL CONDITIONS APPLY WHEN SUPPLIER IS TO PERFORM WORK ON THE PREMISES OF CITY:**
25. If, during the work, Supplier allows any indebtedness or lien to accrue for labor, equipment or materials, which may become a claim against City, Supplier shall immediately pay such claim or indebtedness or cause such lien to be dissolved and discharged by giving a bond and, in case of failure to do so, City may withhold any money due to Supplier until such claim, indebtedness or lien is paid or may apply such money toward the discharge thereof; or City may, at its option, cancel this Purchase Order, take possession and control of the work, and complete the same or cause the same to be completed. Supplier shall pay to City the difference between the Purchase Order price and the actual cost to City in completing or causing the work to be completed.
 26. Supplier shall perform the work at Supplier's own risk until the same is fully completed and accepted and shall, in case of any accident, destruction or injury to the work or items before final completion and acceptance, repair or replace the work or items so injured, damaged or destroyed, at Supplier's own expense and to the satisfaction of City. When items are furnished by others for installation or erection by Supplier, Supplier shall receive, unload, store, and handle same at site and become responsible therefore, as though such items were being furnished by Supplier under the Purchase Order.
 27. Supplier shall maintain at its expense, until completion of performance and acceptance by City, from an insurer admitted (licensed) in the State of California with a current financial responsibility rating of A (Excellent) or better and a current financial size category of V (capital surplus and conditional surplus funds of greater than \$10 million) or greater rating as reported by A.M. Best Company or equivalent, unless waived in writing by City's Risk Manager, or Non-admitted in the State of California with a current financial responsibility rating of A (Excellent) or better and a current financial size category of VIII (capital surplus and conditional surplus funds of greater than \$100 million) or greater rating as reported by A.M. Best Company or equivalent, unless waived in writing by City's Risk Manager the following insurance:
 - a. **COMPREHENSIVE GENERAL LIABILITY:** naming City, its officials, employees and agents as additional insured's for injury to or death of persons or damage to or loss of property arising from or connected to Supplier's performance hereunder: \$1,000,000 combined single limit for each occurrence or \$2,000,000 general aggregate.
 - b. **AUTOMOBILE LIABILITY:** \$500,000 combined single limit per accident for bodily injury and property damage covering owned, non-owned and hired vehicles.
 - c. **WORKERS' COMPENSATION:** As required by the California Labor Code. Self-insurance and self-insured retention must be approved in writing by City and protect City in the same manner and extent as if the policies had not contained retention. Each policy must be endorsed to state that coverage shall not be cancelled by either party or reduced in coverage except after 30 days prior written notice to City. Supplier shall furnish to City before performance Certificates of Insurance and original endorsements, with the original signature of one authorized by the insurer to bind coverage on its behalf. This insurance shall not be deemed to limit Supplier's liability hereunder. Supplier shall require that its subcontractors comply with this Section. City reserves the right to require complete certified copies of policies. If Supplier fails to furnish said insurance, City may terminate the Purchase Order.
 28. Supplier shall comply with the Standard Specifications for Public Works Construction, latest edition, and provide bonds required by the City.
 29. Supplier shall comply with prevailing wage requirements in Chapter 2.87 of the Long Beach Municipal Code, e.g. the requirement to pay prevailing wages to contractors or subcontractors for public work. Public work includes the construction or repair of any public building, street, sewer or other property or improvement work done under contract and paid for, in whole or in part, out of public funds. Prevailing wage determinations are made by the California Department of Industrial Relations (DIR) for per diem wages and holiday and overtime work in the locality in which the public work is to be performed for each craft, classification or type of worker needed to perform the work under the contract. Copies of the prevailing rate of per diem wages are on file at the City's Purchasing Division office, which shall be made available to any interested party on request.

This information is also available at www.longbeach.gov/purchasing

SPROUT SOCIAL, INC.
SERVICE SUBSCRIPTION AGREEMENT

35168

This Service Subscription Agreement ("**Agreement**") is made and entered into as of later of the two signature dates below ("**Effective Date**"), between Sprout Social, Inc. and its Affiliates (collectively, "**Sprout Social**") and the undersigned subscriber ("**Subscriber**"). This Agreement sets forth the terms pursuant to which Subscriber will be permitted to use certain of Sprout Social's web-based and professional services. The parties agree as follows:

1. DEFINITIONS

1.1 "**Account**" means a unique account created for Subscriber to access the Subscription Services.

1.2 "**Add-On Services**" means additional services that may be added to the Subscription Services.

1.3 "**Affiliate**" means an entity that controls, is controlled by or is under common control with a party, where "control" means ownership of 50% or more of the shares, equity interest or other securities entitled to vote for election of directors or other managing authority.

1.4 "**Client**" means a customer of Subscriber for whom Subscriber is purchasing and/or using the Services (if applicable).

1.5 "**Group**" means a unit of usage rights for the Subscription Services. Groups may be set for individual Clients, specific campaigns, etc.

1.6 "**Intellectual Property Rights**" means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world, in each case, for their full term and together with any renewals or extensions.

1.7 "**Mobile Application**" means each copy of the Sprout Social and/or Bambu mobile application (as upgraded from time to time) downloaded by Subscriber's users and installed on a mobile device approved by Subscriber for business use.

1.8 "**Professional Services**" means time-and-materials services provided to Subscriber, such as consulting services, onboarding support, etc.

1.9 "**Scope Limitations**" means the limitations on Subscriber's use of the Subscription Services specified in one or more applicable Service Orders. Scope Limitations may include limits on the volume of data processed by the Subscription Services, and/or a maximum number of users, social media profiles, brand keywords or such other limits as are set forth in the Service Order.

1.10 "**Sensitive Information**" means any passwords, credit card or debit card information, personal financial account information, personal health information, social security numbers, passport numbers, driver's license numbers, employment records, physical or mental health condition or information, any information that would classify as "Special Categories of Information" under EU data protection laws, or any other information that would be subject to Health Insurance Portability and Accountability

Act (HIPAA), the Payment Card Industry Data Security Standards (PCI DSS), or other laws, regulations, or industry standards designed to protect similar information.

1.11 "**Services**" means, collectively, Subscription Services, Add-On Services and Professional Services.

1.12 "**Service Order**" means a document setting out the specific details of one or more specific Services to be provided to Subscriber, which is agreed upon and signed by both parties.

1.13 "**Sites**" means <https://app.sproutsocial.com>, <https://app.simplymeasured.com/> or <https://getbambu.com>, as applicable.

1.14 "**Subscriber Data**" means the data inputted to the Services by or on behalf of the Subscriber for the purpose of using the Services or facilitating Subscriber's use of the Services.

1.15 "**Subscription Services**" means the subscription services provided by Sprout Social to Subscriber, as identified in one or more Service Orders. The Subscription Services include the use of web-based applications, Mobile Applications (if applicable), technical support, and documentation such as user manuals and online help files.

1.16 "**Subscription Term**" means the subscription term set forth in the applicable Service Order for the Services.

2. SERVICE ORDERS

2.1 Service Orders. Once executed by both parties, each Service Order will be a unique agreement that incorporates the terms of this Agreement and stands alone with respect to all other Service Orders. If there is a conflict between the terms of this Agreement and the terms of a Service Order, the terms of this Agreement will control unless the Service Order states that a specific provision of this Agreement will be superseded by a specific provision of the Service Order. Sprout Social will provide, and Subscriber will pay for, all Services set out in each Service Order, subject to the terms of the Service Order and this Agreement.

3. USE OF THE SERVICES

3.1 Use of the Services. Subject to the terms and conditions of this Agreement, Sprout Social grants to Subscriber a limited, non-exclusive, non-transferable, non-sublicenseable right during the term of each Service Order to use the Services set forth therein. Subscriber's right to use the Services is subject to the Scope Limitations and contingent upon Subscriber's compliance with the Scope Limitations and the terms of the Service Order and this Agreement. If the Service Order permits usage by Clients, such Clients may use the Services in accordance with the terms of this Agreement. Subscriber shall ensure that each

of its Clients complies with the provisions of this Agreement and will be liable for all use of the Services by its Clients. By adding any Client to Subscriber's account, Subscriber represents and warrants that Subscriber has obtained all necessary authorizations and consents from such Client to bind it to this Agreement. Subscriber agrees that Sprout Social can access its account information as necessary, in Sprout Social's sole discretion, to provide Subscriber with the Services and any related support. Sprout Social will not disclose such data except if compelled by law, permitted by Subscriber, or pursuant to the terms of the Sprout Social's Privacy Policy, which is available at www.SproutSocial.com/privacy-policy (the "Privacy Policy") and is incorporated into this Agreement.

3.2 Access and Users; Groups. Subscriber is responsible for managing access to its Account and for all information, data, text, messages or other materials that Subscriber's users post or otherwise transmit via the Services. Subscriber may permit its agents, contractors or service providers to access the Services through its Account, provided that such third party is using the Services on behalf of Subscriber, Subscriber ensures that any person or entity using its Account comply with the terms of this Agreement, and that Subscriber remains responsible for any action taken using its Account. If the Scope Limitations include limits on the number of users, Subscriber will ensure that each user is issued its own credentials and that credentials are not shared by more than one user. If Subscriber uses the Services on behalf of its Clients or if it grants access to the Services to its Clients, Subscriber will be responsible for ensuring that such Clients are not able to access confidential or proprietary information of another Client. Subscriber may only assign one Client to a Group and may not grant access to one Client's Group to another Client or third party without the assigned Client's consent. Subscriber hereby represents and warrants that any Subscriber Data has not been collected, stored, and transferred to Sprout Social in violation of any law, regulation, or contractual obligation applicable to Subscriber. Subscriber shall have sole responsibility for the accuracy, quality, and legality of the Subscriber Data and the means by which it acquired the Subscriber Data. With respect to Subscriber's users and individuals that interact or engage with Subscriber's social media pages or profiles (including, fans, followers, and other social media audience members) (each, a "Social Media User," and collectively, "Social Media Users"), Subscriber shall cause each such individual to consent to the processing by Sprout Social of Subscriber's user's data or Subscriber's Social Media User's data prior to the collection of data in a manner consistent with applicable law including, where required by applicable law, explicit consent for automated decision-making and other kinds of processing that might require explicit consent.

3.3 Use Restrictions. Subscriber may use the Services solely for its own internal business operations or on behalf of Subscriber's Clients. Except as otherwise explicitly provided in this Agreement and/or applicable Service Order,

Subscriber will not, and will not permit or authorize third parties to: (a) license, sublicense, sell, rent, lease, or otherwise permit third parties to use the Services; (b) use the Services to provide services to third parties (e.g., as a service bureau); (c) circumvent or disable any security or other technological features or measures of the Services; (d) reverse engineer any element of the Services, or use the Services or any of Sprout Social's Confidential Information (as defined below) to compete with the Services; (e) modify, adapt or hack the Services to falsely imply any sponsorship or association with Sprout Social, or otherwise attempt to gain unauthorized access to the Services or its related systems or networks; (f) use the Services in any manner that interferes with or disrupts the integrity or performance of the Services or the components of the Services; (g) use the Services to knowingly post, upload, link to, send or store any content that is defamatory, libelous, fraudulent, derogatory, abusive, obscene, unlawful, hateful, harassing, violent, threatening, racist, or discriminatory, or that contains any viruses, malware, Trojan horses, time bombs, or any other similar harmful software; (h) attempt to use any method to gain unauthorized access to any paid features of the Sites; (i) use automated scripts to collect information from or otherwise interact with the Sites or the Services; (j) deep-link to the Sites for any purpose (other than Sprout Social's home page), unless expressly authorized in writing by Sprout Social; (k) impersonate any other user of the Services; or (l) use the Services in violation of any social media network acceptable use policy, terms of use or any similar policy or terms. Subscriber shall not use the Services for surveillance purposes or gathering intelligence, including but not limited to: (i) investigating or tracking individual social media users or their content, or to obtain information on social media users or their content, in a manner that would require a subpoena, court order, or other valid legal process; (ii) tracking, alerting, or other monitoring of sensitive events (including but not limited to protests, rallies, or community organizing meetings); (iii) conducting or providing surveillance, analyses or research that isolates a group of individuals or any single individual for any unlawful or discriminatory purpose or in a manner that would be inconsistent with the individual social media users' reasonable expectations of privacy; (iv) to violate the Universal Declaration of Human Rights (located at <http://www.un.org/en/documents/udhr>), including, without limitation, Articles 12, 18, or 19; or (v) targeting, segmenting, or profiling individuals based on health (including pregnancy), negative financial status or condition, political affiliation or beliefs, racial or ethnic origin, religious or philosophical affiliation or beliefs, sex life or sexual orientation, trade union membership, data relating to any alleged or actual commission of a crime, or any other sensitive categories of personal information prohibited by law. Sprout Social shall have the right to terminate this Agreement and any Service Order immediately, if Sprout

Sprout Social reasonably suspects that Subscriber has violated any of the restrictions in this Section 3.

3.4 Compliance with Laws. Subscriber will use the Services in compliance with all applicable laws and regulations and in a manner that does not infringe on the rights of any third party or violate any third party's privacy rights.

3.5 Prohibition on Sensitive Information. Subscriber represents and warrants that neither Subscriber nor Subscriber's users will transmit, upload, collect, manage, or otherwise process any Sensitive Information through the Services. Subscriber acknowledges and agrees that Sprout Social will not be liable for any damages that may result from Subscriber's use of the Services in transmitting, uploading, collecting, managing, or otherwise processing any Sensitive Information.

3.6 Protection Against Unauthorized Use. Subscriber will use reasonable efforts to prevent any unauthorized use of the Services and immediately notify Sprout Social in writing of any unauthorized use that comes to Subscriber's attention. If there is unauthorized use by anyone who obtained access to the Services directly or indirectly through Subscriber, Subscriber will take all steps reasonably necessary to terminate the unauthorized use. Subscriber will cooperate and assist with any actions taken by Sprout Social to prevent or terminate unauthorized use of the Services.

3.7 Right to Suspend Services. Sprout Social may suspend Subscriber's or any Client's use of the Services if Sprout Social reasonably and in good faith believes such suspension is necessary to prevent unauthorized use of the Services or to prevent an ongoing violation of any applicable laws or regulations. Sprout Social will use commercially reasonable efforts to notify Subscriber prior to any such suspension and will only suspend the Services to the extent necessary to prevent such unauthorized use or violation. In addition, if Subscriber fails to timely pay any fees in accordance with the terms of this Agreement and/or any Service Order, Sprout Social may, without limitation to any of its other rights or remedies, suspend performance of the Services until it receives all amounts due.

3.8 Reservation of Rights. Sprout Social grants to Subscriber a limited right to use the Services under this Agreement. Subscriber will not have any rights to the Services except as expressly granted in this Agreement. Sprout Social reserves to itself and its licensors all rights to the Services not expressly granted to Subscriber in accordance with this Agreement. Sprout Social and its licensors retain all Intellectual Property Rights in and to the Services.

3.9 Statistical Data. Subscriber acknowledges and agrees that Sprout Social shall have the right to utilize data capture, syndication, and analysis tools, and other similar tools, to extract, compile, synthesize, and analyze any non-personally and non-Subscriber identifiable data or information resulting from Subscriber's use of the Services ("Statistical Data"). Statistical Data may be collected by

Sprout Social for any lawful business purpose without a duty of accounting to Subscriber, provided that the Statistical Data is used only in an anonymized, aggregated form, without specifically identifying the source of the Statistical Data. On creation, Sprout Social shall own all Intellectual Property Rights in the Statistical Data.

3.10 Feedback. Sprout Social shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable and perpetual license to incorporate into the Services or otherwise use any suggestions, enhancement requests, recommendations or other feedback Sprout Social receives from Subscriber.

4. THIRD PARTY SERVICES

4.1 External Sites. The Services may contain links to, or otherwise may allow Subscriber to connect to and use certain third party products, service or software under separate terms and conditions (collectively, "Third-party Service") in conjunction with the Services. If Subscriber decides to access and use such Third-party Service, Subscriber acknowledges that its use of said Third-party Service is governed solely by the terms and conditions of such Third-party Service, and Sprout Social does not endorse, is not responsible for, and makes no representations as to such Third-party Service, its content or the manner in which such Third-party Service handles Subscriber's data. Sprout Social is not liable for any damage or loss arising from or in connection with Subscriber's access or use of any such Third-party Service, or Subscriber's reliance on the privacy practices or other policies of such Third-party Service. Subscriber acknowledges that Sprout Social does not control the features and functionality of any Third-party Service and that such Third-party Service may change its features and functionality without any notice to Sprout Social. Sprout Social shall not be liable to Subscriber for any refunds or any damage or loss arising from or in connection with any changes made by a Third-party Service or any resulting changes to the Services.

4.2 Integration. The Services may contain features that enable various Third-party Services (such as a social media service like Facebook and Twitter) to be directly integrated into Subscriber's Sprout Social account. To take advantage of these features, Subscriber will be required to register for or log into such Third-party Service on their respective websites. By accessing/enabling a Third-party Service within the Services, Subscriber is allowing Sprout Social to pass Subscriber's log-in information to the Third-party Service for this purpose.

5. FEES AND PAYMENT

5.1 Fees. Subscriber will pay Sprout Social the fees specified in each applicable Service Order. If Subscriber orders additional Services or changes the Services it is receiving, the fees for such additional or changed services will be charged at the then-current pricing for such additional or changed services and commence on the activation date listed in the Service Order. Any resulting change in fees shall be reflected in future invoices. All amounts payable under

this Agreement are denominated in United States dollars, and Subscriber will pay all such amounts in United States dollars. Except as otherwise provided in this Agreement, fees are non-refundable. There are no refunds or credits for partial months of Services, plan downgrades, or refunds for unused time if Subscriber closes its account before the end of the term of any Service Order. Unless otherwise specified in the Service Order, the Services and any Add-On Services purchased by Subscriber during the Subscription Term, will automatically renew for additional periods equal to the length of the Subscription Term unless either party provides written notice to the other party at least 30 days prior to the expiration of the Subscription Term.

5.2 Payment Terms. Unless otherwise specified in the applicable Service Order, Subscriber will pay all amounts due within thirty (30) days of the date of the applicable invoice, except for amounts subject to a good faith dispute, provided that (i) Subscriber notifies Sprout Social of any such dispute in writing prior to the date such amounts would otherwise be due; (ii) Subscriber pays any undisputed amounts in accordance with this Section; and (iii) Subscriber cooperates with Sprout Social in promptly resolving such dispute. Except for any amounts disputed by the Subscriber in good faith, any amount not paid when due will be subject to finance charges equal to one and one-half percent (1.5%) of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Subscriber will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by Sprout Social to collect any amount that is not paid when due. Amounts due from Subscriber under this Agreement may not be withheld or offset by Subscriber against amounts due to Subscriber for any reason.

5.3 Taxes. Other than net income taxes imposed on Sprout Social, Subscriber will bear all taxes, duties, and other governmental charges (collectively, "taxes") resulting from its purchase or use of the Services. Taxes will not be deducted from or set off against the fees set forth in the applicable Service Order or invoice.

6. TERM AND TERMINATION

6.1 Agreement Term. This Agreement commences on the Effective Date and will remain in effect while any Service Orders are outstanding.

6.2 Service Order Term. Each Service Order will be valid for the term specified on the such Service Order unless the Service Order is terminated earlier in accordance with the terms of this Agreement.

6.3 Termination for Cause. Either party may terminate a Service Order or this Agreement (i) upon thirty (30) days written notice to the other party of a material breach by the other party if such breach remains uncured at the expiration of such period, or (ii) immediately upon written notice 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. Sprout Social shall have the right to terminate a Service Order or this Agreement if Sprout Social determines that Subscriber is acting or has acted in a way that negatively impacts or reflects on Sprout Social or its current or prospective partners or customers.

6.4 Post-Termination Obligations. If this Agreement or a Service Order is terminated for any reason, (a) Subscriber will pay to Sprout Social any fees or other amounts that have accrued prior to the effective date of the termination, (b) any and all liabilities accrued prior to the effective date of the termination will survive, and (c) Subscriber will discontinue all use of the Services. Upon termination of this Agreement or any Service Order, Sprout Social shall have the right to remove Subscriber's account information and account settings after thirty (30) days, Subscriber will not be able to recover this data or content (except that content stored/published to third-party websites, that data will remain on said third-party websites pursuant to those website's terms and conditions). All provisions of this Agreement that, by their nature, are intended to survive termination (including those related to third party claims and limitations on liability) will remain in effect.

7. CONFIDENTIALITY

7.1 Definition of Confidential Information. For the purpose of this Agreement, "Confidential Information" means non-public information of Sprout Social or Subscriber disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other party may have access, which (i) a reasonable person would consider confidential or (ii) is marked "confidential" or "proprietary" or some similar designation by the disclosing party. Confidential Information will not, however, include any information that (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party other than as a result of a violation of this Agreement by the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party, as shown by the receiving party's files and records; (iv) is obtained by the receiving party from a third party without a breach of the third party's obligations of confidentiality; or (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession.

7.2 Protection of Confidential Information. The receiving party shall not disclose, use, transmit, inform or make available to any entity, person or body any of the Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and the parties' respective rights therein, at all times exercising all

least a reasonable level of care. Each party agrees to restrict access to the Confidential Information of the other party to those employees, advisors, agents and other representatives who require access in order to perform its obligations hereunder and who agreed to be bound by these obligations of confidentiality and non-disclosure.

8. WARRANTIES AND DISCLAIMER

8.1 Mutual Warranties. Each party represents and warrants to the other that: (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms; and (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Agreement.

8.2 Disclaimer. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION 8, SPROUT SOCIAL MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. SPROUT SOCIAL EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT ON ITS BEHALF AND ON BEHALF OF ITS LICENSORS. SPROUT SOCIAL RELIES ON THIRD PARTY DATA SOURCES FOR INFORMATION AND THEREFORE DOES NOT WARRANT THAT ANY INFORMATION PROVIDED THROUGH THE SERVICES IS ACCURATE OR COMPLETE OR THAT ANY INFORMATION PROVIDED THROUGH THE SERVICES OR THIRD PARTY DATA WILL ALWAYS BE AVAILABLE. SPROUT SOCIAL DISCLAIMS ALL LIABILITY FOR ANY MALFUNCTIONING, IMPOSSIBILITY OF ACCESS, OR POOR USE CONDITIONS OF THE SERVICES DUE TO INAPPROPRIATE EQUIPMENT, DISTURBANCES RELATED TO INTERNET SERVICE PROVIDERS, TO THE SATURATION OF THE INTERNET NETWORK OR ANY OTHER ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMMUNICATIONS LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, OR ALTERATION OF, USER COMMUNICATIONS, PROBLEMS RELATED TO THE SERVICES OR ITS USE, LOSS OF PERSONAL CONTENT ON THE SITES NOT WITHIN SPROUT SOCIAL'S REASONABLE CONTROL.

9. INTELLECTUAL PROPERTY INFRINGEMENT

9.1 Defense and Indemnification. Sprout Social will, at its expense, defend Subscriber and Subscriber's officers, directors, employees, agents, permitted successors and assigns from or settle any claim, proceeding, or suit ("**Claim**") brought by a third party against Subscriber alleging that Subscriber's use of the Services infringes or misappropriates any Intellectual Property Rights of any third party, and indemnify Subscriber from all damages, costs, and attorneys' fees finally awarded in any such Claim or paid to any third party to settle any such Claim. Sprout Social's obligation under this section is contingent on (a) Subscriber giving Sprout Social prompt written notice of the Claim; (b) Subscriber granting Sprout Social full and complete

control over the defense and settlement of the Claim; and (c) Subscriber providing assistance in connection with the defense and settlement of the Claim as Sprout Social may reasonably request, at Sprout Social's cost. Subscriber will not defend or settle any Claim eligible for indemnification under this section without Sprout Social's prior written consent.

9.2 Infringement Remedy. If Subscriber is enjoined or otherwise prohibited from using the Services or a portion thereof based on an allegation that the Services violate any third party intellectual property right (including a Claim), or if Sprout Social reasonably determines that such prohibition is likely, then Sprout Social will, at its sole expense and option: (a) obtain for Subscriber the right to use the allegedly infringing portions of the Services; (b) modify the allegedly infringing portions of the Services so as to render them non-infringing without substantially diminishing or impairing their functionality; or (c) replace the allegedly infringing portions of the Services with non-infringing items of substantially similar functionality. If Sprout Social determines that the foregoing remedies are not commercially reasonable, then Sprout Social may terminate the impacted Service Order, or portion thereof, and will promptly provide a prorated refund to Subscriber for any prepaid fees received by Sprout Social for any Services that have not yet been performed at the time of termination.

9.3 Exclusions from Obligations. Sprout Social will have no obligation under this Section 9 for any infringement or misappropriation to the extent that it arises out of or is based upon (a) use of the Services in combination with other products or services if such infringement or misappropriation would not have arisen but for such combination; (b) any aspects of the Services that are provided to comply with designs, requirements, or specifications required by or provided by Subscriber, if the alleged infringement or misappropriation would not have arisen but for the compliance with such designs, requirements, or specifications; (c) use of the Services by Subscriber for purposes not intended or outside the scope of the license granted to Subscriber; (d) Subscriber's failure to use the Services in accordance with written instructions provided by Sprout Social, if the infringement or misappropriation would not have occurred but for such failure; or (e) any modification of the Services not made or authorized in writing by Sprout Social where such infringement or misappropriation would not have occurred absent such modification.

9.4 Limited Remedy. This Section 9 states Sprout Social's sole and exclusive liability, and Subscriber's sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third party Intellectual Property Right by the Services.

10. SUBSCRIBER INDEMNIFICATION

10.1 Subscriber will defend Sprout Social and its officers, directors, employees, agents, successors and assigns from any actual or threatened third party Claim arising out of or

based upon (a) Subscriber's breach of any of its obligations under this Agreement, (b) Subscriber's use of a Third-party Service, or (c) any of the exclusions stated in Section 9.3, and indemnify Sprout Social from all damages, costs, and attorneys' fees finally awarded in any such Claim or all amounts that Subscriber agrees to pay to any third party to settle any such Claim. Subscriber's obligation under this section is contingent on: (a) Sprout Social giving Subscriber prompt written notice of the Claim; (b) Sprout Social granting Subscriber full and complete control over the defense and settlement of the Claim, provided that Subscriber may not settle or defend any Claim unless Subscriber unconditionally releases Sprout Social of all liability and such settlement does not affect Sprout Social's business or Services; and (c) Sprout Social providing assistance in connection with the defense and settlement of the Claim as Subscriber may reasonably request. Sprout Social will not defend or settle any Claim eligible for indemnification under this section without Subscriber's prior written consent.

11. LIMITATIONS OF LIABILITY

11.1 Exclusion of Consequential and Related Damages. NEITHER PARTY OR ITS AFFILIATES WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, ENHANCED, OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST PROFITS, REVENUE, BUSINESS, OR DATA; BUSINESS INTERRUPTION; OR LOSS OF GOODWILL OR REPUTATION, REGARDLESS OF WHETHER THE PARTY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING OR ANY LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.

11.2 Cap on Liability. UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF SPROUT SOCIAL AND ITS RESPECTIVE AFFILIATES OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT, (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNT PAID AND AMOUNTS ACCRUED BUT NOT YET PAID BY SUBSCRIBER TO SPROUT SOCIAL UNDER THE APPLICABLE SERVICE ORDER DURING THE TWELVE MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM (DETERMINED AS OF THE DATE OF ANY FINAL JUDGMENT IN AN ACTION). THE FOREGOING LIMITATIONS WILL NOT IN ANY WAY LIMIT SUBSCRIBER'S PAYMENT OBLIGATIONS UNDER SECTION 5 ABOVE. THE LIMITATION OF LIABILITY PROVIDED FOR HEREIN WILL APPLY IN AGGREGATE TO SUBSCRIBER AND ITS AFFILIATES AND SHALL NOT BE CUMULATIVE.

11.3 Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR

EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY SPROUT SOCIAL TO SUBSCRIBER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION 11 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

11.4 State Prohibition of Limitation of Liability and Disclaimer of Implied Warranties. Some states do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply. IN THESE STATES, EACH PARTY'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

12. MOBILE TERMS

12.1 Additional Mobile Application Terms. Use of a Mobile Application requires a mobile device that is compatible with the mobile service. Sprout Social does not warrant that the Mobile Applications will be compatible with any mobile device. Subscriber acknowledges that Sprout Social may from time to time issue upgraded versions of the Mobile Applications, and may automatically electronically upgrade the version of the Mobile Applications. Subscriber consents to such automatic upgrading. Standard carrier data charges may apply to use of the Mobile Applications. The additional terms and conditions set forth on Exhibit A shall apply with respect to any Mobile Application that Sprout Social provides for use.

13. GENERAL

13.1 Export Compliance and Anti-Corruption. The Services may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Subscriber shall not permit users to access or use the Services in a U.S.-embargoed country or in violation of any U.S. export law or regulation. Subscriber further represents that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value in connection with this Agreement (excluding any reasonable gifts and entertainment provided in the ordinary course of business).

13.2 Federal Government End Use Provisions. If Subscriber is a U.S. federal government end user, the Services is a "Commercial Item" as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as those terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Services are licensed to Subscriber with only those rights as provided under the terms and conditions of this Agreement.

13.3 Data Processing Addendum. The parties agree to enter into the Data Processing Addendum ("DPA") available

at <https://media.sproutsocial.com/uploads/Downloadable-Customer-DPA.pdf>, which shall be deemed incorporated by reference into this Agreement.

13.4 Assignability. Neither party may assign its right, duties, and obligations under this Agreement without the other party's prior written consent, which consent will not be unreasonably withheld or delayed, except that a party may assign this Agreement without the other party's consent to a successor (including a successor by way of merger, acquisition, sale of assets, or operation of law) if the successor agrees to assume and fulfill all of the assigning party's obligations under this Agreement.

13.5 Subcontractors. Sprout Social may utilize a subcontractor or other third party to perform its duties under this Agreement so long as Sprout Social remains responsible for all of its obligations under this Agreement.

13.6 Notices. Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by fax, e-mail, US mail, or insured courier, return receipt requested, to the appropriate party at the address set forth on the signature page of this Agreement (or the applicable Service Order). Either party may change its address for receipt of notice by notice to the other party in accordance with this Section. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier or sending an email or fax.

13.7 Force Majeure. Neither party will be liable for, or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond its reasonable control, so long as that party uses all commercially reasonable efforts to avoid or remove the causes of non-performance.

13.8 Governing Law. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of Illinois, U.S.A., without reference to its choice of law rules and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. Each party hereby irrevocably consents to the exclusive jurisdiction and venue of the federal, state, and local courts in Cook County, Illinois

in connection with any action arising out of or in connection with this Agreement.

13.9 Waiver. The waiver by either party of any breach of any provision of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement.

13.10 Severability. If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect. If any material limitation or restriction on the use of the Services under this Agreement is found to be illegal, unenforceable, or invalid, Subscriber's right to use the Services will immediately terminate.

13.11 Entire Agreement. This Agreement, including the applicable Service Orders, is the final and complete expression of the agreement between these parties regarding Subscriber's use of the Services. This Agreement supersedes, and the terms of this Agreement govern, all previous oral and written communications regarding these matters, all of which are merged into this Agreement. This Agreement may be changed only by a written agreement signed by an authorized agent of the party against whom enforcement is sought. Sprout Social will not be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to this Agreement (whether or not it would materially alter this Agreement) that is proffered by Subscriber in any receipt, invoice, acceptance, purchase order, confirmation, correspondence, or otherwise, regardless of Sprout Social's failure to object to such terms, provisions or conditions. This Agreement may be executed in multiple counterparts, and may be signed electronically or via facsimile

13.12 Survival. Section 3 (Use of the Services), Section 4 (Third Party Services), Section 5 (Fees and Payment), Section 6 (Term and Termination), Section 7 (Confidentiality), Section 8 (Warranties and Disclaimer), Section 9 (Intellectual Property Infringement), Section 10 (Subscriber Indemnification), Section 11 (Limitation of Liability), Section 13 (General) will survive any termination of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date below.

SPROUT SOCIAL:

SPROUT SOCIAL, INC.

By: 

Name: Andrew Zosinski

Title: Director, Enterprise Sales

Date: 1-29-19

Address for legal Notice:

Sprout Social, Inc., Attn: Legal

131 S Dearborn St., Suite 700

Chicago, IL 60611

Email: legal@sproutsocial.com

Tom Modica
Assistant City Manager

SUBSCRIBER:

SUBSCRIBER ENTITY NAME: _____

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER**

By: 

Name:

Title:

Date:

Address for Legal Notice:

APPROVED AS TO FORM

1/29, 2019
CHARLES PARKIN, City Attorney

By 

LINDA T. VU
DEPUTY CITY ATTORNEY

Exhibit A
Mobile Application Terms

The following additional terms and conditions apply with respect to any Mobile Application that Sprout Social provides for use on an Apple iOS-powered mobile device (an "iOS App"):

1. Subscriber acknowledges that this Agreement is between Subscriber and Sprout Social only, and not with Apple, Inc. ("Apple").
2. Subscriber's use of the iOS App must comply with Apple's then-current App Store Terms of Service.
3. Sprout Social and not Apple, is solely responsible for the iOS App and the Services and content available thereon. Subscriber acknowledges that Apple has no obligation to provide maintenance and support services with respect to the iOS App. To the maximum extent permitted by applicable law, Apple will have no warranty obligation whatsoever with respect to the iOS App.
4. Subscriber agrees that Sprout Social, and not Apple, is responsible for addressing any claims by Subscriber or any third-party relating to the iOS App or Subscriber's possession and/or use of the iOS App, including, but not limited to: (i) product liability claims; (ii) any claim that the iOS App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation, and all such claims are governed solely by this Agreement and any law applicable to us as provider of the iOS App.
5. Subscriber agrees that Sprout Social, and not Apple, shall be responsible, to the extent required by this Agreement, for the investigation, defense, settlement and discharge of any third-party intellectual property infringement claim related to the iOS App or Subscriber possession and use of the iOS App.
6. Subscriber represents and warrants that (i) Subscriber is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) Subscriber is not listed on any U.S. Government list of prohibited or restricted parties.
7. Subscriber agrees to comply with all applicable third-party terms of agreement when using the iOS App (e.g., the user of the iOS App must not be in violation of its wireless data service terms of agreement when using the iOS App).
8. Subscriber agrees that Apple and Apple's subsidiaries are third-party beneficiaries to this Agreement as they relate to the license of the iOS App. Upon Subscriber's acceptance of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against Subscriber as they relate to the license of the iOS App as a third-party beneficiary thereof.

The following additional terms and conditions apply with respect to any Mobile Application that Sprout Social provides for use on an Android-powered mobile device (an "Android App"):

1. Subscriber acknowledges that this Agreement is between Subscriber and Sprout Social™ only, and not with Google, Inc. ("Google").
2. Subscriber's use of the Android App must comply with Google's then-current Android Market Terms of Service.
3. Google is only a provider of the Android Market where Subscriber obtained the Android App. Sprout Social™, and not Google, is solely responsible for the Android App and the Services and content available thereon. Google has no obligation or liability to Subscriber with respect to the Android App or this Agreement.
4. Subscriber acknowledges and agrees that Google is a third-party beneficiary to this Agreement as it relates to the Android App.