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**CONTRACT BETWEEN**  
**1HUDDLE, INC.**  
**AND**  
**COUNTY OF GLOUCESTER**

THIS CONTRACT is made effective on 3<sup>rd</sup> day of March, 2023, by and between the <sup>1</sup> County of Gloucester, a body politic and corporate, located at 2 South Broad Street, Woodbury, New Jersey, hereinafter referred to as "County", and 1HUDDLE, INC., with an office at 550 Broad Street, 9<sup>th</sup> Floor, Newark, New Jersey 07102, hereinafter referred to as "Contractor".

**RECITALS**

**WHEREAS**, the Contractor represents that it is an internet-based service provider that offers its customers an internet-based platform to train employees.

**WHEREAS**, Contractor represents that it is qualified to perform said services and desires to so perform pursuant to the terms and provisions of this Contract.

**NOW THEREFORE**, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and the Contractor do hereby agree as follows:

**TERMS OF AGREEMENT**

**1. TERM.** This Contract shall be effective for the period of one (1) year, commencing March 1, 2023 and concluding February 28, 2024.

**2. COMPENSATION.** Contractor shall be compensated pursuant to all terms and provisions of Master Services Agreement/Statement of Work, dated January 26, 2023, attached hereto as "Exhibit A" for a total contract amount of \$17,000.00.

Contractor shall be paid in accordance with this Contract document upon receipt of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

Each invoice shall contain an itemized, detailed description of all work performed during the billing period. Failure to provide sufficient specificity shall be cause for rejection of the invoice until the necessary details are provided.

It is also agreed and understood that the acceptance of the final payment by Contractor shall be considered a release in full of all claims against the County arising out of, or by reason of, the work done and materials furnished under this Contract.

**3. DUTIES OF CONTRACTOR.** The specific duties of the Contractor shall be as set forth in Contractor's Master Services Agreement/Statement of Work and made part of this contract as "Exhibit A", together with any other specifications issued by the County in connection with this contract.

**4. FURTHER OBLIGATIONS OF THE PARTIES.** During the performance of this Contract, the Contractor agrees as follows:

The Contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service. The Contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The Contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, sex, veteran status or military service.

The Contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the Contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

**5. LICENSING AND PERMITTING.** If the Contractor or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to perform the services which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, Contractor shall provide to County a copy of its current license and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

Contractor shall notify County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by Contractor or its agents.

6. **TERMINATION.** This Contract may be terminated as follows:

A. Pursuant to the termination provisions set forth in the Specifications issued by the County, if any, which are specifically referred to and incorporated herein by reference.

B. If Contractor is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Contractor's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

C. If, through any cause, the Contractor or subcontractor, where applicable, shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contractor under this Contract, shall be forthwith delivered to the County.

D. The County may terminate this Contract for public convenience at any time by a notice in writing from the County to the Contractor. If the Contract is terminated by the County as provided herein, the Contractor will be paid for the services rendered to the time of termination.

E. Notwithstanding the above, the Contractor or subcontractor, where applicable, shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Contractor, and the County may withhold any payments to the Contractor for the purpose of set off until such time as the exact amount of damages due the County from the Contractor is determined.

F. Termination shall not operate to affect the validity of the indemnification provisions of this Contract, nor to prevent the County from pursuing any other relief or damages to which it may be entitled, either at law or in equity.

7. **PROPERTY OF THE COUNTY.** All materials developed, prepared, completed, or acquired by Contractor during the performance of the services specified by this Contract, including, but not limited to, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports, shall become the property of the County, except as may otherwise be stipulated in a written statement by the County.

8. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by the Contractor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

9. **INDEMNIFICATION.** The Contractor or subcontractor, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, shall indemnify

and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all mental or physical injuries or disabilities, including death, to employees or recipients of the Contractor's services or to any other persons, or from any damage to any property sustained in connection with this contract which results from any acts or omissions, including negligence or malpractice, of any of its officers, directors, employees, agents, servants or independent contractors, or from the Contractor's failure to provide for the safety and protection of its employees, or from Contractor's performance or failure to perform pursuant to the terms and provisions of this Contract. The Contractor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

**10. INSURANCE.** Contractor shall, if applicable to the services to be provided, maintain general liability, automobile liability, business operations, and Workers' Compensation insurance in amounts, for the coverages, and with companies deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. Contractor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County, naming County as an additional insured.

If Contractor is a member of a profession that is subject to suit for professional malpractice, then Contractor shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. Contractor shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. Contractor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

**11. SET-OFF.** Should Contractor either refuse or neglect to perform the service that Contractor is required to perform in accordance with the terms of this Contract, and if expense is incurred by County by reason of Contractor's failure to perform, then and in that event, such expense shall be deducted from any payment due to Contractor. Exercise of such set-off shall not operate to prevent County from pursuing any other remedy to which it may be entitled.

**12. PREVENTION OF PERFORMANCE BY COUNTY.** In the event that the County is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the County to the Contractor shall be suspended without liability for the period during which the County is so prevented.

**13. METHODS OF WORK.** Contractor agrees that in performing its work, it shall employ such methods or means as will not cause any interruption or interference with the operations of County or infringe on the rights of the public.

**14. NON-WAIVER.** The failure by the County to enforce any particular provision of this Contract, or to act upon a breach of this Contract by Contractor, shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

**15. PARTIAL INVALIDITY.** In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

**16. CHANGES.** This Contract may be modified by approved change orders, consistent with applicable laws, rules and regulations. The County, without invalidating this Contract, may order changes consisting of additions, deletions, and/or modifications, and the contract sum shall be adjusted accordingly. This Contract and the contract terms may be changed only by change order. The cost or credit to the County from change in this Contract shall be determined by mutual agreement before executing the change involved.

**17. NOTICES.** Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

**18. GOVERNING LAW, JURISDICTION AND VENUE.** This agreement and all questions relating to its validity, interpretation, performance or enforcement shall be governed by and construed in accordance with the laws of the State of New Jersey. The parties each irrevocably agree that any dispute arising under, relating to, or in connection with, directly or indirectly, this agreement or related to any matter which is the subject of or incidental to this agreement (whether or not such claim is based upon breach of contract or tort) shall be subject to the exclusive jurisdiction and venue of the state and/or federal courts located in Gloucester County, New Jersey or the United States District Court, District of New Jersey, Camden, New Jersey. This provision is intended to be a "mandatory" forum selection clause and governed by and interpreted consistent with New Jersey law and each waives any objection based on forum non conveniens.

**19. INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge that Contractor is an independent contractor and is not an agent of the County.

**20. CONFLICT OF INTEREST.** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services pursuant to this Contract. The Company further covenants that in the performance of this Contract, no person having any such interest shall be employed.

**21. CONFIDENTIALITY.** Contractor agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

**22. BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

**23. CONTRACT PARTS.** This contract shall consist of this document and Contractor's Master Services Agreement/Statement of Work, dated January 26, 2023, attached hereto as "Exhibit A" and three (3) page Service Level Agreement, attached hereto as "Exhibit B". If there is a conflict between this Contract and Exhibit A and/or Exhibit B, then this Contract shall control.

IN WITNESS WHEREOF, pursuant to N.J.S.A. 40A:11-3, and authorized by Resolution, the County has caused this instrument to be signed by its Chief Financial Officer, and attested by its Purchasing Agent, and Contractor has caused this instrument to be signed and attested by its properly authorized representatives.

THIS CONTRACT is dated this 1 day of March, 2023.

ATTEST:

Kim Larter  
Kimberly Larter,  
Qualified Purchasing Agent

COUNTY OF GLOUCESTER

Tracey N. Giordano  
Tracey N. Giordano,  
Treasurer/CFO

ATTEST:

Stan Cacci  
Name:

1HUDDLE, INC.

Name:  
Title:  
SG

# **EXHIBIT A**

## STATEMENT OF WORK – EXHIBIT A

Gloucester County

Product:

1Huddle

Dated as of:

January 26, 2022

### RELATION TO MASTER SERVICES AGREEMENT

This statement of work ("SOW") is issued pursuant to that certain Master Services Agreement, by and between 1Huddle, Inc. ("1Huddle") and Gloucester County ("Company"). All Services provided under this SOW shall be subject to and governed by the terms and conditions set forth in the Master Services Agreement. Capitalized terms used but not defined herein shall have the meaning prescribed to such terms in the Master Services Agreement.

### EXECUTIVE OVERVIEW

- Unlimited Users
- Up to 150 Games
- Access to The Shop Premium Training & Support
- Custom Branding

### PRICING

Subscription Fee: \$17,000 per year

### TERM & TERMINATION

1 YEAR (03/01/2023-02/28/2024)

The current term of this SOW shall be one (1) year (the "Current Term"). Subsequent to the Current Term, this SOW shall automatically renew for successive one (1) year periods (each a "Renewal Term" and together with the Current Term, the "Term") unless a Party provides the other Party with advanced written notice, at least sixty (60) days prior to the end of the then current Term, that it does not wish to renew the Term of this SOW.

Notwithstanding anything to the contrary set forth in the Master Services Agreement, in the event Company terminates the Master Services Agreement or this SOW for convenience, Company shall remain liable for any and all fees or other amounts then or thereafter due and payable to 1Huddle pursuant to the terms of this SOW and nothing set forth herein or in the Master Services Agreement shall be construed as providing a release to the Company of its

obligation to make payment of all fees payable hereunder (including fees for any services not yet rendered).

**BILLING**

The Subscription Fee shall be billed in annual installments, beginning on start date of this GOMA.

## CONTACT

For all issues arising under this SOW, Company shall contact 1Huddle's designated contact person, as set forth below:

Brinna Hernandez  
brianna@1huddle.co

## AUTHORIZATION

**IN WITNESS WHEREOF**, the parties hereto have executed this SOW as of the date set forth above. By executing this agreement on behalf of Company, you acknowledge that you have read and understand each of the terms and conditions set forth in this SOW and in the Master Services Agreement.

## Gloucester County

By: John A. Miller

Name: Michelle Shirey

Title: Executive Director, WDB

## 1Huddle, Inc.

Name: Sam Cawood

Title: CEO

## SERVICE LEVEL AGREEMENT

### 1. Applicability.

1Huddle shall provide the Services in accordance with this Service Level Agreement ("SLA"). The SLA only applies to the 1Huddle customer ("Customer") that purchase the Services pursuant to the Master Services Agreement entered into by and between 1Huddle and Customer (collectively, the "Services"). Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Master Service Agreement.

### 2. Service Level Commitment for Training Access.

1Huddle will use commercially reasonable efforts to make the platform through which the Services are provided ("Training Services") available to Customer 99.00% in a given calendar month ("Service Level Commitment for Training Services"). Availability is defined as the percentage obtained by dividing the number of minutes the Services are capable of receiving, processing, and responding to requests, during the applicable calendar month by the number of total minutes in the applicable calendar month excluding in all cases the unavailability, suspension, or termination of the Training Services attributable to, resulting from, or caused by: (i) authorized suspensions or terminations of the Training Services under the Master Services Agreement; (ii) factors outside the commercially reasonable control of 1Huddle, including any Force Majeure event or Internet access or related problems beyond the demarcation point of 1Huddle; (iii) any action or inaction of Customer or any third party acting on behalf of Customer not under 1Huddle's control; (iv) denial of service attacks, mail flooding, or other attacks or disruptions directed at 1Huddle or Customer's networks or servicers; (v) any failure of Customer's websites, hardware, equipment, software, or other technology under the control of Customer; (vi) scheduled maintenance or downtime; or (vii) customer fault or error.

### 3. Customer Support.

In the event of a problem with the Training Services, Customer can contact 1Huddle's customer support center, which can be reached as follows:

- Email support@1Huddle.co

The 1Huddle customer support center is open for regular business hours on Monday through Friday, from 10:00 a.m. to 6:00 p.m. (Eastern Standard Time). The customer support center is closed on the following United States holidays: New Year's Day, Martin Luther King Day, Presidents Day, Memorial Day, Good Friday, Fourth of July, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Eve and Christmas Day. To the extent support is required during non-working hours, Customer should contact 1Huddle at the email address set forth above, and 1Huddle will endeavor to respond as soon as is practicable.

### 4. Customer Support Response.

Each of Customer's issues will be assigned a ticket number. If Customer opens a ticket associated with 1Huddle software, the issue will be dealt with according to the Case Escalation Matrix set forth in Section 5.0 of this SLA. For all other issues, each ticket will be handled on a case-by-case basis. 1Huddle always strives to provide fast and effective resolutions for any issue that may arise.

## 5. Case Escalation Matrix.

Issues relating to the 1Huddle Software shall be responded to by 1Huddle in accordance with the following Case Escalation Matrix:

Case Escalation Matrix		
Critical* Server, switch, app or site down	Customer cannot access the 1Huddle app from the public Internet.	Within 6 hours
Urgent: Server or app functioning improperly or at less than optimal performance	The 1Huddle app is accessible but in a reduced state (timeouts or slow response)	Within 8 hours
Important: Non-critical; app or site is functioning normally, but Customer requires information or assistance, wishes to schedule maintenance, or any other non-immediate tasks	The 1Huddle app is functioning with acceptable parameters, but Customer requires assistance or has a help desk-type question	Within 24 hours

All response times are based on receipt of the request during regular business hours. If a software issue request is received outside of regular business hours, the Response time shall start running from 10:00 a.m. EST on the next business day.

### *\*Critical Issues During Non-Business Hours*

If Customer experiences a Critical issue during non-business hours, then they should create a support ticket. If, for some reason, the case is not responded to within 2 hours the customer should escalate to their assigned Account Executive. If, for some reason, the assigned Account Executive doesn't respond within 2 hours, then the Customer should escalate to the following address: support@1huddle.co. The overall case escalation process will garner a response within 8 hours.

## 6. Credits.

If 1Huddle fails to maintain the Service Level Commitment for Training Access, 1Huddle shall provide Customer with a Service Level Credit. A Service Level Credit will equal 2% of Customer's monthly fee (or if paid quarterly, annually or on another schedule, based on the pro-rata monthly fee) for the affected components of the Training Services per eight hours of downtime (after the initial 1.0% of downtime) or delay in beginning repairs, as applicable, for the affected Training Services, up to 50% of the monthly amount of the fee for the affected components of the 1Huddle Services.

If 1Huddle fails to meet the Case Escalation Response criteria as set forth in Section 5 of this SLA 95% of the time for all severity levels in a given month, 1Huddle shall provide one Response Service Credit. A Response Service Credit will equal 1% of Customer's monthly fee (or if paid

quarterly, annually or on another schedule, based on the pro-rata monthly fee) for the affected components of the Training Services per each missed Case Escalation Response Criteria (after the initial 5% of downtime) or delay in beginning repairs, as applicable, for the affected Training Services, up to 50% of the monthly amount of the fee for the affected components of the 1Huddle Services. The maximum monthly credit to Customer, whether by Service Level Credit, Response Service Credit, or any combination thereof, shall not exceed fifty (50%) percent of the monthly fee (or the pro-rata amount of the monthly fee) paid by Customer to 1Huddle.

Customer is only eligible for service credits described in this paragraph 6, after the first forty-five (45) days of the Services, to allow for fine-tuning and configuration of the infrastructure.

7. Process to Receive Service Credits.

To receive a Service Credit, Customer must submit a written request to 1Huddle by sending an e-mail to Customer's 1Huddle account manager. The request for a Service Credit must: (i) include the dates and times of each incident of the Services unavailability, including the website URLs that were not available at the time of each incident; (ii) include, for Response Service Credits, the time of the request, the time the request was responded to, and the time the issue was resolved; (iii) include related support and proof for each incident; and (iv) be received within thirty (30) days of the incident. 1Huddle will verify the information provided by Customer. In the event of a conflict between Customer and 1Huddle, the parties shall work in good-faith to confirm the extent of the Services unavailability and the applicable amount of the applicable Service Credits.

## **EXHIBIT B**

## MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement"), is made as of January 26, 2023 (the "Effective Date"), by and between 1Huddle, Inc., a Delaware corporation, with its principal place of business at 550 Broad Street, 9th Floor Newark, New Jersey 07102 ("1Huddle"); and [REDACTED], a [State] [corporation/LLC] with a principal place of business at [REDACTED] ("Company"), (each, a "Party" and, collectively the "Parties").

WHEREAS, 1Huddle is an Internet based service provider that offers its customers an Internet based platform to train employees ("Platform"); and

WHEREAS, Company wishes to obtain from 1Huddle, and 1Huddle wishes to provide to Company, the services, as hereinafter described.

NOW, THEREFORE, In consideration of the mutual covenants herein contained and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties hereto hereby agree as follows.

### 1. Services

1.1 The services to be provided to Company by 1Huddle (the "Services") shall be described on separate, mutually executed Statements of Work as may from time to time be issued hereunder, which are incorporated herein by reference (each, an "SOW"). By entering into this Agreement, 1Huddle hereby grants Company, during the Term of this Agreement, and subject to the terms and conditions set forth herein, a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to use the Platform and the Services. No implied license(s) are granted herein, and Company may not use the Services or the Platform except pursuant to the limited rights granted in this Agreement and the applicable SOWs. Each SOW and the Agreement shall define, with specificity, the types of Services, the term, the applicable pricing and other appropriate terms and conditions applicable to such Services and to the use of the Platform. In the event of any conflict between this Agreement and an SOW, the provisions of this Agreement shall prevail, unless the terms of the SOW specifically reference the provision of this Agreement which is superseded.

1.2 This Agreement, any applicable SOW and all Services provided thereunder shall at all times be subject to the Service Level Agreement attached hereto as Exhibit B.

1.3 1Huddle shall not commence the provision of, and Company shall not be required to pay for, any Services unless and until the applicable SOW has been completed and signed by each Party's authorized representatives.

1.4 Subject to Section 5 ("Confidentiality"), 1Huddle shall have the right to use third parties ("Third Parties") in the performance of its obligations and the Services hereunder and, for purposes of this Agreement, all references to 1Huddle or its employees shall be deemed to include such third parties.

### 2. Payment for Services

2.1 Company shall pay 1Huddle the fees in accordance with the payment schedule set forth in the applicable SOW for the performance of the Services described therein, plus all applicable taxes or charges imposed by any governmental entity in connection with Company's use of the Services.

2.2 Unless otherwise set forth in the applicable SOW, all invoices will be issued in advance. All 1Huddle invoices are payable within thirty (30) days of receipt, except for any amounts disputed in good faith by Company. 1Huddle invoices shall be deemed undisputed unless Company notifies 1Huddle with a detailed description otherwise within twenty (20) days of receipt of such invoice as to the amount in dispute and reason for such dispute. All amounts paid by Company to 1Huddle prior to the execution of this Agreement which relate to the Services covered by this Agreement shall be credited and deducted from the amounts set forth on the applicable SOW.

2.3 In the event Company fails to pay any undisputed 1Huddle invoice within thirty (30) days of receipt, such unpaid amounts shall be subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum rate permitted by law, whichever is lower. Company shall also be responsible for all expenses of collection due on any undisputed balance due, including, but not limited to, 1Huddle's reasonable attorneys' fees and expenses.

2.4 In the event Company fails to pay any undisputed 1Huddle invoice within forty-five (45) days of receipt, 1Huddle may, in addition to any other remedy available hereunder, immediately terminate and/or suspend each or all of the following: (i) the Services; (ii) the Agreement and (iii) any applicable SOW, which such termination and/or suspension shall not be deemed a waiver of any right to collect monies due and payable to 1Huddle.

### 3. Term

3.1 This Agreement shall remain in effect through the conclusion of Services under any then current SOW unless earlier terminated by either Party as provided herein (the "*Initial Term*"). Unless otherwise indicated in an applicable SOW, the Term of this Agreement and any SOW related thereto shall automatically renew for successive one (1) year periods (each a "*Renewal Term*" and together with the Initial Term, the "*Term*") unless a Party provides the other Party with advanced written notice, at least sixty (60) days prior to the end of the then current Term, that it does not wish to renew the Term of the Agreement and any applicable SOW.

### 4. Termination

4.1 In addition to the termination rights provided in Section 2.4 above, this Agreement and all SOWs may be terminated by either Party in the event of a material breach by the other Party (the "*Defaulting Party*") of any of its material obligations under this Agreement or any applicable SOW and failure by the Defaulting Party to remedy such breach within ten (10) days after written notice of such breach is provided to the Defaulting Party. In the event of such termination: (i) neither Party shall be relieved of any of its obligations incurred prior to such termination, and (ii) to the extent a specific SOW is terminated, any other SOW which is not terminated shall survive in accordance with its terms.

4.2 In addition to the rights to terminate provided herein, this Agreement and any or all SOWs may be terminated, by either Party, effective immediately and without notice, in the event of (i) the dissolution, termination of existence, liquidation or insolvency of the other Party, (ii) the appointment of a custodian or receiver for the other Party, (iii) the institution by or against the other Party of any proceeding under the United States Bankruptcy Code or any other foreign, federal or state bankruptcy, receivership, insolvency or other similar law affecting the rights of creditors generally, or (iv) the

making by the other Party of a composition of, or any assignment or trust mortgage for the benefit of, creditors.

4.3 Except as otherwise set forth in any applicable SOW, 1Huddle may terminate this Agreement for convenience upon thirty (30) days' prior written notice to the Company. In the event 1Huddle terminates the Agreement or an applicable SOW, 1Huddle shall forfeit payment on Services that have not been delivered or provided. All unpaid invoices for Services provided prior to the date of termination by 1Huddle shall remain payable, unless otherwise agreed to in writing.

## 5. Confidentiality

5.1 All information, including the terms of this Agreement and any SOW, pricing, programs, brochures, reports, technical information, non-technical information, client lists, customer lists, mailing lists, and other such information of any nature made available to either Party by the other Party, by virtue of the association hereunder, including, but not limited to information relating to the Services or the Platform and the Ideas, technology, techniques, processes and procedures constituting the Services or the Platform, or relating to the use of the Services or the Platform and any information disclosed by 1Huddle, in whatever form, that relates to the Services or the Platform (collectively, the "*Confidential Information*") shall be held in strict confidence and neither Party shall disclose any such Confidential Information to any other person or Party without the written consent of the other Party. The receiving Party shall take reasonable measures to maintain the confidentiality of the Confidential Information in its possession or control, which will in no event, be less than the measures it uses to maintain the confidentiality of its own information of a similar nature. The receiving Party shall not use any Confidential Information for any purpose other than in connection with the performance of its obligations hereunder and as permitted by this Agreement or an applicable SOW.

5.2 The receiving Party may disclose the Confidential Information to its employees or consultants with a need to know for the performance of this Agreement (subject to disclosure restrictions comparable to those set forth herein), and shall remain responsible for all use of the Confidential Information by such employees or consultants. Furthermore, the receiving Party may disclose the Confidential Information (i) to the extent required by law or pursuant to the order or requirement of, or in connection with proceedings before, a court, administrative agency or other governmental body, provided that before such disclosure is made receiving Party has, to the extent permissible by law, made reasonable efforts to notify the disclosing Party of the intended disclosure to allow the disclosing Party an opportunity to object to the disclosure; and (ii) to the extent required and on a confidential basis to its legal and/or financial advisors.

5.3 Confidential Information shall not include information that (i) is or becomes generally known to the public through no breach of any confidentiality obligation; (ii) is rightfully known to the receiving Party at the time of disclosure by the disclosing Party without violation of any confidentiality restriction and without any restriction on the receiving Party's further use or disclosure of same; or (iii) is independently developed by the receiving Party without any use of or reference to the disclosing Party's Confidential Information as demonstrated by documentary evidence.

5.4 The Parties acknowledge that in the event of a breach of this Section 5, substantial injury could result to the disclosing Party and monetary damages may not be a sufficient remedy for such breach. Therefore, in the event that the receiving Party engages in, or threatens to engage in any act which violates any provision of this Agreement, the Parties agree that the non-breaching Party will have no adequate remedy in money or damages, and, accordingly, shall be entitled, in addition to all other remedies which may be available to it under law, to seek injunctive relief (including, without

limitation, temporary restraining orders, or preliminary or permanent injunctions) and specific enforcement of the terms of this Agreement. The non-breaching Party shall not be required to post a bond or other security in connection with the granting of any such relief. The provisions of this section shall survive expiration or other termination of this Agreement.

~~Proprietary and Confidential Information~~

6.1 The Parties agree that: (a) 1Huddle shall retain and own all proprietary rights in and to its business, any data provided by 1Huddle to Company, and 1Huddle's intellectual property rights, and (b) 1Huddle shall retain and own all proprietary rights in and to 1Huddle's Services and Platform (including all software, source code, modifications, updates and enhancements thereof or any other aspect of the Services or Platform), all data owned by 1Huddle in performing the Services hereunder from commercially available sources or from other sources the 1Huddle marketing materials, as well as all 1Huddle entities' websites and mobile applications.

6.2 Notwithstanding anything contained in this Section 6, unless otherwise expressly agreed to in writing, all suggestions, solutions, improvements, corrections and other contributions provided by Company to 1Huddle regarding the Services, Platform or other 1Huddle materials provided to Company, shall be owned by 1Huddle, and Company hereby agrees to assign any and all such rights to 1Huddle, and Company shall execute any documents necessary to make such assignment effective. Subject to Section 5 ("Confidentiality"), nothing in this Agreement shall preclude 1Huddle from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by 1Huddle in the performance of any Services hereunder.

6.3 Company shall own all of its delivery data, which shall include, but is not limited to, all materials, information, photography, writings, files, data files, documentation, and other creative content or materials provided to 1Huddle that are reasonably required in order for 1Huddle to perform the Services and/or produce the deliverables ("Company Content") pursuant to this Agreement. 1Huddle shall have full access to Company's Content in order to fulfill the Services denoted in this Agreement or pursuant to an SOW hereunder and may create and use de-identified data related to Company's use of the Services and Platform in order to improve the Services and Platform, to develop new products and services, and for its other business purposes (and such de-identified data will be owned by 1Huddle). 1Huddle shall not use any Company Content except as pursuant to the limited rights granted in this Agreement and the applicable SOW.

6.4 Company shall not reverse engineer any Service or the Platform, or disassemble, decompile, or otherwise apply any procedure or process to same in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code for same or other software provided or made available for use and/or access under this Agreement, or any algorithm, process, procedure or trade secret information contained in same or any software provided by 1Huddle.

6.5 Company shall not redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer any rights to any part of the Services or Platform or other software provided or made available for use and/or access under this Agreement. Company shall not copy or otherwise reproduce any software, any part or component of the Platform or the Services provided by 1Huddle hereunder or remove, alter or destroy any proprietary markings contained in or on such software, Platform or Services.

6.6 Company shall retain ownership of Company Content and shall be the sole owner of all rights, including intellectual property rights, in Company Content. Company hereby grants to 1Huddle

a limited, nonexclusive, nontransferable license to use, reproduce, modify, display and publish Company Content solely in connection with 1Huddle's performance of the Services hereunder.

## **7. Indemnification**

7.1 1Huddle shall, at its own cost, defend, indemnify, and hold harmless Company and its affiliates and each of its respective officers, directors, employees, and agents from and against any demand, or any civil, criminal, administrative, or investigative claim, action, or proceeding (including arbitration) asserted, commenced or threatened against Company (a "*Claim*") regardless of the merit of such Claim, to the extent that such Claim is based on any assertion arising out of a breach by 1Huddle of its obligations under Section 5 ("Confidentiality") Section 6 ("Proprietary Rights and Restrictions") or Section 8 ("Representations and Warranties") of this Agreement or a Claim by a third party alleging that the Service or Platform infringes a third party's intellectual property rights, provided that Company does not modify or alter the Services or Platform. 1Huddle shall pay all judgments, awards, settlements, liabilities, damages, liens and claims, and all related costs, expenses and other charges suffered or incurred as a result of or in connection with a Claim, including reasonable attorneys' fees and disbursements, costs of investigation, litigation, settlement and judgment, and any taxes, interest, penalties and fines with respect to any of the foregoing ("*Losses*") incurred by Company with respect to any Claim subject to indemnification hereunder.

7.2 Company shall, at its own cost, indemnify, defend, and hold harmless 1Huddle and its officers, directors, members, agents, employees from and against any Claim, regardless of the merit of such Claim, to the extent that it is based on any assertion arising out of a breach by Company of Section 5 ("Confidentiality") Section 6 ("Proprietary Rights and Restrictions") or Section 8 ("Representations and Warranties") of this Agreement or from any allegation or any Claim made by any third party alleging that the Company Content or any other data and/or materials provided by Company to 1Huddle infringe a third party's intellectual property rights. Company shall pay all Losses incurred by 1Huddle with respect to any Claim or allegation subject to indemnification hereunder.

7.3 If any Claim or action is asserted that would entitle a Party to indemnification pursuant to this Section 7 (a "*Proceeding*"), the Party who seeks indemnification will give written notice thereof to the other Party (the "*Indemnitor*") promptly (and in any event within fifteen (15) calendar days after the service of the citation or summons); provided, however, that the failure of the Party seeking indemnification to give timely notice hereunder will not affect rights to indemnification hereunder, except to the extent that Indemnitor demonstrates actual legal prejudice by such failure. Indemnitor may elect to direct the defense or settlement of any such Proceeding by giving written notice to the Party seeking indemnification, which election will be effective immediately upon receipt by the Party seeking indemnification of such written notice of election. The Indemnitor will have the right to employ counsel reasonably acceptable to the Party seeking indemnification to defend any such Proceeding, or to compromise, settle or otherwise dispose of the same, if the Indemnitor deems it advisable to do so, all at the expense of the Indemnitor; provided that the Indemnitor will not settle, or consent to any entry of judgment in, any Proceeding without obtaining either: (i) an unconditional release of all the Parties seeking indemnification (and its Affiliates and each of their respective officers, directors, employees and agents) from all liability with respect to all claims underlying such Proceeding; or (ii) the prior written consent of the Party seeking indemnification. A Party seeking indemnification will not settle, or consent to any entry of judgment, in any Proceeding without obtaining the prior written consent of the Indemnitor. The Parties will fully cooperate with each other in any such Proceeding and will make available to each other any books or records useful for the defense of any such Proceeding.

**B. Representations and Warranties**

8.1 As of the Effective Date and at all times thereafter, each of the Parties represents and warrants that: (a) the Agreement constitutes its valid and binding obligation and is enforceable against it in accordance with the terms of this Agreement; (b) the execution and delivery of this Agreement by it and the performance of its obligations hereunder: (i) are not in violation of or breach of, and will not conflict with or constitute a default under, any material contract, agreement or commitment binding upon it; and (ii) will not conflict with or violate in any material manner, any applicable law, rule, regulation, judgment, order or decree of any government, governmental instrumentality or court having jurisdiction over such Party; and (iii) it is in compliance with all applicable federal, state and local laws, rules, regulations and ordinances, and all binding orders of any court, agency or other governmental body with appropriate authority and have obtained all applicable permits and licenses required of such Party in connection with their obligations under this Agreement.

8.2 Company further represents, warrants and covenants that (i) it shall use the Services and Platform solely for its legitimate business purposes as contemplated by this Agreement, and shall not interfere with the integrity or performance of the Services or Platform or the data contained therein or attempt to gain unauthorized access to the Services or Platform, (ii) none of the information provided by Company to 1Huddle shall contain any information about any particular person or end user that is sensitive personally-identifiable information ("SPI"), (iii) the Company Content and any sites to which a user is directed following a click on any such link will not contain any obscene, defamatory, infringing, illegal, deceptive, gambling related or hateful content, (iv) the Company Content will be free of any "virus", "Trojan Horse", "worm", "disabling", "lock out" or any other malicious code as such terms are understood in the computer industry, (v) Company has obtained, and be deemed to have hereby granted to 1Huddle, all rights and/or licenses necessary to allow 1Huddle to use, store, audit, optimize and serve the Company Content on the Platform and through the Services.

8.3 1Huddle warrants and represents that: (i) 1Huddle will establish and maintain diligent safeguards that are compliant with applicable data privacy laws, to protect against the destruction, loss, disclosure or alteration of data collected, accessed, or processed by 1Huddle in connection with Company's use of the Services, including User Data, in the possession of 1Huddle or to which 1Huddle may have access; (ii) to the extent applicable, 1Huddle, and 1Huddle employees, will not, directly or indirectly, sell, license, distribute or otherwise transfer any information that can be used to identify particular individuals to any third party for any purpose whatsoever; and (iii) 1Huddle will comply at all times with then-current industry standards and practices, domestic laws, orders and regulations relating to privacy, security, and data protection. "User Data" shall mean any data that can be attributed to a Company customer or user or a customer's or user's computer or device, in any medium or format, including, but not limited to, clickstream data, cookies, IP addresses, or any other identifiers, and any customer or user's personally identifiable information, such as a name, mailing address, phone number, fax number, email address, Social Security number, or credit card data, provided by or collected from the customer or user in conjunction with a customer or user's engagement with the Services and deliverables. User Data is considered Confidential Information as defined in this Agreement.

8.4 **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS SECTION 8, BOTH PARTIES DISCLAIM ALL OTHER WARRANTIES, WHETHER IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE SERVICES ARE PROVIDED "AS IS." 1Huddle DOES NOT WARRANT THAT THE SERVICES OR PLATFORM WILL OPERATE UNINTERRUPTED OR ERROR-FREE. 1Huddle SHALL NOT BE RESPONSIBLE FOR ANY INFORMATION PROVIDED BY COMPANY IN COMPANY CONTENT

AND 1Huddle shall not be liable for the accuracy or completeness of company content. 1Huddle makes no representation or warranty regarding the results company will obtain by using the services or platform.

## 9. Limitation of Liability

9.1 Notwithstanding each party's indemnification obligations herein and company's obligation to pay 1Huddle in accordance with this Agreement or an applicable SOW, in no case shall either party's maximum liability arising out of this Agreement, whether based upon warranty, contract, negligence, tort, strict liability, or otherwise, exceed in the aggregate, the sum of the amounts paid to 1Huddle in the most recent two (2) months under the Agreement or applicable SOW(s) to which the claim relates, whichever is lesser.

9.2 In no event shall either party be liable to the other party for any indirect, special, incidental or consequential damages, including, but not limited to, loss of profits, loss of revenues, or loss of opportunities, arising out of this Agreement or any work statement, even if such party has been advised of the possibility of such damages.

## 10. Miscellaneous

10.1 Headings. The section headings used in this Agreement are intended for reference purposes only and shall not affect the interpretation of this Agreement.

10.2 Counterparts. This Agreement may be executed in counterparts (which may be exchanged by facsimile), each of which shall be deemed an original, but which together shall constitute one and the same instrument.

10.3 Waiver. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy under this Agreement shall operate as a waiver thereof.

10.4 Remedies Not Exclusive. Except as expressly set forth herein, no remedy hereunder is intended to be exclusive of any other remedy available hereunder or at law or in equity.

10.5 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall apply only to such provision. The illegality, invalidity, or unenforceability of such provision shall not in any manner affect or render illegal, invalid or unenforceable any other provision of this Agreement, and that provision, and this Agreement generally, shall be reformed, construed and enforced so as to most nearly give lawful effect to the intent of the Parties as expressed in this Agreement. The fact that any provision of this Agreement is held to be illegal, invalid or unenforceable in a particular jurisdiction shall have no effect upon the legality, validity, or enforceability of such provision in any other jurisdiction.

10.6 Non-Exclusivity. This Agreement is non-exclusive. Nothing in this Agreement restricts either Party from developing, marketing, selling, licensing, and/or distributing its products or services in the normal course of business or through its standard sales channels.

10.7 No Strict Construction. If an ambiguity or question arises with respect to any provision of this Agreement, this Agreement will be construed as if drafted jointly by the Parties and no

presumption or burden of proof will arise favoring or disfavoring either Party by virtue of authorship of any of the provisions of this Agreement.

**10.8 Assignment.** Neither this Agreement, any SOW or any rights or licenses granted hereunder may be assigned, delegated or subcontracted by Company without the prior written consent of 1Huddle and any attempt to assign any rights, duties or obligations which are under this Agreement or any SOW without such consent shall be null and void. This Agreement will be binding upon and will inure to the benefit of the Parties and their respective permitted successors and assignees. Notwithstanding the foregoing, any merger, acquisition of all or substantially all of the assets of either Party (each a "**Change of Control**") shall not be deemed an assignment under this Agreement for which prior written consent must be obtained, provided that in the event of a Change of Control, the non-assigning Party in its sole discretion may terminate this Agreement upon thirty (30) days prior written notice to the other Party.

**10.9 Independent Contractor Relationship.** 1Huddle is an independent contractor and this Agreement does not create an employment, agency, partnership, or joint venture relationship between 1Huddle and Company or 1Huddle and any Company personnel. 1Huddle has sole responsibility for activities of 1Huddle and its personnel, and shall have no authority and shall not represent to any third party that it has the authority to bind or otherwise obligate Company in any manner.

**10.10 Force Majeure.** Neither Party shall be liable for any failure or delay in the performance of any of their respective obligations if prevented from doing so by a Force Majeure Event. "Force Majeure Event" means (i) floods, earthquakes, or other similar elements of nature or acts of God; (ii) riots, strikes, civil disorders, rebellions or revolutions in the country in which the Services are being performed; or (iii) any other cause beyond the reasonable control of the non-performing Party, provided the non-performing Party is without fault in failing to prevent or causing such default or delay, and such default or delay could not have been prevented or circumvented by the non-performing Party through the reasonable use of alternate sources, workaround plans or other reasonable precautions.

**10.11 Notices.** All notices and other communications required or permitted to be given to a Party pursuant to this Agreement shall be in writing, and shall be deemed duly given (i) on the date delivered if personally delivered, (ii) on the second business day if sent by certified mail return receipt requested, or (iii) on the business day after being sent by Federal Express or another nationally recognized overnight courier service which utilizes a written form of receipt for next day or next business day delivery in each case addressed to the applicable Party at the address set forth on the first page of this Agreement; provided that a Party hereto may change its address for receiving notice by the proper giving of notice hereunder. A copy of any notice to 1Huddle shall also be sent to Orrick, Herrington & Sutcliffe LLP, Attention: Max S. Cantor, Esq., 51 West 52<sup>nd</sup> Street, New York, New York 10019.

**10.12 Publicity.** Company hereby grants 1Huddle the right to use Company's name and any trademarks or service marks used in connection with Company's name in its client list.

**10.13 Marketing Materials.** Company agrees to use any marketing materials provided by 1Huddle only for the purpose of marketing the Services detailed in this Agreement and its SOWs. Company shall not use such provided marketing materials in any manner not authorized by 1Huddle.

**10.14 Governing Law/Jurisdiction.** This Agreement, and all matters arising directly or indirectly from this Agreement, shall be governed by and construed in accordance with the laws of the State of New Jersey, without regard to its conflict of laws rules applicable to contracts to be performed

entirely within the State of New Jersey. For all such matters, each Party irrevocably submits to the exclusive jurisdiction of the state and federal courts located in the County of New Jersey, State of New Jersey and each Party waives any jurisdictional, venue, or inconvenient forum objections to such courts.

~~10.15~~ **10.16      Entire Agreement.** This Agreement and its SOW(s) constitute the entire agreement of the Parties with respect to the subject matter hereof and supersedes any and all existing or prior agreements and communications, whether written or oral, relating to the subject matter hereof. No modification of this Agreement shall be effective unless it is in writing and signed by an authorized representative of each Party.

**10.16      Survival.** The obligations under sections that contemplate performance or observance subsequent to termination or expiration of this Agreement, including Sections 2, and 5-10 and any other sections that state that they are to survive expiration or termination, shall survive the expiration or termination of this Agreement.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date set forth in the first paragraph of this Agreement.

1Huddle, Inc.

By: 

Name: Sam Caucci

Title: CEO

GLoucester County

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_