huddle™

Subscriber Agreement

Huddle Subscriber Agreement (current revision)
Prepared by: Huddle
17 May 2018

huddle

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This Agreement (the “Agreement”) governs the use of any and all Huddle™ Services by the company or organization named in the Order Form (or other form of registration) completed or submitted by you (as defined below, “Subscriber”). By executing and returning to Huddle an Order Form, or by clicking the check-box during the registration process (“I accept the terms”) or otherwise using the Services, you expressly agree on behalf of Subscriber to be bound by, and comply with, this Agreement. If you are not authorized to enter into this Agreement on behalf of Subscriber or Subscriber does not agree to be bound by any term or condition contained in this Agreement, do not use the Services. This Agreement is effective as between Subscriber and Huddle from the earliest date on which you returned to Huddle an executed Order Form, clicked the check-box during the registration process or otherwise started to use the Services.

1. Definitions & Interpretations

1.1. "API" means the Huddle Application Program Interface and associated documentation.

1.2. “Account Administrator” means the individual(s) appointed by Subscriber to manage the Workspaces and Users on behalf of the Subscriber. All Account Administrators must be employees of Subscriber.

1.3. “Content” means all documents, files, electronic media, calendar dates, discussions, tasks, meetings, telephone and web conference details and whiteboards, visual, written or audible data, information or material that is entered into, uploaded to, posted, transmitted or displayed through the Services by Subscriber or any User, including, without limitation, any hyperlink, graphic, artwork, video, music, text, image, logo, document, spreadsheet, presentation, text message, form entry, web page or other data.

1.4. “Huddle End User License Agreement” means the online agreement that governs the use of Services by Users other than employees and agents of Subscriber, it being understood and agreed that the use of Services by Subscriber’s employees and agents shall be governed instead by the terms of this Agreement.

1.5. “Intellectual Property Rights” means all right, title, and interest in and to any copyright, database, design, logo, trademark, service mark, patent, invention, trade secret, domain name, confidential and proprietary information, know-how, technology, business name, trade name, trade dress, technical solutions, associated right to sue (past, present, and future), and any other intellectual property rights whether existing at common law, applied for, registered or unregistered and all extensions, renewals, continuations, continuations in part, divisionals, reissues, re-examinations, and revivals thereof and existing anywhere in the world.

1.6. “Order Form” means any written or electronic document or registration form for placing orders for the Services and any addenda or amendments thereof, entered into contemporaneously with this Agreement or from time to time thereafter. Each Order Form shall be governed by and deemed to incorporate the terms and conditions contained herein, except as otherwise expressly provided in the Order Form. Each Order Form will describe all of the Services that Huddle agree to make available to Subscriber.

1.7. “Package” means the level of the Services Subscriber has been licensed to use, as provided on the Order Form, which details the features and limits to the features Subscriber is permitted to use.

1.8. “Services” means, collectively, the computer applications, interfaces, software, programs, products, services and websites provided or made available by Huddle and its affiliates pursuant to any Order Form, including provision of access to the Website for, among other things, creating and managing Workspaces.

1.9. “Subscriber” means the company, organization, employer, principal or other legal entity named in each Order Form and for whom Huddle provides the Services pursuant to this Agreement.

1.10. “User” means an individual who has completed the user registration process and created a user account at the Website. This includes any individual that Huddle creates a user account for at the Subscriber’s direction and any individual invited by Subscriber to become a user.

1.11. “Website” means the website at http://www.huddle.com; https://my.huddle.net/myhuddle and any other URLs maintained by Huddle for the purpose of making the Services accessible to Users.

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1.12. “We/Us/Our/Huddle” means the Huddle company described in Section 14 ‘Governing Law; Jurisdiction’.
1.13. “Workspace” means an interface within the Website configured for Users authorized by Subscriber to upload, manage and share files and information including Content.
1.14. In this Agreement, unless the context requires otherwise, any phrase introduced by the words “including”, “include”, “in particular”, “for example” or any similar expression shall be construed as illustrative only and shall not be construed as limiting the generality of any preceding words, and references to the singular include the plural and in each case vice versa.
1.15. The headings and sub headings in this Agreement are inserted for convenience only and shall not affect the meaning of this Agreement.

2. Grant of License; Proprietary Rights

2.1 Subject to the terms of this Agreement, Huddle hereby grant to Subscriber a non-transferable, non-exclusive, non-sub licensable limited term right and license to access and use, and to authorize and permit Users to access and use, the Services, solely as provided in each Order Form. Except for the rights specifically granted under this Agreement, Subscriber is not given any right, title or interest in or to the Services or Website, and Huddle expressly reserve all such rights, title and interests.

2.2 As between the parties, Huddle shall hold title to all Intellectual Property Rights in and to the Services and Website. Such Intellectual Property Rights may only be used by Subscriber in the manner stated in this Agreement and Order Form. Under no circumstances shall Subscriber or a third party acquire any Intellectual Property Rights to the Services or Website. Access to the Services and Website is licensed, and not sold, on the terms set out in this Agreement.

2.3 Subscriber agrees that it shall not do, or permit or authorize any Users to do, any of the following acts:

- Modify, translate, amend or otherwise alter the Services or Website;
- Attempt to decompile, reverse engineer or otherwise disassemble, or create derivative works of or from any part of the Services or Website;
- Redistribute, encumber, sell, rent, lease or otherwise transfer any Services or portion of the Website, including in a timeshare or service bureau relationship; or
- Remove, alter, or destroy from the Services or Website any logo, copyright or proprietary notices, legends, symbols, labels, watermarks, signatures or any other like marks affixed to or embedded therein.

2.4 All Content shall remain Subscriber’s sole property or the property of its respective legal owner. Huddle shall have no liability for such Content. By uploading third party content, Subscriber represents and warrants that it has obtained all necessary licenses, permissions, consents and agreements necessary for the lawful use of such third party content by Huddle and by third parties in accordance with this Agreement and in order for Huddle to provide the Services. Subscriber acknowledges and agrees Huddle does not control the Content posted by Users, and does not guarantee the accuracy, integrity or quality of such Content. Subscriber agrees that Subscriber must evaluate, and bear all risks associated with, the use of any third party Content, including any reliance on the accuracy, completeness, or usefulness of such Content. Under no circumstances will Huddle be liable in any way for any third party Content, including, but not limited to, any errors or omissions in any third party content, or any loss or damage of any kind incurred as a result of the use of any third party Content posted, emailed, transmitted or otherwise made available via the Services or Website.

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2.5 Subscriber agrees to use the Services within the parameters of the Package Subscriber has purchased. Huddle reserves the right to terminate the Services immediately on breach of this clause and Huddle are under no obligation to provide a refund in full or in part for the fees paid.

3. Digital Millennium Copyright Act (applicable if domiciled in the United States of America only)

3.1. We will not knowingly publish content in violation of applicable copyright law. If you believe content has been displayed, reproduced, printed or otherwise distributed by us through this website in violation of any third party copyright, please notify us in writing. Send your notice to Huddle Inc., 835 Howard Street, 3rd Floor, San Francisco, California 94103, attention: Head of Business Operations, and include the following:

- electronic or physical signature of a person authorized to act for the copyright owner
- description of the copyrighted work
- description of where the infringing content is located on this website
- your office or home address, telephone number and email address
- a statement of good faith belief that the use of the work is not permitted by the copyright owner, and
- a statement under penalty of perjury that the above is true and you are authorized to act for the owner.

You acknowledge that if you fail to comply with all the requirements of this Section, your DMCA notice may not be valid.

4. Availability of Service

4.1. The Services are normally available over the Internet around the clock. Huddle shall be entitled to take measures that affect the aforementioned accessibility when Huddle deem such to be necessary for technical, maintenance, operational, or security reasons. Huddle guarantee at least 99.9% total uptime of the Service, as measured over a rolling 3 month (90 day) period by a reputable external monitoring service of our choice from time to time. This excludes any planned maintenance periods as described below. Availability is currently measured as continuous availability of the Huddle login page, tested every minute from one of at least 8 global locations. Huddle will make available the official uptime reports to Subscriber on request. Huddle will notify Subscriber at least 2 weeks in advance of any planned maintenance periods that exceed 15 minutes in length. Huddle will endeavor to carry out any such planned maintenance outside of normal UK and US office hours. There will be a maximum of one (1) planned maintenance period in any three (3) week period. Huddle will backup Subscriber's data stored on Our system, including files stored in Subscriber workspaces and associated User data such as notifications, permissions and comments. Backups of the Huddle file store are carried out daily at our disaster recovery data center. Full backups of the Huddle database are carried out nightly, with incremental backups carried out every 15 minutes. All backups are held for a 14-day period. The Huddle database and all files are replicated in real time to our disaster recovery data center. In the event of a disaster at our primary data center, failover to DR can be effected within 30 minutes of approval. Any problems experienced by Subscriber in accessing the Service should be reported to Huddle's online support system at http://support.huddle.net or help@huddle.com. A support ticket will be raised automatically by Our system which Subscriber can use to track progress of the reported problem and resolution against it. The service levels as described above are compensated by Huddle as follows: If Huddle fail to meet the described service levels for service availability, Huddle will compensate Subscriber by crediting Subscriber one day of Subscriber annual fee for each one hour of downtime. If availability of the Service as described in this clause is lower than 75% (seventy five percent) in any 3 month (90 day) period Subscriber shall be able to terminate Subscriber Agreement with immediate effect.

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4.2. Huddle assume no responsibility for technical support or problems arising from or relating to third party systems, equipment owned or maintained by Subscriber or any Users, or the administration of email addresses or the email account of any User.

4.3. Huddle agree to take commercially reasonable steps to maintain the Services in a secure manner. If a security flaw is detected with respect to which Huddle has reason to believe the security or integrity of Content or account information of Subscriber's Users may be affected, Huddle shall use reasonable efforts to notify Subscriber promptly of such defect and any related remedial steps Huddle propose to take.

4.4. Huddle reserves the right at any time and from time to time to reasonably modify or discontinue, temporarily or permanently, the Services or Website (or any part thereof), including but not limited to modifications to the design, operational method, technical specifications, systems, and other functions however any changes will not materially limit your ability to share files and documents. Subscriber agrees that Huddle shall not be liable to Subscriber or to any third party for any modification, suspension, or discontinuance of the Services or Website (except for refunding to Subscriber any prepaid fees corresponding to the period following any permanent discontinuance of Services other than due to Subscriber's breach).

4.5. Services may be performed by Our affiliates or subcontractors at Our discretion, provided that Huddle shall be responsible for compliance with and performance of this Agreement by any such persons and such persons will be under the same confidentiality provisions as set forth in this Agreement.

4.6. The Services or Website may contain links to third party websites that are not owned or controlled by Huddle. These links are provided solely for Users' convenience. Huddle have no control over any linked third party sites, are not responsible for the content of such sites, and make no representations or warranties with respect to such sites.

5. Subscriber Obligations

5.1. Subscriber agrees to reasonably:

- appoint at least one Account Administrator
- provide true, accurate, current and complete information about Users who access the Services on Subscriber's behalf ("Subscriber's Users") as prompted by the registration process, including Users' identity and a correct and legitimate email address (the "Registration Data");
- maintain and promptly update the Registration Data to keep it true, accurate, current and complete;
- cause Subscriber's Users to maintain the security of their login credential(s); and
- consent and authorize Huddle to verify any Registration Data. If Subscriber or a User provides any information that is untrue, inaccurate, not current or incomplete, or Huddle have a reasonable belief that such information is untrue, inaccurate, not current, or incomplete, Huddle have the right to suspend or terminate the relevant User accounts and refuse any current or future use of the Services or Website.

5.2. Subscriber acknowledges, consents, and agrees that Huddle may access, preserve and disclose Subscriber's account information and Content if and solely to the extent required to do so by law or in good faith belief that such access, preservation, or disclosure is reasonably necessary to:

- respond to Subscriber's requests for service;
- comply with legal process;
- enforce this Agreement;
- respond to claims that Subscriber's Content violates the rights of third parties; or
- protect the rights, property, or personal safety of Huddle, other Users, or the public.

Where Huddle is required to access and disclose Subscriber's account information and Content, Huddle will use commercially reasonable efforts, to the extent Huddle are permitted to do so, to give Subscriber as much notice of this disclosure as possible.

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5.3. Subscriber agrees to notify Huddle immediately of any unauthorized use of Subscriber's account, the login credentials of any of Subscriber's Users, or any other breach of security. Subscriber may be held liable for losses incurred by Huddle or any User of the Services or Website due to someone else using the Registration Data.

5.4. Subscriber represents that Subscriber is authorized to receive the Services under the laws of the geographical jurisdictions in which Subscriber and Subscriber's Users are located. Subscriber shall be responsible for all activities, communications and transactions of Subscriber and Subscriber's employees and agents conducted through use of the Services and Website and their compliance with applicable national, federal, state and local laws.

5.5. Subscriber agrees that Huddle may include Subscriber's company name and/or logo among our clients listed in Our marketing materials, including the Website. Nothing herein shall require Subscriber to endorse the Services.

5.6. Subscriber agrees not to:

- Use or launch any automated system, including without limitation, "robots", "spiders" or "offline readers" that accesses the Services or Website in a manner that sends more request messages to Our servers in a given period of time than a single human can reasonably produce in the same period by using a conventional online web browser;
- Collect or harvest any personally identifiable information, including names, from the Services or Website;
- Use any information provided in the Services or Website for the sending of spam, bulk email messages or bulk instant messages for marketing or other purposes other than internal business use;
- Use any part of the Services or Website to upload, post, email, or transmit viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other software, files or programs that may interrupt, damage, destroy or limit the functionality of any computer software or hardware or network equipment;
- Use any part of the Services or Website to pretend to be Huddle or someone else or otherwise misrepresent the identity or affiliation of a User or attempt to disguise the origin of any Content;
- Use the Services, Website or any part thereof to violate or infringe anyone's Intellectual Property Rights;
- Interfere with or disrupt the Website, servers, or networks connected to the Website, or disobey any requirements, procedures, policies, or regulations of networks connected to the Website;
- Upload, post, email, transmit, or otherwise make available any Content that Huddle, in our sole discretion, deem to be unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, inflammatory, hateful, or racially, religiously, ethnically, or otherwise objectionable, or harmful to minors;
- Attempt to gain unauthorized access to the Services or Website or any portion or feature of thereof, or any other systems or networks connected to the Website or to any of Our servers;
- Probe, scan, or test the vulnerability of the Website or any network connected to the Website (except with Huddle express prior written consent and cooperation for security testing purposes only), nor breach the security or authentication measures on the Website or any network connected to the Website;
- Take any action that imposes an unreasonable load on the Services or Website or on Huddle infrastructure or networks or any networks connected to the Website;
- Use the Services or Website in order to obtain material which per se or if sent to another party might injure the reputation of a third party, or in any manner which may result in the infringement of any third party's Intellectual Property Rights, or which constitutes a dissemination of business secret, or may incite a third party to commit or participate in a crime, or may be understood as constituting a threat, or to use the Services in any other manner incompatible with the purpose thereof; or
- Provide access to the Services or Website to anyone else other than Users.

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5.7. Both parties agree that a breach of this Agreement by either party may cause the other party substantial and irreparable damages and, therefore, in the event of any such breach, in addition to other remedies which may be available, the other party shall have the right to seek specific performance and other injunctive and equitable relief.

6. API Terms

6.1. Subscriber is granted a limited, non-sub-licensable right to access the API, the Services and Data for the purpose of enabling Subscriber and users it authorizes to access the Huddle Services via 3rd party software or website. Any use of the API, including use of the API through a third-party software or website that accesses the Services, is subject to the terms of this Agreement plus the following specific terms:

6.2. Subscriber agrees that Subscriber is solely responsible for (and that Huddle have no responsibility to Subscriber or to any third party for) any services and/or products Subscriber provide or use through any 3rd party software.

6.3. Subscriber expressly understand and agree that Huddle shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if Huddle has been advised of the possibility of such damages), resulting from Subscriber use of the API or third-party products that access data via the API.

6.4. Subscriber will not collect any users' personal information or data in a misleading, illegal, unauthorized or unfair way. Without limiting the generality of the foregoing, Subscriber will never collect, store or record passwords used by users' to log-in to the Services. If users need a separate password to use Subscriber software Subscriber will generate a unique password and securely communicate it to the user. Subscriber agrees that any 3rd party software shall be provided by Subscriber in compliance with all applicable laws and regulations (including without limitation those relating to the protection of privacy and the processing of personal data or traffic data).

6.5. Subscriber will not use the API to create software that sends unsolicited communications (whether commercial or otherwise) to any third party.

6.6. Huddle reserve the right at any time to modify or discontinue, temporarily or permanently the API (or any part thereof). Where Huddle permanently discontinues the API, Huddle will continue to provide appropriate levels of support to ensure continuance of the API which has just been replaced for a period not less than 6 months to be determined by Huddle, in our sole discretion.

6.7. Abuse or excessively frequent requests to the Services via the API may result in the temporary or permanent suspension of Subscriber account's access to the API. Huddle, in our sole discretion, will determine abuse or excessive usage of the API.

6.8. Huddle retain the right to the Services, including the API. In no way will Subscriber pass off, market or otherwise make representations that the Huddle brand, Services or Website is owned or otherwise connected with Subscriber. Subscriber must make it clear that Subscriber are allowing access to the Huddle API via an independent 3rd party piece of software and must prominently display the following text: "This product uses the Huddle API but is not endorsed, certified or otherwise approved in any way by Huddle". Subscriber shall not have any rights to use Huddle trademarks or logos, save for a limited right to display the "Powered by Huddle" button on main screen of the software or website that uses the Huddle API, as can be seen on the Huddle website and Services. This button must be in the form of a URL that links directly back to http://www.huddle.com:

6.9. Huddle reserves the right to limit Subscriber access to the API or the number of calls Subscriber software can otherwise make to it, except solely as agreed in a separate written order.

6.10. Huddle reserve the right to make information about any software or website that uses the API available to our users on our Website and any other marketing collateral.

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7. Confidentiality

7.1. "Confidential Information" means any and all information disclosed by or at the direction of either party to the other in connection with the provision or use of Services under this Agreement, including, without limitation, information relating to the business, operations, technology, properties, employees and customers of the disclosing party. Without limiting the foregoing, as between the parties, all Content shall be treated as Subscriber's Confidential Information. Notwithstanding the foregoing, "Confidential Information" does not include any information that a receiving party can demonstrate:

- was known to it prior to the information's disclosure in connection with provision or use of the Services;
- is or becomes known publicly through no wrongful act of the receiving party;
- was rightfully received from a third party under no contractual, legal or fiduciary obligation to keep such information confidential; or
- was independently developed by the receiving party, without the use of any Confidential Information.

7.2. Each receiving party agrees that it shall use Confidential Information of the disclosing party solely in furtherance of the performance of this Agreement and for no other purpose. Each party shall use the same degree of care to protect the other party's Confidential Information as it uses to protect its own confidential information of like nature, but in no circumstances with less than reasonable care. Each party agrees not to disclose the other party's Confidential Information to any person or entity other than: (i) to employees, agents, subcontractors or consultants of the receiving party on an as-needed basis, provided such persons have entered into written confidentiality agreements consistent with this Section 7 or otherwise are bound under substantially similar confidentiality restrictions; (ii) with respect to Subscriber Confidential Information, as authorized by Subscriber; (iii) to the extent required by court order, legal process, governmental or exchange regulation or applicable law, provided that the party required to disclose the information provides prompt advance written notice thereof (to the extent permitted by law) to the other party; or (iv) otherwise solely as expressly authorized in writing by the disclosing party. Notwithstanding any provision hereof to the contrary, Huddle may use and disclose anonymous, aggregated data and statistics regarding use of the Services, provided no individual organization or person can be identified and no Content is disclosed in connection with such data and statistics.

7.3. Each party acknowledges and agrees the use or disclosure of Confidential Information inconsistent with this Agreement could cause irreparable harm to a disclosing party, the extent of which would be difficult to ascertain. Accordingly, each party agrees that, in addition to any remedies available at law, any non-breaching party shall have the right to obtain immediate injunctive relief, without the necessity of posting a bond, in the event of a breach or threatened breach of this Section 7 by the other party, any of its affiliates or their representatives. This Section 7 shall survive termination or expiration of this Agreement.

8. Warranties

8.1. Huddle warrants, to the best of its knowledge after implementing reasonable measures, that components of the Services and Website made accessible to Subscriber do not contain viruses, worms, code or other third party computer code intentionally designed to disrupt, disable, or harm the operation of Subscriber's computer systems. Huddle further warrant, to the best of Our knowledge, that the Services do not infringe any third party trade secret, copyright, issued patent or trademark.

OTHER THAN THE FOREGOING, THE SERVICES AND WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND. HUDDLE MAKE NO WARRANTY THE SERVICES WILL BE ERROR FREE OR AVAILABLE AT ALL TIMES, NOR DO HUDDLE WARRANT THE COMPATIBILITY OR OPERATION OF THE SERVICES WITH ALL

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SUBSCRIBER OR USER SITES, HARDWARE OR SOFTWARE CONFIGURATIONS. EXCEPT AS SET FORTH IN THIS SECTION 8, HUDDLE MAKES AND SUBSCRIBER RECEIVES NO WARRANTIES, EXPRESS OR IMPLIED, REGARDING OR RELATING TO THE SUBJECT MATTER HEREOF. HUDDLE DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT WITH RESPECT TO THE SUBJECT MATTER HEREOF. SUBSCRIBER HEREBY ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY WARRANTY, CONDITION, GUARANTY OR REPRESENTATION BY HUDDLE OR ITS RESPRESENTATIVES OTHER THAN THOSE CONTAINED IN THIS AGREEMENT.

The entire and exclusive remedy for breach of this Limited Warranty shall be, at Our option, either:

- the return of the relevant license fee paid, or
- to repair, upgrade, or otherwise enhance the performance of Huddle to address the failure of performance.

9. Indemnification

9.1. Subscriber agrees to indemnify and hold harmless Huddle and its subsidiaries, affiliates, directors, officers, agents, and employees from and against any losses, damages, costs or expenses (including reasonable legal fees, expert fees, and other costs of litigation) (collectively, “Losses”) arising from or related to any third party claim, demand, or action (an “Action”) based upon:

- Content Subscriber or Subscriber’s Users submit, post, transmit, or otherwise make available through use of the Services or Website,
- Subscriber’s violation of this Agreement, or
- Subscriber’s violation of any rights of another, except, in any case, to the extent such Action is based on Our breach of this Agreement, willful misconduct or negligence

9.2. Huddle agree to indemnify and hold harmless Subscriber, its subsidiaries affiliates, directors, officers, agents and employees from and against any Losses arising from or related to any Action based upon

- infringement by Huddle of any third-party trade secret, copyright, issued patent or registered trademark, except to the extent such infringement is attributable to the use or publication of Content (an “Infringement Claim”); or
- breach of Our obligations under Section 7 (confidentiality), except, in any case, to the extent such Action is based on Subscriber’s breach of this Agreement, willful misconduct or negligence. In the event of an Infringement Claim, Huddle may mitigate any Losses indemnified hereunder by any of the following actions:
- procure for Subscriber the necessary right to continue using the Services;
- replace or modify any infringing portion of the Services with a functionally equivalent non-infringing substitute thereof;
- modify the Services so as to be non-infringing; or
- if none of the foregoing are commercially reasonable, terminate this Agreement (and in the event of such termination, Subscriber shall be entitled to a refund of any prepaid fees for the unexpired portion of any Order Form).

9.3. Indemnification under subsections 9.1 and 9.2 hereof will be provided only on the conditions that: (i) the indemnifying party is given written notice promptly after the indemnified party receives notice of the subject Action; provided, however, that late notice shall only excuse the indemnifying party from its obligations hereunder if such late notice materially prejudices the indemnifying party; (ii) the indemnifying party has sole control of the defense and all related settlement negotiations, provided any settlement that would impose any monetary or injunctive obligation upon the indemnified party shall be subject to such party’s prior written approval; and (iii) the indemnified party provides cooperation and information in furtherance of such defense, as reasonably required by the indemnifying party. This Section 9 shall survive termination or expiration of this Agreement.

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10. Limitation of Liability

10.1. EXCEPT FOR CLAIMS FOR PERSONAL INJURY (INCLUDING DEATH) AND CLAIMS BASED ON WILLFUL MISCONDUCT OR FRAUD, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING FROM OR RELATED TO THE SERVICES OR THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, LOSS OF DATA OR BUSINESS OR OTHER INTANGIBLE LOSSES (EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES).

EXCEPT FOR CLAIMS FOR PERSONAL INJURY (INCLUDING DEATH), CLAIMS BASED ON WILLFUL MISCONDUCT OR FRAUD, AND CLAIMS FOR INDEMNIFICATION UNDER SECTION 9, THE AGGREGATE LIABILITY OF EITHER PARTY TO THE OTHER FOR ANY DIRECT DAMAGES ARISING FROM OR RELATED TO THE SERVICES OR THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF FEES AND OTHER CHARGES PAID OR PAYABLE BY SUBSCRIBER DURING THE TWELVE MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO SUCH CLAIM.

11. Term & Termination

11.1. This Agreement shall remain in effect while any performance by either party remains to be completed under any Order Form, subject to termination in accordance with subsection 11.2. Except as otherwise expressly provided in any Order Form, upon termination of this Agreement, all Services shall cease and Subscriber and Subscriber's Users will discontinue use of the Services and Website. All Content is to be removed by Subscriber prior to termination date or end date on any Order Form.

11.2. Either party may terminate this Agreement immediately upon written notice if the other party: (i) becomes the subject of a petition in bankruptcy which is not withdrawn or dismissed within 60 days thereafter; (ii) makes an assignment for the benefit of creditors; or (iii) breaches any material obligation under this Agreement and fails to cure such breach within 30 days after delivery of notice thereof by the non-breaching party. Otherwise Subscriber's contract shall automatically renew at the end of each fixed-term time period for a further 12 months or on the contract end date as indicated on your Order Form, unless Subscriber gives Huddle notice in writing that Subscriber wishes the contract to expire at the end of the current pre-arranged fixed-term period, not less than 90 days before the end of such fixed-term period.

12. Fees & Payment for Services

12.1. All Fees are payable in advance, either annually in advance or in accordance with any different payment terms as stated in the applicable Order Form. Subscriber shall pay all fees specified in all Order Forms hereunder. Once an Order Form is executed by Subscriber and accepted by Huddle the Order and payment obligations thereunder are non-cancellable, and fees paid are non-refundable. Failure to pay Huddle the agreed amount within the agreed payment terms may result in the Services being made unavailable to Subscriber or legal action being taken to secure any outstanding fees. Subscriber shall also be liable for any additional costs, including legal costs, incurred by Huddle to secure such fees.

12.2. Fees stated on Order Forms exclude any applicable sales and use taxes, value added tax or other taxes relating to provision or use of the Services. Subscriber is responsible for the payment of all such taxes (excluding taxes on Huddle's income) and taxes applicable to the territory the Subscriber resides in.

12.3. Orders can be paid by bank transfer, check or credit or debit card. Orders for £1,200 or $1,800 or less (or such other minimum amounts as Huddle may establish from time to time) are payable by a valid debit or credit card only, and Subscriber's debit or credit card details are required to be

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entered on the Order Form. A 5% handling fee may be added to the Order value for Orders paid for by debit or credit card. If you provide Huddle with debit or credit card details, you authorize Huddle to charge such debit or credit card for all fees listed in the Order Form as soon as practicable by Huddle.

12.4. Unless paid for by debit or credit card, fees are payable 30 days from invoice date, unless alternative, agreed terms are stated on the Order Form and Subscriber is responsible for providing Huddle with complete and accurate billing and contact information and notifying Huddle of any changes to such information.

12.5. If any amount owing by Subscriber under an Order is 30 or more days overdue (or 10 or more days overdue in the case of Orders Subscriber has authorized Huddle to charge Subscriber's debit or Credit card), Huddle may, without limiting Our other rights and remedies, suspend Subscriber's account and Subscriber's Users' access to the Services until such amounts owing are paid in full.

13. Miscellaneous

13.1. Modification. Huddle reserve the right to amend this Agreement at any time by notifying Subscriber as provided in this Agreement, provided that no notice shall be required for non-substantive changes to the Agreement. If Huddle substantively amend this Agreement, Huddle will post the updated Agreement on the website at least seven (7) days notice before the changes take effect during which period of time you may reject the changes by terminating your account. If Subscriber does not agree to any of these terms or any future Agreement, then Subscriber is not to use or access (or continue to access) the Services or Website. No failure or delay by either party in exercising any right, power, or remedy hereunder shall operate as a waiver of such right, power, or remedy.

13.2. Remedies. The provisions of this Agreement are necessary for the protection of the business and goodwill of the parties and are considered by the parties to be reasonable for such purpose. Subscriber agrees that any breach of this Agreement may cause Huddle substantial and irreparable damages and, therefore, in the event of any such breach, in addition to other remedies which may be available, Huddle shall have the right to seek specific performance and other injunctive and equitable relief. In the event that Subscriber use the Services or Website for commercial purposes in breach of this Agreement, Subscriber agrees that Huddle shall be entitled to any proceeds that Subscriber has obtained from such activity, without prejudice to other rights or remedies Huddle may have against Subscriber.

13.3. Independent Contractors; No Third Party Beneficiaries. The parties are independent contractors with respect to each other, and neither shall be deemed an employee, agent, partner or legal representative of the other for any purpose or shall have any authority to create any obligation on behalf of the other. No third-party beneficiary rights are granted as a result of or pursuant to this Agreement.

13.4. Force Majeure. Any delay in or failure of performance by either party under this Agreement will not be considered a breach and will be excused to the extent caused by any event beyond the reasonable control of such party including, but not limited to, acts of God, acts of civil or military authorities, strikes or other labor disputes, fires, interruptions in telecommunications or Internet or network provider services, power outages, and governmental restrictions.

13.5. Entire Agreement; Severability. This Agreement supersedes all prior agreements, understandings, representations, warranties, proposals, requests for proposal and negotiations, if any, related to the subject matter hereof. Each provision of this Agreement is severable from each other provision for the purpose of determining the enforceability of any specific provision. This Section 13 shall survive termination or expiration of this Agreement.

13.6. Assignment. Except as otherwise provided below, neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party. Either party shall have the right to assign this Agreement without the consent of the other party: (a) to any affiliate of such party; or (b) in connection with the merger, reorganization or acquisition of such party or the sale of all or substantially all of its assets related to this Agreement. Any

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purported assignment of this Agreement in violation of this subsection shall be invalid. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.

13.7. Notices. Invoices and other correspondence relating to this Agreement may be delivered by email to the email addresses furnished by Subscriber in each Order Form. Any notice of termination, breach or Actions under this Agreement shall be given by either email or internationally recognized courier service to the addresses set forth in the applicable Order Form or such other address as either party may provide in writing from time to time.

14. Governing Law; Jurisdiction

14.1. The Governing Law and Jurisdiction and where notices should be directed is dependent on the where Subscriber is domiciled.

14.1.1. If Subscriber is domiciled outside of the United States of America and Canada, Subscriber is contracting with Ninian Solutions Ltd (t/a Huddle) whose registered offices are at 2nd Floor, Maersk House, 1 Braham St, London, E1 8EP and this Agreement shall be governed by and construed in accordance with the Law of England & Wales without giving effect to its conflict of laws principles. The parties agree the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The parties agree to submit to the jurisdiction of the Courts of England & Wales, for the adjudication of any case or controversy arising under this Agreement, and the parties hereby waive their right to a trial by jury in any such litigation.

14.1.2. If Subscriber is domiciled within the United States of America or Canada, Subscriber is contracting with Huddle Inc a Delaware Corporation (dba Huddle) whose offices are at 835 Howard Street, 3rd Floor, San Francisco, California 94103 and this Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its conflict of laws principles. The parties agree the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The parties agree to submit to the jurisdiction of the state and federal courts located in Santa Clara County, California, for the adjudication of any case or controversy arising under this Agreement, and the parties hereby waive their right to a trial by jury in any such litigation.

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Ninian Solutions Ltd (trading as Huddle) is registered in England & Wales at Maersk House, 1 Braham Street, London, UK (company number 05777111) and its U.S subsidiary Huddle Inc, a Deleware Corporation, at 835 Howard Street, San Francisco, CA, U.S.

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huddle™