

SOFTWARE DEVELOPMENT AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into on _____, between _____ (“Developer”), with its principal place of business located at _____, and _____ (“Client”), with its principal place of business located at _____ and shall be effective as of _____ (the “Effective Date”).

WHEREAS, Developer is engaged in the business of software development,

WHEREAS, Client wishes to utilize the services of Developer in connection with the development of certain software identified as _____ (the “Software”).

NOW, THEREFORE, Developer and Client agree as follows:

1. Scope of Services

Developer will perform the services described in Exhibit A (the “Work”), in order to develop and implement the Software according to specifications and completion time set forth therein. Client will cooperate with Developer’s reasonable requests for information and data necessary for the completion of the Work.

2. Term and Termination

Unless terminated as provided herein, this Agreement shall commence on the Effective Date and will extend to and terminate upon completion of Developer’s work. Client may terminate this agreement without cause upon thirty (30) days written notice. Either party may terminate this Agreement for material breach, provided, however, that the terminating party has given the other party at least twenty-one (21) days written notice of and the opportunity to cure the breach.

3. Price and Payment Terms

Client will pay Developer for the Work at the rate of \$___ per hour of services rendered by Developer during the term of this agreement. Developer shall invoice Client monthly for services performed during the preceding month. Client shall deliver funds to Developer within seven (7) days of receipt of an invoice from Developer. In the event of termination without cause, Client agrees to pay Developer for all of Developer’s Work performed up to the date of termination.

4. Ownership of Intellectual Property

To the extent that Developer has received payment of compensation as provided in this Agreement, Developer hereby assigns to Client all rights, title, and interest in any intellectual property created or developed by Developer for Client under this Agreement.

5. Confidential Information

All information relating to Client that is known to be confidential or proprietary, or which is clearly marked as such, will be held in confidence by Developer and will not be disclosed or used by Developer except to the extent that such disclosure or use is reasonably necessary to the performance of Developer's Work. All information relating to Developer that is known to be confidential or proprietary, or which is clearly marked as such, will be held in confidence by Client and will not be disclosed or used by Client except to the extent that such disclosure or use is reasonably necessary to the performance of Client's duties and obligations under this Agreement. The obligations of confidentiality will extend for a period of _____ after the termination of this Agreement, but will not apply with respect to information that is independently developed by the parties, lawfully becomes a part of the public domain, or of which the parties gained knowledge or possession free of any confidentiality obligation.

6. Warranty and Disclaimer

Developer warrants the Developer's Work will be performed in a workmanlike manner and in conformity with generally prevailing industry standards. THIS WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY ORAL OR WRITTEN REPRESENTATIONS, PROPOSALS OR STATEMENTS MADE ON OR PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT.

7. Limitation of Liability

NEITHER PARTY TO THIS AGREEMENT SHALL BE LIABLE TO ANY OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS, PROFITS, DATA OR ANY OTHER LOSS) INCURRED OR SUFFERED BY THE OTHER ARISING AS A RESULT OF OR RELATED TO THE PERFORMANCE OF DEVELOPER'S WORK, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

8. Relation of Parties

The performance by Developer of its duties and obligations under this Agreement will be that of an independent contractor, and nothing in this agreement will create or imply an agency relationship between Developer and Client.

9. Arbitration and Mediation

Except as described in Paragraph 2, if any dispute arises under the terms of this Agreement, the parties agree to select a mutually agreeable neutral third party to help them mediate it. If the mediation is unsuccessful, the parties agree that the dispute shall be decided by binding arbitration under the rules issued by the American Arbitration Association. The decision of the arbitrator shall be final. Costs and fees (other than attorneys fees) associated with the mediation or arbitration shall be shared equally by the parties. Each party shall be responsible for its attorneys' fees associated with arbitration.

10. Miscellaneous

This Agreement shall be construed pursuant to the laws of the Commonwealth of Massachusetts, excluding any choice of law rules. This Agreement may not be modified or amended except by written notice, which is signed by authorized representatives of each of the parties. A party's failure to exercise, or delay in exercising any rights hereunder will not be deemed to be a waiver of such right. If any provision of this Agreement is held invalid or otherwise unenforceable, the enforceability of the remaining provisions of this Agreement will not be impaired thereby.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date first stated above.

DEVELOPER:

CLIENT:

Business name

Business name

By: _____
Signature

By: _____
Signature

Name: _____

Name: _____

Title: _____

Title: _____

Telephone: _____

Telephone: (_____) _____

E-mail address: _____

E-mail address: _____