

NOTE: This is a Sample Software Development Agreement, assuming the case, where an existing iPhone App project is being outsourced for its next phase of development on fixed price basis.

Disclaimer: This is a sample agreement being published online by **Agicent Technologies** (www.agicent.com) with an humble thought of assisting/ helping to the new entrants in the Outsourced Software Development business or Mobile Apps Development Business (Both parties preciously– **Customers** (Who are looking to outsource their Mobile (iOS/ iPad, Android) Apps development work) and also **Developers** (Who are doing such projects on a fee)).

This document, by no way, should be construed or interpreted as a legal template by any user, organization, or group. This is purely an help document to give an idea to its users of what clauses and important terms should be there in an Custom Software Development Agreement, when the project is being outsourced.

If you have any concerns, feedback, suggestions regarding the document then Email at sales@agicent.com;

Also, In case you are looking to outsource your next Mobile/ Web/ Desktop/ Enterprise Software Development Project to a specialized development company at reasonable cost, then feel free to drop a note at sales@agicent.com, mentioning the overview of your project requirements; and we'll get back to you in 12 hours!

CUSTOM SOFTWARE DEVELOPMENT AGREEMENT (SAMPLE AGREEMENT FOR FIXED PRICE)

This Custom Software Development Agreement (the "Agreement") is made and effective from 4th Day of October 2011.

BETWEEN: **XXXXX**, Inc (hereinafter called as the "Customer"), a corporation organized and existing under the laws of the USA, with its office **at XYZ area, State, Country**.

AND: **XXXX Technologies** (hereinafter called as the "Developer" or "Developer"), a corporation organized and existing under the laws of the State of India, with its registered office Address.

RECITALS

WHEREAS Customer officially requires to get the further version named Version1.01 of iPhone Application named **XXXXX** developed as per the requirements specifications mentioned in Exhibit B as "Scope of the work", and wants to hire the Developer to develop this custom software package, and;

WHEREAS, the Developer officially offers its services to develop the required iPhone Application package for the Customer.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto, intending, to be legally bound, agree as follows:

1. SCOPE OF WORK

The scope of work is the development of “XXXX iPhone Application Version 1.01” for iPhone platform as per the requirements specifications mentioned in Exhibit B as “Scope of the work”. The Project Execution milestones are defined in Exhibit A.

2. SCOPE OF DELIVERABLES

| S No. | Deliverable Name | Given By | Scope | Comments |
|-------|----------------------------|-----------|--|--|
| 1. | Scope of Work | Developer | Scope of work, timelines, commercials | Mentioned in the agreement and Exhibits only |
| 2. | Detailed Requirements | Customer | Details of requirements | Received from the customer |
| 3. | Application package | Developer | iPhone Application Package to Customer. | |
| 4. | Submission to iTunes store | Developer | Application package to be submitted to Apple's iTunes store. | |
| 5. | Source Code | Developer | Source Code to be given to the customer with full IPR to use, redistribute, modify it after fulfillment of commercial liabilities. | |

3. SOLUTION

Developer Technologies has proposed to develop the **iPhone App XXXX 1.01** Application package.

Development Platform: Mac OS, iPhone SDK

Target Platforms: iPhone OS Versions 5.0 and above, iPad (1) and iPad (2) (iPads in compatibility mode only), iPod touch (in wireless only).

In case that iPhone 6 require any special handling above and beyond current scope of agreement, Developer to notify **XXXXX** beforehand.

Storage: SQLite/XML

Backend API and Database: SQL, .NET, C#

4. COMMERCIALS

FIXED PRICE

Developer is proposing a fixed price for the development of required “XXXX iPhone Application” as follows

Following are the details of Fixed Price and Duration:

| | |
|---|-------------------------|
| Total Estimated Efforts (iPhone App + Backend) | 65 + 47 Man Days |
|---|-------------------------|

| | |
|---------------------------------|---|
| Total Delivery Time | Maximum – 48 Days, Minimum – 38 Days |
| Tentative Resources Used | 1 Senior iOS Developer 1 Team Leader 1 Senior .NET Developer 1 Senior QA |
| Quotation | \$ XYZ United State Dollars |

Important Notes:

- Any work, beyond the scope of the work mentioned in Exhibit B will be done at the rate of USD 18/ man hour and shall be considered as a “change request”.
- 1 man day is equal to 8 hours, and one man week comprises 5 working man days.

Payment Terms

The payments shall be remitted by customer on the following basis:

| Payment Terms | Interval (Tentative) | % of Total Payments |
|---|-----------------------------|----------------------------|
| Project Kick off fee. | Advance | 40 % |
| 1 st and 2 nd Milestone completion. | TBD | 25 % |
| 3 rd Milestone completion. | TBD | 25 % |
| Final Payment on acceptance. | TBD | 10 % |
| Grand Total | | XYZ USD Only |

Refer Exhibit A for milestones description.

Refer Exhibit B for SoW.

5. ENGAGEMENT MODEL

The Engagement Model with the customer is “Fixed Price”.

6. ASSUMPTIONS AND DEPENDENCIES

6.1 Assumptions

- The customer will provide or be responsible for any cost related to the following:
 - 3rd party software related to the Project (if, any specifically required by the customer), for example, Jirra Tool for project management/ defect tracking process.
 - 3rd party service required for the project.
 - Any hardware related to the Project, except for testing equipments.
- Any requirements for the project other than those mentioned in Exhibit A are beyond the scope of this Agreement.
- The development and unit testing of the products will be done at Developer premises.

- The customer shall be providing Developer with the credentials of their Apple Developer's Account, in order to enable them to create adhoc/ provisional test releases of the app.

6.2 Dependencies

Following are dependencies of the project:

- Timely reverts from the customer for any inputs which are required from them.
- Dependency on **Project Management Tool (URL)**.

7. PROJECT MANAGEMENT

- Developer shall manage all the milestones and plans for functional delivery in following web based tool: **Project Management Tool (URL)**.
- Developer and Customer shall hold weekly Friday meetings to review the progress on development as per the delivery expectations.
- A bi-weekly Adhoc/ interim release shall be provided to the customer by Developer for review and approval.
- All defects coming out from a week's development shall be considered on top priority and fixed before jumping into next scheduled task of further development.

8. TESTING AND ACCEPTANCE

- Test plan to be provided by Developer at the end of first week after project Kick-Off, and final approval from the customer within a week after.
- Unit tests to be executed on all code and pass.
- Defects severity is to be determined by Customer team.
- Each week all planned features are tested according to test plan and prior to build all defects are fixed.
- New defects found by customer team are fixed by the following week:
 - These defects are fixed and are highest priority during the course of next week's development.
- All defects are fixed prior to final delivery and 100% of Test Plans is tested and they all Pass.
- All defects tracked in JIRRA for the project development by all developers, defects to be managed in: the tool.

9. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP

All Intellectual Property (including Source Code, Documentation, and Application Package) during the project is owned by the Customer, and will be turned over to the Customer at the conclusion of the project by Developer and after the fulfillment of all commercial obligations by the Customer.

The customer is the sole owner of the developed software with full IPR. All ownership and development rights shall refer to Copyright **XXXXX 2011**.

10. MAINTENANCE AND SUPPORT

Developer shall be responsible for fixing any defects or bugs that occur because of the code or program developed by Developer within the first month from date the **XXXXX** application available at Apple Store.

It is to be noted that any tasks or enhancements or feature specification change or architecture changes related task beyond the functional requirements given in this agreement, shall not be considered as bugs or defects in the code, and those shall be done by Developer by taking separate time efforts and at the cost of USD XYZ per man hour.

11. TERM OF AGREEMENT

This Agreement commences on the date it is executed and shall continue until full performance by both parties, or until earlier terminated by one party under the terms of this Agreement.

12. TERMINATION

The Customer shall, in the event of Developer committing any breach of any of the terms and conditions of this agreement or for any other reason considered as sufficient, be entitled to terminate this agreement by giving 3 weeks' notice in writing and it is applicable only when the project is not completed. If the customer terminates the agreement, then the payment accrued or payable to Developer up to the date of the termination will become accrued or payable to Developer only up to that date. The customer shall compensate the Developer up to the date of termination with a fee calculated on Pro-rata basis. Developer may also terminate this Agreement by giving 3 weeks' notice in writing to Customer. It is applicable only when the project is not completed. In case Developer terminates the agreement, it shall handover the entire project related IPR, work done till date, and source code to the customer.

13. RELATIONSHIP OF THE PARTIES

Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties.

Each party understands that it is an independently owned business entity and this Agreement does not make it, its employees, associates or agents as employees, agents or legal representatives of the other party for any purpose whatsoever.

14. ENTIRE AGREEMENT

This agreement supersedes all oral and written representations and agreements between the parties including, but not limited to any earlier agreement relating to the subject matter thereof any other agreement between the parties in relation to the subject matter thereof.

15. GOVERNING LAW AND JURISDICTION

This agreement shall be construed, interpreted and governed by and in accordance with the laws of India. In case the arbitration proceedings fail, all disputes arising out of this agreement and any document related hereto shall be subject to exclusive jurisdiction of the courts of New Delhi, India.

16. NOTICE

Any notice or other communication required or permitted to be given between the parties under this agreement shall be given in writing at the following address or such other addresses may be intimated from time to time.

For XXXXX, Inc

Kind Attn: Mr. **XYZ, CEO**
XXXXX, Inc
Address

For Developer

Kind Attn: **Mr. XYZ, Director**
Developer Technologies Private Limited
Reg. Office.
Address

IN WITNESS WHEREOF, the parties have caused their common seal to be affixed to these presents and the duplicate, the day and year first hereinabove written.

For XXXXX, Inc.

For Developer Technologies Pvt. Ltd.

Authorized Signature

Authorized Signature

XYZ, CEO

XYZ, Director

EXHIBIT A

1. Proposed Project Development Milestones (*To be filled up by the Project Manager*)

| Milestone No. | Action | Days (Min – Max) | Outcome on completion |
|---------------|--------|------------------|-----------------------|
| #1 | | | |
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| #2 | | | |
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| #3 | | | |
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| #4 | | | |
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| #5 | | | |
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EXHIBIT B

Scope of the Work

Scope of the work for XXXXX version 1.01 as shared by customer with Developer on 9/30/2011

(Finalized specifications with Mockup screens can be shared here, the whole agreement shall be based on these specifications only, anything beyond these shall be considered as a “Change request” and shall be done on separate charges on the agreed man hour rate.)