



GT Custom Software Development Terms & Conditions

1. DEFINITIONS

- 1.1 'Completion Date' shall mean the date included in the Agreement or, where not so specified, the date included in the Statement of Work as the date upon which the Project is to be completed.
- 1.2 'Agreement' shall mean the agreement between the Customer and the Developer for the execution of the Project, including all documents to which reference may properly be made, including the Statement of Work and the Developer's Custom Software Development Terms & Conditions Document and the in order to ascertain the rights and obligations of the parties.
- 1.3 'Developer' shall mean the person, firm or company identified in the Agreement as responsible for carrying out the Project and shall include the Developer's personal representatives, successors and permitted assigns.
- 1.4 'Developer Place of Business' shall mean the principal place of business of the Developer.
- 1.5 'Agreement Price' shall mean that sum so named in the Agreement or the sum to be ascertained from the rates and prices contained in the Agreement together with any additions thereto or deductions therefrom agreed in writing under the Agreement and excludes GST.
- 1.6 'Customer' shall mean the person, firm or company identified in the Agreement for whom the Project is to be carried out and shall include the Customer's legal representatives, successors and assigns. 'Client' shall mean the person, firm or company identified in the Agreement for whom the Project is to be carried out and shall include the Customer's legal representatives, successors and assigns.
- 1.7 'Customer Place of Business' shall mean the principal place of business of the Customer.
- 1.8 'Premises' shall mean the place or places other than the Developer's premises to which the Software is to be delivered or where work is to be done.
- 1.9 'SOW' shall mean the timing and sequence of events agreed between the Customer and the Developer for the performance of the Agreement.
- 1.10 'Project' shall mean and include the design, development, supply, delivery, installation, testing and implementation of the Software and all other work to be carried out by the Developer under the Agreement.
- 1.11 'Software' shall mean the programs and associated documentation, to be provided by the Developer to the Customer under the Agreement.
- 1.12 'App Name' the name of the Software.
- 1.13 'Specified Equipment' shall mean the computer or computers (including operating systems) on which the Software is to function as specified in the Agreement.
- 1.14 'Sub-Developer' shall mean any person firm or company to whom any part of the



Agreement has been sublet in accordance with the Agreement and its legal representatives, successors and permitted assigns.

1.15 'Project Manager' shall mean the person to act as the project manager, facilitator & co-ordinator of all aspects of the SOW.

2. IDENTIFICATION OF THE PARTIES

This Agreement is made between Customer with a principal place of business at Customer Place of Business and Developer with a principal place of business at Developer Place of Business.

3. PURPOSE OF AGREEMENT

Customer desires to retain Developer as an independent Developer to develop the software (the "Software") described in the Functional Specification contained in Section B as set forth in the agreed SOW attached to and made part of this Agreement. Developer is ready, willing and able to undertake the development of the Software and agrees to do so under the terms and conditions set forth in this Agreement. Accordingly, the parties agree as follows:

4. PREPARATION OF FUNCTIONAL SPECIFICATION

Developer shall prepare a Functional Specification ("Functional Specification") for the Software, satisfying the requirements. The Functional Specification shall include:

- (a) detailed Specifications for the Software;
- (b) a listing of all items to be delivered to Customer under this Agreement ("Deliverables");
- (c) a delivery schedule containing a delivery date for each Deliverable; and

Developer shall deliver the Functional Specification to Customer by Completion Date. Customer shall have 5 days to review the Functional Specification. Upon approval of the Functional Specification by Customer, it will be marked as "Functional Specification" together with Section D - User Specification in the agreed SOW and will be deemed by both parties to have become a part of this Agreement and will be incorporated by reference. Developer shall then commence development of Software that will substantially conform to the requirements set forth in the agreed SOW.

5. PAYMENT

5.1 Customer shall pay Developer according to the chosen payment options as described in Section C which is attached to and made part of this Agreement as set forth in the agreed SOW.

5.2 Developer reserves the right to charge interest on overdue payments. Interest will be charged at 6-12% annually, calculated daily, and will accrue from the date that the payment was due until the date that all outstanding amounts (including interest) are paid in full.

5.3 Customer is responsible for repaying collection expenses (such as legal fees).



5.4 Developer reserves the right to suspend services if payments are late, and any such suspension will breach the agreement.

5.5 If the Customer owns the source code as part of the Agreement the Developer shall not provide Customer with source code until the Agreement is fully paid and signed-off.

6. PAYMENT OF DEVELOPER'S COSTS

Customer shall reimburse Developer for the cost of any development software or commercial software libraries the developer deems necessary to complete this project, subject to approval by Customer.

7. CHANGES IN PROJECT SCOPE

If at any time following acceptance of the SOW by Customer, Customer should desire a change in Developer's performance under this Agreement that will alter or amend the Specifications or other elements of the SOW, Customer shall submit to Developer a written proposal specifying the desired changes (using Change Request Form Section F of SOW).

Developer will evaluate each such proposal at its standard rates and charges. Developer shall submit to Customer a written response to each such proposal within 10 working days following receipt thereof. Developer's written response shall include a statement of the availability of Developer's personnel and resources, as well as any impact the proposed changes will have on the Agreement price, delivery dates or warranty provisions of this Agreement.

8. ACCEPTANCE TESTING OF SOFTWARE

8.1 Developer has a clear and workable acceptance mechanism. The mechanism for addressing how deliverables will be tested and accepted are tied directly to each of the objective specifications, so that a failure for Developer to meet those specifications is the only basis for rejecting a deliverable. During the project Customer has a 7 day period in which to reject a deliverable, and must give detailed reasons for any rejection. If Customer does not reject a deliverable within the applicable period or 7 days, the deliverable will be deemed accepted.

8.2 Customer shall have 15 days from the date of delivery of the Software in final form to inspect, test and evaluate it to determine whether the Software satisfies the acceptance criteria in accordance with procedures set forth in Functional Specification, or as established by Developer and approved by Customer prior to testing.

8.3 If the Software does not satisfy the acceptance criteria, Customer shall give Developer written notice stating why the Software is unacceptable. Developer shall have 15 days from the receipt of such notice to correct the deficiencies. Customer shall then have 15 days to inspect, test and evaluate the Software. If the Software still does not satisfy the acceptance criteria, Customer shall have the option of either (1) repeating the procedure set forth above, or (2) terminating this Agreement pursuant to the section of this Agreement entitled "Termination of Agreement." If Customer does not give written notice to Developer within the initial 15-day



inspection, testing and evaluation period or any extension of that period, that the Software does not satisfy the acceptance criteria, Customer shall be deemed to have accepted the Software upon expiration of such period.

8.4 Developer shall use beta test service called "TestFairy" for up to 10 testers and will provide app builds to the Huddle App test team using this service. If beta testing of over 10 users is required an additional one-off cost of \$500 excluding GST will be charged for each additional 5 testers. An email list of all Huddle App test team users will be required by Developer. First builds are emailed to test teams no earlier than the first 4 weeks of a project. Subsequent builds are not emailed less than 2-3 weeks after a previous build.

8.5 Project Sign-Off

Using this form will officially bring Agreement and Project to a close and give Customer an opportunity to discuss key aspects of Project with Developer. It will give Customer a mutually agreed-upon outcome. (see Project Sign-Off Sheet Section H of SOW).

9. OWNERSHIP OF INTELLECTUAL PROPERTY AND RIGHTS

9.1 Those parts of the Software specifically developed or written under the Agreement including the source code (hereinafter called collectively 'the Developed Software') and the copyright and all other intellectual property rights therein shall belong to and vest in the Developer.

9.2 The Developer shall grant to the Customer a non-exclusive licence to use the Developed Software free of further charge on the terms and conditions of the licence(s) as detailed in the SOW. Upon full payment of the fees set forth in this Agreement and sign-off of the SOW, Developer will grant to Customer a license to install and use Developed Software in it's own business in accordance with the SOW.

9.3 In the event of source code being granted to Customer as part of SOW, the Developer shall supply those parts of the Software specifically developed or written under the Agreement including the source code (hereinafter called collectively 'the Developed Software') and the copyright and all other intellectual property rights therein shall belong to and vest in the Customer, excluding any source code licensed to Developer or other copyright owners as noted in SOW, upon full payment of the fees set forth in this Agreement and sign-off in the SOW (using Change Request Form Section F of SOW).

10. WARRANTY PERIOD

10.1 The Developer shall in accordance with acceptable computing practice to make good with all possible speed at its own expense any defect in any portion of the Project which may be identified and is notified to the Developer during a period of thirty days after the Completion Date and which results in a failure of the Software to fulfil the functions or meet the level of performance detailed in the Agreement.

10.2 The provisions of this Clause shall not apply to any defects which arise or develop as a result of alterations made to the Developed Software by the Customer or any unclear



requirements or slow internal communications from the Customer.

11. CONFIDENTIALITY

During the term of this Agreement and for 6 months afterward, Developer will use reasonable care to prevent the unauthorised use or dissemination of Customer's confidential information. Reasonable care means at least the same degree of care Developer uses to protect its own confidential information from unauthorised disclosure.

Confidential information is limited to information clearly marked as confidential, or disclosed orally that is treated as confidential when disclosed and summarised and identified as confidential in a writing delivered to Consultant within 15 days of disclosure.

Confidential information does not include information that:

- the Developer knew before Customer disclosed it
- is or becomes public knowledge through no fault of Consultant
- Developer obtains from sources other than Customer who owe no duty of confidentiality to Customer, or
- Developer independently develops.

12. 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.

13. TERMINATION OF AGREEMENT

Each party shall have the right to terminate this Agreement by written notice to the other if a party has materially breached any obligation herein and such breach remains uncured for a period of 30 days after written notice of such breach is sent to the other party.

If Developer terminates this Agreement because of Customer's default, all of the following shall apply:

- (a) Customer shall immediately cease use of the Software.
- (b) Customer shall, within 10 days of such termination, deliver to Developer all copies and portions of the Software and related materials and documentation in its possession furnished by Developer under this Agreement.
- (c) All amounts payable or accrued to Developer under this Agreement shall become immediately due and payable.
- (d) All rights and licenses granted to Customer under this Agreement shall immediately terminate.

14. DEVELOPER AN INDEPENDENT DEVELOPER

Developer is an independent Developer, and neither Developer nor Developer's staff is, or shall be deemed, Customer's employees. In its capacity as an independent Developer, Developer agrees and represents, and Customer agrees, as follows:



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- (a) Developer has the right to perform services for others during the term of this Agreement subject to non-competition provisions set out in this Agreement, if any.
- (b) Developer has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed.
- (c) Developer has the right to perform the services required by this Agreement at any place or location and at such times as Developer may determine.
- (d) Developer will furnish all equipment and materials used to provide the services required by this Agreement, except to the extent that Consultant's work must be performed on or with Customer's computer or existing software.
- (e) The services required by this Agreement shall be performed by Developer, or Developer's staff, and Customer shall not be required to hire, supervise or pay any assistants to help Developer.
- (f) Developer is responsible for paying all ordinary and necessary expenses of its staff.
- (g) Neither Developer nor Developer's staff shall be required to devote full-time to the performance of the services required by this Agreement.
- (h) Customer shall not withhold from Developer's compensation any amount that would normally be withheld from an employee's pay.

15. GENERAL PROVISIONS

- (a) Complete Agreement: This Agreement together with all Sections, appendices or other attachments, which are incorporated herein by reference, is the sole and entire Agreement between the parties. This Agreement supersedes all prior understandings, agreements and documentation relating to such subject matter. In the event of a conflict between the provisions of the main body of the Agreement and any attached Sections, appendices or other materials, the Agreement shall take precedence.
- (b) Modifications to Agreement: Modifications and amendments to this Agreement, including any Section or appendix hereto, shall be enforceable only if they are in writing and are signed by authorised representatives of both parties. Customer shall submit to Developer a written proposal specifying the desired changes (using Change Request Form Section F of SOW).
- (c) Applicable law: This Agreement will be governed by the laws of the State of New South Wales.
- (d) Notices: All notices and other communications given in connection with this Agreement shall be in writing and shall be deemed given as follows:
- When delivered personally to the recipient's address as appearing in the introductory paragraph to this Agreement;
 - Three days after being deposited in the Australian mail, postage prepaid to the recipient's address as appearing in the introductory paragraph to this Agreement, or
 - When sent by fax or electronic mail. Notice is effective upon receipt provided that a



duplicate copy of the notice is promptly given by first-class or certified mail, or the recipient delivers a written confirmation of receipt.

- (e) No Agency: Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties.
- (f) Assignment: The rights and obligations under this Agreement are freely assignable by either party.
- (g) Severability: If a court finds any provision of this Agreement invalid or unenforceable, the remainder of this Agreement will be interpreted so as best to carry out the parties' intent.
- (h) Force Majeure. (i) If a Force Majeure Event occurs, the party that is prevented by that Force Majeure Event from performing any one or more obligations under this agreement (the "Nonperforming Party") will be excused from performing those obligations, on condition that it complies with its obligations under section (h)(iii).
- (ii) For purposes of this agreement, "Force Majeure Event" means, with respect to a party, any event or circumstance, regardless of whether it was foreseeable, that was not caused by that party and that prevents a party from complying with any of its obligations under this agreement [(other than an obligation to pay money)], on condition that that party that uses reasonable efforts to do so, except that a Force Majeure Event will not include [any a strike or other labour unrest that affects only one party, an increase in prices, or a change of law].
- (iii) Upon occurrence of a Force Majeure Event, the Nonperforming Party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long that party expects it to last. Thereafter the Nonperforming Party shall update that information as reasonably necessary. During a Force Majeure Event, the Nonperforming Party shall use reasonable efforts to limit damages to the Performing Party and to resume its performance under this agreement.

16. PROGRAM MANAGEMENT

16.1 PROGRAM PLANNING AND CONTROL

Developer shall provide overall management and technical direction for all phases of the allocated tasks. These phases shall include but not be limited to program planning, management control and reporting, quality management, schedule management and control, configuration management and control, data control, coordination, reporting and administration to ensure the performance of the tasks delineated as set forth in the agreed SOW.

16.2 PROGRAM MANAGER

A program manager shall be designated by Developer who shall possess singular authority to plan and direct the successful efforts described in this SOW.



17. PLACE OF PERFORMANCE

All work arising from this Agreement shall be performed at the Developer's current facilities, or at the facilities of the Developer 's subcontractors. Travel to the Customer facility by Developer is limited to those activities specifically required by this SOW. Travel expenses, including air, auto, meals and lodging, in excess of this limitation or to any other location will be reimbursed to Developer by the Customer at cost in accordance with policies established for the Customer's own employees.

18. FAILURE TO PROVIDE TIMELY INFORMATION

18.1 Sometimes in the event of the project Customer functional specification, assets, artwork or other raw materials are not supplied in a timely manner to the Developer. Also sometimes unclear requirements or slow internal communications can slow down or halt a project. In this situation, and if the project completion date is passed or suspended the Developer T&M rates will apply if the Customer wishes the developer to complete the project.

18.2 Developer is not responsible and not in breach for missed deadlines caused by the Customer (for example, by the customer's failure to provide timely information or instructions or necessary access to facilities or equipment, or to communicate in a timely manner or to otherwise not cooperate under the agreement). In this situation, and if the project completion date is passed or suspended the Developer T&M rates will apply if the Customer wishes the developer to complete the project.

19. ADDITIONAL CONDITIONS

See additional conditions as set forth in the agreed SOW, which is attached to and made part of this Agreement.

20. SIGNATURES

See signatures as detailed in Appendix as set forth in the agreed SOW.