



NOCTURNALS SOFTWARE SOLUTIONS

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SOFTWARE DEVELOPMENT AGREEMENT

1. PARTIES

This Software Development Agreement ("Agreement") is entered into on _____
("Effective Date") between:

Developer: Nocturnals Software Solutions, a company incorporated in Kenya, with its principal place of business at Prosperity House, Westlands Road, Nairobi, Kenya ("Developer" or "Company").

Client: _____, a _____, with its principal place of business at _____ ("Client").

Developer and Client are collectively referred to as the "Parties" and individually as a "Party."

WHEREAS, Developer is engaged in the business of providing software development, design, and related technology services; and

WHEREAS, Client desires to engage Developer to develop, design, and deliver certain software solutions as more fully described herein; and

WHEREAS, the Parties desire to set forth the terms and conditions under which Developer will provide such services to Client;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

2. SCOPE OF WORK

Developer agrees to develop, design, and deliver the software solution described in the Project Specification attached as _____ (the "Project" or "Software").

2.1 Project Description

The Project includes the following deliverables:

- Custom software application as specified in the Project Specification
- Source code and compiled binaries
- Technical documentation and user manuals
- Database schemas and configuration files
- Installation and deployment guides
- Testing and quality assurance reports

2.2 Development Process

Developer will follow industry-standard software development practices, including:

- Requirements analysis and specification
- System design and architecture planning
- Agile development methodology with regular progress updates
- Code reviews and quality assurance
- Testing and bug fixing
- Documentation and knowledge transfer

2.3 Client Responsibilities

Client agrees to:

- Provide timely and accurate information, data, and materials necessary for development
- Respond to Developer's inquiries and requests for clarification within five (5) business days
- Participate in regular review meetings and provide feedback
- Test and approve deliverables according to agreed timelines
- Make timely payments as specified in Section 3

2.4 Change Requests

Any changes to the Project Specification must be submitted in writing and approved by both Parties. Changes may result in adjustments to the project timeline, deliverables, and fees. Developer will provide a written estimate for any change requests before implementation.

3. PAYMENT TERMS

3.1 Project Fee

The total project fee is _____ ("Project Fee"), payable according to the following schedule:

Milestone	Description	Amount	Due Date
Initial Payment	Upon signing this Agreement	_____	_____
Milestone 1	_____	_____	_____
Milestone 2	_____	_____	_____
Final Payment	Upon project completion and acceptance	_____	_____

3.2 Payment Method

All payments shall be made via _____ to the following account:

- **Bank:** _____
- **Account Name:** Nocturnals Software Solutions
- **Account Number:** _____
- **SWIFT Code:** _____

3.3 Late Payments

If Client fails to make any payment when due, Developer may:

- Suspend work on the Project until payment is received
- Charge interest on overdue amounts at a rate of 1.5% per month
- Terminate this Agreement in accordance with Section 9

3.4 Additional Services

Any additional services, features, or modifications requested by Client beyond the original Project Specification will be billed separately at Developer's standard hourly rate of _____ per hour, or as otherwise agreed in writing.

4. TIMELINE & DELIVERABLES

4.1 Project Timeline

The estimated project completion date is _____. Developer will provide Client with a detailed project timeline and milestone schedule within ten (10) business days of the Effective Date.

4.2 Deliverables

Developer will deliver the following:

- Fully functional software application meeting the Project Specification
- Complete source code and documentation
- Installation and deployment instructions
- User documentation and training materials
- Test reports and quality assurance documentation

4.3 Acceptance Testing

Client shall have ten (10) business days from delivery of each milestone to test and accept or reject the deliverables. If Client does not provide written notice of rejection within this period, the deliverables shall be deemed accepted.

If Client rejects any deliverable, Client must provide written notice specifying the reasons for rejection. Developer will correct any defects or non-conformities and resubmit the deliverable for acceptance.

4.4 Delays

Developer shall not be liable for delays caused by:

- Client's failure to provide required information, materials, or approvals
- Client-requested changes to the Project Specification
- Force majeure events
- Third-party delays beyond Developer's control

5. INTELLECTUAL PROPERTY

Intellectual property rights in the Software and related deliverables are governed by the separate Intellectual Property Agreement executed concurrently with this Agreement. In the absence of such separate agreement, the following terms apply:

- Developer retains ownership of all source code and pre-existing intellectual property
- Upon full payment, Client receives a non-exclusive, perpetual license to use the Software
- Any transfer of ownership requires a separate written agreement and additional compensation

For complete details regarding intellectual property ownership and licensing, please refer to the Intellectual Property Agreement.

6. WARRANTIES & REPRESENTATIONS

6.1 Developer Warranties

Developer warrants that:

- The Software will perform substantially in accordance with the Project Specification
- The Software does not infringe upon any third-party intellectual property rights
- Developer has the right and authority to enter into this Agreement
- The Software will be free from material defects for a period of ninety (90) days following final acceptance

6.2 Client Warranties

Client warrants that:

- Client has the right and authority to enter into this Agreement
- All information, data, and materials provided to Developer are accurate and do not infringe upon any third-party rights
- Client will use the Software in compliance with all applicable laws and regulations

6.3 Disclaimer

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, DEVELOPER PROVIDES THE SOFTWARE "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

7. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW:

- DEVELOPER'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CLIENT TO DEVELOPER UNDER THIS AGREEMENT
- IN NO EVENT SHALL DEVELOPER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, DATA, OR BUSINESS OPPORTUNITIES
- DEVELOPER SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING FROM CLIENT'S USE OR MISUSE OF THE SOFTWARE

8. CONFIDENTIALITY

Both Parties agree to maintain the confidentiality of all confidential information disclosed during the course of this Agreement. Confidential information includes, but is not limited to:

- Source code, algorithms, and technical specifications
- Business plans, financial information, and customer data
- Any information marked as confidential or which should reasonably be understood to be confidential

This obligation of confidentiality shall survive termination of this Agreement and shall continue for a period of five (5) years from the date of disclosure.

9. TERMINATION

9.1 Termination for Convenience

Either Party may terminate this Agreement at any time by providing thirty (30) days written notice to the other Party.

9.2 Termination for Cause

Either Party may terminate this Agreement immediately upon written notice if:

- The other Party materially breaches this Agreement and fails to cure such breach within thirty (30) days after written notice
- The other Party becomes insolvent, files for bankruptcy, or ceases to conduct business

9.3 Effect of Termination

Upon termination:

- Client shall pay Developer for all work completed and expenses incurred up to the date of termination
- Developer shall deliver all completed work product to Client
- Each Party shall return or destroy all confidential information of the other Party
- Sections 5 (Intellectual Property), 7 (Limitation of Liability), 8 (Confidentiality), and 11 (Governing Law) shall survive termination

10. SUPPORT & MAINTENANCE

Unless otherwise agreed in a separate support and maintenance agreement, Developer is not obligated to provide ongoing support, maintenance, or updates after project completion and final payment.

Any support, maintenance, or updates requested by Client after project completion will be subject to a separate agreement and additional fees at Developer's then-current rates.

11. GOVERNING LAW & JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the Republic of Kenya, without regard to its conflict of law principles.

Any disputes arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the courts of Nairobi, Kenya. The Parties agree to submit to the personal jurisdiction of such courts and waive any objection to venue in such courts.

In the event of any dispute, the Parties agree to first attempt to resolve the matter through good faith negotiation. If such negotiation fails, the Parties may agree to mediation before resorting to litigation.

12. GENERAL PROVISIONS

12.1 Entire Agreement

This Agreement, together with any exhibits and the Intellectual Property Agreement, constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations, or agreements relating to the subject matter hereof.

12.2 Amendments

This Agreement may only be amended by a written instrument signed by both Parties.

12.3 Assignment

Neither Party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other Party, except that Developer may assign this Agreement to an affiliate or in connection with a merger or acquisition.

12.4 Force Majeure

Neither Party shall be liable for any failure or delay in performance due to circumstances beyond its reasonable control, including but not limited to acts of God, war, terrorism, labor disputes, or government actions.

12.5 Severability

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

12.6 Notices

All notices required under this Agreement shall be in writing and delivered to the addresses specified in Section 1, or to such other address as either Party may designate in writing.

13. SIGNATURES

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Electronic signatures and facsimile signatures shall be deemed valid and binding.

By signing below, each Party acknowledges that they have read, understood, and agree to be bound by the

terms and conditions of this Agreement.

DEVELOPER:

Nocturnals Software Solutions

Signature: _____

Name: _____

Title: _____

Date: _____

CLIENT:

Signature: _____

Name: _____

Title: _____

Date: _____