

## TERMINOLOGY AND DEFINITIONS FOR HEREINAFTER REFERENCE

“**AUTHOR**” means a freelance developer - Alexander Borisovich Prokopyev.

“**SOFTWARE**” means custom scripts created by the AUTHOR.

“**CUSTOMER**” means a freelance customer of the AUTHOR which is also a licensee of the SOFTWARE.

“**LICENSOR**” means a licensor of the SOFTWARE to the CUSTOMER. Generally the AUTHOR is also the LICENSOR unless the opposite is agreed in advance with both parties.

“**LICENSORS**” means both the AUTHOR and the LICENSOR.

“**AGREEMENT**” means this preliminary agreement between the AUTHOR and the CUSTOMER described in this document.

## THE AUTHOR WORK TERMS

The AUTHOR works only remotely from his home part-time **up to 80 hours a month in a total of actual non-idle billed work efforts**. For an emergency administration work the dedication of **up to 12 hours a day is possible temporary** if and when needed urgently on some days only, **an urgent (10 minutes) response to such “all hands” incidents** is acceptable during predefined in an advance time, anyway a monthly total of active billed work shall not exceed already mentioned above 80 hours of work (at least as an average per month for continuous three months). Scheduled upgrade works are also possible on weekends and holidays during the offline time for services if and when needed on preliminary request (at least one day in advance).

The AUTHOR generally works **without prepay**s, but the CUSTOMER gets only **protected binary deliverables of new versions of the CUSTOMER’S project with some restrictions like an expiration date for being tested executables**, which the CUSTOMER can test if needed in his sand-boxed environment on his test server before payment. The source codes for the current phase of work are NOT available for CUSTOMER in his testing environment until his payment for this phase of work is received by the LICENSOR. The source code for a phase of work is provided under a license agreement each time after the corresponding payment received by the LICENSOR.

## TERMINATION AND CUSTOMER’S RIGHT TO REJECT A PAYMENT

A small phase of the AUTHOR yet unredeemed work (**with a duration of not more than 10-40 hours** agreed with the CUSTOMER in advance) **at the AUTHOR general rate can be rejected at any point of time**, after that the AUTHOR can terminate this cooperation and/or **prohibit the CUSTOMER to use new results of such not paid phase of AUTHOR work**, anyway the **CUSTOMER is still allowed to continue to use results of AUTHOR work from other earlier phases**



(if existed) paid by CUSTOMER to the LICENSOR according to the signed executed effective authentic licenses. It is a good idea to use such rejecting opportunity at the very beginning of work of the AUTHOR if the CUSTOMER does not like AUTHOR work, it is the same as a test task or a test work or a probationary period at the beginning of the cooperation. Also, it is possible later at some point in time if the CUSTOMER starts feeling the quality of AUTHOR work becomes worse than acceptable or is too slow for the CUSTOMER.

The CUSTOMER shall not reject or delay (for example if The CUSTOMER has unexpected financial straits or dislikes work of the AUTHOR) a payment to the LICENSOR for a phase of AUTHOR yet unsettled but completed phase of work which is longer than 40 hours as it breaks conditions of these terms and also makes the AUTHOR wasting his time on working for the CUSTOMER while the CUSTOMER is not going to or cannot recover the cost of the AUTHOR efforts. Payment shall be done no later than in four weeks (one month) since the AUTHOR notified the CUSTOMER about the phase is ready for a test or not later than in two weeks since results are already installed and tested. The CUSTOMER shall make his best efforts to promptly and in time (earlier than 40 hours of the AUTHOR work spent) indicate if he is not interested to pay for a current phase of AUTHOR work and/or would like to terminate this cooperation if the CUSTOMER does not like something uncorrectable in the AUTHOR work (from his point of view) and the CUSTOMER shall notify the AUTHOR in an examinable way about this at once ASAP to not exceed wasting 40 hours of the AUTHOR work.

All hours of the AUTHOR yet unsettled work above rejected 40 hours shall be paid anyway ASAP not later than in one month since his request to test a completed phase of his work despite the CUSTOMER opportunity to reject (only) the first 40 hours of work.

The minimum amount of billed work efforts is 20 hours per month if the CUSTOMER cannot load the AUTHOR more or even cannot load at least at this level but at the same time provided the AUTHOR can sustain a load of 20 hours per month, it is like a minimum monthly subscription paid at the end of the month if the CUSTOMER is still interested in the AUTHOR promptly and quick reaction to CUSTOMER administration incidents and/or development bug fixing, otherwise the CUSTOMER shall explicitly notify about his inability of cooperation under these terms. Otherwise, the AUTHOR will anyway begin to look for other more demanding projects, and when found one it will get a higher priority over the old CUSTOMER which is without enough load and therefore generally without enough payment.

A change of the AUTHOR pay rate is possible only just after a phase of his work is completed (not in a middle of a phase of work). The AUTHOR generally increases his rate only together with fiat currency inflation, significant changes of the GOLD exchange rate, and the cost of a consumer basket.



## INDEMNIFICATION

The CUSTOMER agrees that I the LICENSORS are not responsible and I will not be charged penalties, indemnities, compensations by the CUSTOMER, his party, or any 3-rd party (including but not limited to parties affiliated by CUSTOMER) under any conditions including (but NOT limited to) the following cases in their any combinations:

- 1) AUTHOR results are late or even are lacking at all by the expected date.
- 2) The unexpectedly large amount of the AUTHOR work efforts needed.
- 3) The CUSTOMER does not like the AUTHOR results, or the results do not suit the CUSTOMER for some reasons like his expectations, his time spent, his expenses to purchase any related to the AUTHOR work or suggested by the AUTHOR software licenses.

Actually, the AUTHOR generally suggests using FREE open-source software unless the CUSTOMER insists on using the opposite (proprietary software).

- 4) The CUSTOMER has already lost his interest.

**THE SOFTWARE (THE AUTHOR RESULTS AS DELIVERABLES) IS PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN NO EVENT SHALL THE AUTHORS OR COPYRIGHT HOLDERS BE LIABLE FOR ANY CLAIM, DAMAGES OR OTHER LIABILITY, WHETHER IN AN ACTION OF CONTRACT, TORT OR OTHERWISE, ARISING FROM, OUT OF OR IN CONNECTION WITH THE SOFTWARE OR THE USE OR OTHER DEALINGS IN THE SOFTWARE.**

The CUSTOMER agrees to hold harmless and indemnify the LICENSORS and their affiliates, agents, other licensors, and licensees from and against any claim, suit, or action arising from or in any way related to the CUSTOMER use of the SOFTWARE or CUSTOMER violation of the AGREEMENT, including any liability or expense arising from all and any claims, losses, damages, suits, judgments, litigation costs and attorneys' fees, of every kind and nature.

The AUTHOR does NOT sell any of his consulting services. The LICENSOR sells only licenses for resulting custom scripts of the AUTHOR to the CUSTOMER.

The CUSTOMER only must pay the LICENSOR AFTER the CUSTOMER was allowed by the AUTHOR to test the binary deliverables and BEFORE the CUSTOMER receives the source codes. The CUSTOMER payments to the LICENSOR are not reversible or returnable for any reason after the CUSTOMER has received the corresponding source code for binary deliverables from the AUTHOR after the payment.



## **COPYRIGHT AND THE AUTHOR'S EXCLUSIVE RIGHTS**

**COMMON UTILITIES AND THE AUTHOR PERSONAL PROJECTS ARE © COPYRIGHT BY THE AUTHOR (ALEXANDER BORISOVICH PROKOPYEV), ALL RIGHTS RESERVED (EXCLUSIVE RIGHTS TOO), CUSTOMER NDA SHALL NOT RESTRICT THE AUTHOR TO USE HIS EXCLUSIVE RIGHTS IN THIS INTELLECTUAL PROPERTY FOR ANY OTHER FURTHER WORK OR ANY FUTURE PROJECT NOT RELATED TO THE CUSTOMER. IF SOME OF THE AUTHOR COMMON UTILITIES ARE USED IN THE CUSTOMER PROJECTS PROVIDED WITH THE AUTHOR AUTHENTIC HAND SIGNED PERMISSION THEY ARE LICENSED NON EXCLUSIVELY TO THE CUSTOMER ONLY UNDER A SIMPLE LICENSE AGREEMENT** and sometimes if additionally agreed in advance may include rights for modifications and to make derivative works for the CUSTOMER still under a simple license agreement too where such rights for modifications shall be indicated explicitly.

**All NON-COMMON custom scripts and configurations that are done specifically for the CUSTOMER are licensed exclusively to the CUSTOMER, also can be under the CUSTOMER NDA if needed and agreed in advance.**

## **UNDERSTANDING**

The parties of the AGREEMENT understand the terms of this AGREEMENT precisely in the context of a common sense of this AGREEMENT. In a case of a discrepancy between a heading of a section of the AGREEMENT with a sense of terms contained in such section, the parties consider the sense of terms inside the section prevailing over the sense of the section heading.

Headings of sections used in this AGREEMENT are provided only for convenience and reference purposes and in no way define, limit, construe or describe the scope or extent of such section. Such headings shall not be used to construe meaning or intent. The section headings are for convenience only and have no legal or contractual effect.

This AGREEMENT is the entire agreement between the parties relating to its subject matter. This AGREEMENT supersedes all prior or contemporaneous oral, electronic, or written communications, proposals, representations, and warranties and prevails over any conflicting or additional terms of any quote, order, acknowledgment, or other communication between the parties relating to the subject matter of this AGREEMENT during the term of the AGREEMENT.

The parties warrant that identifying particulars relating to name, location, address, email, phone, bank accounts, and contact information are true and correct, and that each party may be contacted by another party at the address given for such purpose. The Parties shall keep such information updated during the execution of this AGREEMENT.



## **STRONGLY UNACCEPTABLE**

- 1) Relocation, on-site work, debts.
- 2) Fixed-priced large tasks, exact estimates, strict deadlines and prepayments unacceptable. Only per hour and very approximated non-obligatory estimates acceptable for such tasks.  
**It is also known as “Time and Materials” approach which is ACCEPTABLE.**
- 3) Administration of proprietary like:
  - 3.1) Blades, mainframes, etc.;
  - 3.2) Windows, UNIXes (like AIX, HP-UX), AS/400, WebSphere, Tivoli, InterSystems Cache, Oracle Database, VMWare vSphere, Kaspersky, etc.  
**except for IBM Db2 on Linux and ZFS on Solaris those are ACCEPTABLE.**
- 4) MySQL for high-loaded projects.
- 5) Military and body shop companies like Luxoft are unacceptable. Companies looking only for soft skills are unacceptable.  
**On the other hand, the following are ACCEPTABLE: direct civilian companies that need help in script programming (e.g. IaC and partially DevOps) to automate their server administration tasks and only with serialized long-term projects WITHOUT simultaneous switching between tasks of different concurrent customers. Companies producing products (e.g. software) or services with long-term projects are preferred.**
- 6) Regular paperwork, project and staff management, non-technical activity, legacy technologies, working in large groups, teams or departments.

