

CONFIDENTIAL

**FRAME AGREEMENT  
FOR  
SOFTWARE DEVELOPMENT SERVICES**

**DATED**

**[XX/XX/20XX]**

**BETWEEN**

**[NAME OF COMPANY].**

**And**

**NTQ SOLUTION JSC.,**

## FRAME AGREEMENT FOR SOFTWARE DEVELOPMENT SERVICES

### 1. PARTIES

This frame agreement for software development services (the “**Agreement**”) is made by and between:

- 1.1. **[Name of Company]**. (Business ID: [No. ID]), registered at [Address of Company] (“**Customer**”); and
- 1.2. **NTQ Solution JSC**, (Business ID: 0105355296), registered at No.4A, Lane 1008, Lang street, Lang Thuong ward, Dong Da district, HANOI, Vietnam (“**Developer**”).

(Customer and Developer jointly referred to as the “**Parties**” and individually as the “**Party**”.)

### 2. BACKGROUND, PURPOSE AND SCOPE OF THE AGREEMENT

- 2.1. The Parties have agreed that Developer shall perform certain software development services to Customer by way of to making available the services and skills of certain named consultant(s) to Customer (together “**Services**”), as may be separately agreed upon between the Parties (but without obligation to do so).
- 2.2. This Agreement forms a frame agreement concerning the relations of the Parties and by this Agreement the Parties shall agree on the terms of their cooperation.

### 3. WORK ORDER

- 3.1. Detailed provisions pertaining to the Services (such as the resources allocated to perform software development services, applicable fees and time schedule) are set forth in a work order (“**Work Order**”) and any appendix thereto.
- 3.2. The resource allocation, time schedule and other details in any individual Work Order may be revised upon consent of both Parties and on the terms to be agreed on separately. Should such a revision cause additional costs, the Parties shall agree on the matter in advance. Further, Customer shall have the right to choose the named consultant(s) (the “**Consultant**”) to be assigned to perform the Developer’s Services under any individual Work Order. Customer shall have right to request that a Consultant shall be replaced by Developer, without undue delay, and no later than in thirty (30) working days, with another consultant with similar qualifications.
- 3.3. Without limiting the generality of the forgoing, the Developer agrees to adjust (including decreasing/increasing the number of the Consultants assigned to perform) the resource allocation under any individual Work Order, upon a written request by Customer, to become effective (and correspond to the requested resource allocation) without undue delay but no later than after one (1) month from the date of the request.
- 3.4. Customer has the right to change individual Consultants under this agreement; and every Work Order. The Developer promises execute this change without undue delay but no later than after one (1) month from the date of the request.

### 4. GENERAL DUTIES AND OBLIGATIONS OF THE PARTIES

- 4.1. Developer is an independent service provider. This Agreement shall not constitute an employment relationship between Developer or its employees (personnel) and Customer. Customer shall not incur any liabilities or duties related to employment relationship based on this Agreement.

- 4.2. Developer may use subcontractors for performing its duties under this Agreement only upon receipt of a written prior approval of Customer. Developer is liable for any action by a third-party subcontractor as if the action had been performed by Developer. Developer shall further ensure that its subcontractors undertake to observe the terms set forth herein.
- 4.3. In the event that Customer' property has been handed over to Developer for performing the Services, Developer shall confirm the receipt of such property upon separate request by Customer. Customer is at all times entitled to regain possession of such property upon request.
- 4.4. Developer undertakes to perform the Services according to industry standards and applying its best professional skill and in a cost-efficient manner, and strives to promote with its best efforts Customer' interests.
- 4.5. The Services shall meet the requirements set forth in this Agreement, and any results of the Services shall conform to the agreed specifications. Developer shall do the enhancements and customisations reasonably requested by Customer.
  - 4.5.1. Customer obligates to provide the Developer with all essential documents and information via electronic facilities within 5 (five) business days, after the Developer's request and before each assignment of Services has started, unless other terms are stipulated in the Work Order which are the essential part of the Agreement.
  - 4.5.2. Dates set forth in the time schedule for the Services shall be reviewed and revised by Developer team if necessary with reasonable arguments.
  - 4.5.3. In the event that Developer fails to meet any dates set forth in the time schedule due to a delay by Customer in providing essential documents and information, as stated in 4.5.1, the Customer shall set new dates for that delay in the Work Order.
- 4.6. Developer may solely use personnel that have the necessary skill and experience required for performing the duties of Developer under this Agreement and the relevant Work Order.
- 4.7. Developer shall observe any instructions and orders as well as procedures and practices that Customer may separately issue for the Developer's Services under any individual Work Order.
- 4.8. Developer shall, during the term of this Agreement, timely deliver to Customer the Results in such a form and manner as mutually agreed on or specified by Customer prior to the delivery.
- 4.9. Customer shall contribute to performing the Services by providing to Developer information necessary for performing the Services under any individual Work Order and by informing Developer of expectations that Customer may have regarding the substance of the same.
- 4.10. When deemed necessary, both Parties shall nominate a representative that will act as a contact person towards the other Party before commencement of performing the Services under any individual Work Order.

## **5. FEES AND OTHER COSTS**

- 5.1. The fees for performing Services under an individual Work Order (the "Fees") as well as other costs and the payment terms are defined herein and more closely in the relevant Work Order. The agreed Fees are: [Fee Amount].

Person volume is not subject to absences not resulted by Customer, including but not limited to resignation, sick leave, vacation, leave of absence. Both parties may decide if the period of absence is long enough to replace the individual person.

Invoices will be sent in USD

- 5.2. For the avoidance of doubt it is stated that Customer shall not compensate Developer for any expenses unless otherwise is in advance in writing agreed. This section includes the overtime fees from section 5.4.
- 5.3. The relevant time zone is GMT + 07:00. Working hours are from 8.30 till 12.00 and from 13.15 till 17.45 daily, except Saturday and Sunday, and shall be considered as the usual working hours of the Developer. Days off and public holidays shall be those days, which have such status under the legislation of Vietnam, except cases when Services are rendered at the place of Customer – in such cases the legislature of the country of Customer is applied. The Developer shall provide, at least, monthly schedules of such days to Customer no later than 30 calendar days prior.
- 5.4. Cost for overtime work from 20:00 - 22:00 VNT is 150% of the agreed fee, as stated in section 5.1. Cost for overtime work on Saturday & Sunday is 200% of the agreed fee, as stated in section 5.1. Other overtime requests will be mutually agreed by the two parties.

Moreover, overtime from 17:45 ~ 19:00 are usually to be reserved within a day.

For example: If a member was absent and was approved to arrive late by 1 hour (at 11 A.M) due to personal stuffs, then he is required to cover the equivalent time of working hours. That's how member will use the reserved overtime.

- 5.5. The Parties shall bear and duly pay the taxes that they incur based on this Agreement. Developer shall add VAT to the invoices, if applicable.
- 5.6. The payment term for invoices is thirty (30) days net. Invoices will include fees of one calendar month and can only include realized effective working hours accepted and ordered by Customer.
- 5.7. Developer has the right, during the term of this Agreement, to request that the prices will be revised, however, not more often than once in a calendar year. The Parties shall negotiate, and agree on the possible new prices in writing. Developer needs to inform Customer six (6) months before the price increase. The price increase cannot exceed five (5) percent.

## 6. MILESTONES AND APPROVALS

- 6.1. Customer shall approve or reject in writing the Results of the Services under any individual Work Order in question as soon as possible upon completion of those Services. If the Results are rejected, Customer shall identify the deviations from the specifications or from other requirements. Upon such rejection Developer shall promptly take any and all necessary action in order to provide Customer with acceptable Results conforming to the agreed specifications without additional costs.
- 6.2. In the event that Developer fails to meet any dates set forth in the time schedule for the Services under any individual Work Order, then Customer shall be entitled to terminate this Agreement.
- 6.3. The Developer shall provide Customer with up-to-date information on the progress of the project and iterations as agreed. The Developer shall also provide Customer with information on the time used by the Developer's personnel resources.
- 6.4. The Developer shall without undue delay notify Customer in case project or milestone deadlines are in jeopardy, time estimates changes significantly and/or if the Developer does not have necessary resources or skills to perform the ordered work.

## 7. INTELLECTUAL PROPERTY RIGHTS AND INFRINGEMENT

- 7.1. Within the context of this Agreement “**Intellectual Property Rights**” shall mean, without limitation, any and all patents, utility models, trademarks, rights in designs, trade, business or domain names, know-how, rights in databases and copyrights, rights in inventions, trade secrets and

other confidential information and all other intellectual property rights of a similar or corresponding character which may now or in the future subsist in any part of the world and whether registered or not.

- 7.2. Unless otherwise is agreed in the relevant Work Order, all right, title and interest in and to all Intellectual Property Rights (including the right to make modifications and the right to assign the rights hereunder) arising out of or related to the work results and materials arising from performing the Services under an individual Work Order (even when incomplete) (the “**Results**”) shall vest in, and be the sole and exclusive property of Customer.
- 7.3. The Parties may separately agree that Developer may in the course of its performance of the Services under an individual Work Order use such pre-existing material proprietary to Developer or a third party that exists prior to commencement of the Services under relevant Work Order. Unless otherwise agreed in the Work Order, and to the extent necessary to exploit the Results, Developer grants Customer an irrevocable, perpetual, fully paid-up, worldwide, non-exclusive license to use, modify, execute, amend, reproduce, display, perform, sublicense, assign its rights under this Agreement to a third party, distribute copies of, and prepare derivative works based on any such pre-existing material.
- 7.4. Developer agrees not to engage in any acts that might jeopardize, or contest or attempt to acquire, any Intellectual Property Rights of Customer, and shall upon request without cost to Customer promptly execute all such documents, if any, that may be necessary with respect to vesting in or transfer to Customer the Intellectual Property Rights of the Results,.
- 7.5. Developer represents and warrants that the Results do not infringe any third party Intellectual Property Rights (including that it has acquired from third parties all necessary rights to grant the rights hereunder). Developer shall defend, indemnify and hold Customer harmless against any damage, liabilities, losses, costs, claims or expenditures (including reasonable attorneys’ fees) incurred by Customer or any of its customers as a result of any infringement or alleged infringement of Intellectual Property Rights of a third party based on the Results.

## **8. CONFIDENTIALITY**

- 8.1. Under this Agreement, the Parties may have access to information which is confidential to either Party (“Confidential Information”). Confidential Information includes, but is not limited to any technical or non-technical data, formulae, plans, financial conditions, software configurations and products, business plans, information about employees, business records, lists of past, current and potential customers, documentation, marketing reports, lists of employees and data on them, contracts, contractual relations, policies and procedures, know-how and any other information that may be disclosed by Customer or any of its employees or associates or information to which Developer has access provided by Customer or any of its employees or associates, or any information that has become known otherwise in connection with the performance of its obligations under a contract between the parties. Confidential Information is also: (a) the conditions and rates contained in this Agreement, (b) any other information that is clearly marked as confidential or, if disclosed orally - marked as such at the time of disclosure and, (c) information that by law is considered Confidential Information / trade secret of the disclosing Party.
- 8.2. Confidential shall not be considered for either Party information that: (a) is or becomes publicly available without this being the result of action or omission of the receiving Party, (b) has been lawfully owned by the receiving Party prior to its disclosure and which was not obtained directly or indirectly by the Party, which the information disclosed concerns, (c) is lawfully made available to the receiving Party by a third party that is not subject to restrictions on disclosure of relevant information, or (d) is independently created by the receiving Party.

## **9. LIMITATION OF LIABILITY**

9.1. Unless otherwise is explicitly agreed herein, except in the case of willful misconduct or gross negligence of the defaulting Party, neither Party shall be liable to the other Party in contract, tort, or otherwise, whatever the cause thereof, for any loss of profit, business or goodwill or any indirect, special, consequential, incidental or punitive cost, damages or expense of any kind, howsoever arising under or in connection with this Agreement. The limitations of liability in shall however not affect Developer's liability under section 7 (Intellectual Property Rights and Infringement) and section 8 (Confidentiality).

## **10. TERM AND TERMINATION**

10.1. This Agreement enters into force at the time of last signature below and remains in force until further notice. Each Party may terminate this Agreement by a written three (3) months' notice delivered to the other Party. Notwithstanding the termination, the terms and conditions of this Agreement shall be applied to the Work Orders that are valid at the time of termination until both Parties have performed their duties under the Work Orders.

10.2. The Parties are entitled to terminate this Agreement (including all related Work Orders) or an individual Work Order with immediate effect by a written notice delivered to other Party (i) without cause during the initial term of three months after the signing of this Agreement (pilot phase) and during the term in the event that the other Party commits a material breach of this Agreement and fails to remedy such breach within fourteen (14) days after having been given written notice in respect thereof; or (ii) the other Party suffers distress or execution or commits an act of bankruptcy or goes or is put into liquidation. In the event that Customer terminates this Agreement or a Work Order, Developer is entitled to a fee for the Services under an individual Work Order to the extent that those Services have been completed and approved by the Customer at the time of termination of this Agreement or the Work Order.

## **11. MISCELLANEOUS**

11.1. Neither Party is liable for a failure in its performance due to a cause beyond the Party's control (strike, interruption of data traffic, cause related to a decision or action by a public authority, fire, theft, water damage, sabotage, etc.) that the Party could not reasonably have foreseen at the at the time of entry into force of this Agreement and the consequences of which the Party could not reasonably have prevented (force majeure). The Party shall without delay notify the other Party in writing of a force majeure. In the event that the force majeure continues for over thirty (30) days either Party shall have the right to terminate this Agreement and related Work Orders with immediate effect without liability.

11.2. This Agreement and all its appendices constitute the entire Agreement between the Parties with respect to the subject matter hereof. It supersedes all proposals, oral or written, all previous negotiations, and all other communications between the Parties with respect to the subject matter hereof.

11.3. Developer may not assign this Agreement, or any of its rights, benefits and obligations hereunder without the prior written consent of Customer. Customer may assign this Agreement to its affiliate or as part of a company restructuring or sale of the business this Agreement relates to.

11.4. No modification, alteration, or waiver of any provision herein contained shall be binding on the Parties hereto unless evidenced by a written amendment signed by duly authorized representatives of both Parties.

11.5. Failure by either Party at any time or times to require performance of any provisions of this Agreement shall in no manner affect its right to enforce the same, and the waiver by either Party of any breach of any provision of this Agreement shall not be construed to be a waiver by such Party of any succeeding breach of such provision or waiver by such Party of any breach of any other provision hereof.

- 11.6. If any part of this Agreement is held to be invalid or unenforceable such determination shall not invalidate any other provision of this Agreement; however, the Parties hereto shall attempt, through negotiations in good faith, to replace any part of this Agreement so held to be invalid or unenforceable. The failure of the Parties to reach an agreement on a replacement provision shall not affect the validity of the remaining part of this Agreement.
- 11.7. In the event of a conflict between a Work Order and the terms and conditions of this Agreement, this Agreement shall prevail unless otherwise expressly agreed in writing.
- 11.8. This Agreement shall be governed by and construed in accordance with the laws of Vietnam, excluding its choice of law provisions.
- 11.9. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity thereof shall be settled amicably between the Parties. In case the dispute cannot be resolved amicably, the dispute shall finally be settled by arbitration in accordance with the Arbitration Rules of the Vietnamese Chamber of Commerce by one (1) arbitrator nominated by the Vietnamese Chamber of Commerce. The arbitration shall be conducted in Vietnam, in the English language. The award shall be final and binding on the Parties. The arbitration proceedings are confidential information.

## 12. COUNTERPARTS AND SIGNATURES

This Agreement has been executed in two (2) identical copies, one (1) for each Party.

Date: XX/XX/20XX:

**Customer**

**NTQ Solution JSC.**

\_\_\_\_\_  
**Name:**

**Position:**

\_\_\_\_\_  
**Name:** Pham Thai Son

**Position:** CEO