



# SERVICES AGREEMENT

This Services Agreement (hereinafter the "Agreement") is made by and between VezTek USA [EIN 26-1542211] having an address of 3183 Wilshire Blvd, Ste. 196 - A44, Los Angeles, CA 90010 (the "Firm") and \_\_\_\_\_ having an address of \_\_\_\_\_ (the "Customer") (the Firm and the Customer collectively referred to as the "Parties").

## RECITALS

**WHEREAS**, the Customer desires to retain the Firm to \_\_\_\_\_ (the "Project") for The Customer as described in the Service Level Agreement ("SLA") and/or Scope of Work, incorporated herein by reference (as defined in Section I below); and

**WHEREAS**, The Firm desires to undertake the Services and agrees to do so under the terms and conditions set forth in this Agreement, as well as any and all applicable SLAs, Scopes or Statements of Work or Work Plans and/or amendments thereto hereunder.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**Section 1. (A). Exhibits.** A separate Service Level Agreement (SLA) and Exhibits there in shall form an integral part of this Agreement.

**Section 1. (B). Work Plan.** The Firm will prepare a Work Plan for the Services, which includes the following:

- (a) The specifications for the Services which comply with the requirements of the Customer's Request for Proposal and/or Project;
- (b) A listing of all items to be delivered to The Customer (the "Deliverables");
- (c) A schedule containing estimated project timeline with delivery dates for each Deliverable; and
- (d) A schedule setting forth the amount and timing of the Firm's compensation,



including provisions for payment of The Firm's reasonable travel and other out-of-pocket expenses. All such reimbursable amounts are to be pre-approved by Customer as part of the applicable schedule, or in writing prior to being incurred.

The Firm shall deliver the Work Plan to the Customer within a commercially reasonable time from the execution of this Agreement, said time being contingent upon the nature and scope of the Project and Services. The Customer shall have Ten (10) business days to review and comment on the Work Plan. Upon written approval of the Work Plan by the Customer, the Work Plan will be annexed to this Agreement and will become a part of this Agreement. Should the Work Plan change or conflict with the terms in the SLA or the Scope or Statement of Work, the terms of the Work Plan will control.

**Section 2. Payment.** The total contract price for the Services shall be as set forth preliminarily in the SLA and later in the Work Plan, and shall be payable in installments according to the payment schedule set forth therein. Payment shall be due upon receipt of invoice. Payments shall be considered past due if not paid within twenty-one (21) calendar days of the date of invoice. Past due payments shall be subject to interest at a rate of fifteen (15) percent per annum.

**Section 3. Changes in Project or Service Scope.** If at any time following the acceptance of the Work Plan, the Customer should desire to change the specifications or other elements of the Work Plan, the Customer shall submit to the Firm a written proposal specifying such change request. The Firm shall evaluate each change request and shall submit a written response to the Customer within five (5) business days following receipt thereof. The Firm's response shall include a statement of the ability of the Firm to accept the change request, the availability of personnel and resources to complete the change request, as well as the effect the change request will have on the price, delivery dates or warranty provisions of this Agreement. Should the Parties agree on moving forward with the change request and the resulting changes in price, delivery dates, and/or provisions of this Agreement, then the Parties will sign a Work Plan Amendment, which shall be deemed part of this Agreement. If the Firm does not approve the change request, in its sole discretion, it shall not be obligated to perform any additional services hereunder, and the provisions of this Agreement and the Scope of Work shall remain unchanged or Customer may give 2 weeks' notice of termination.

**Section 4. Delays.** The Firm shall inform the Customer of any unanticipated delays in the delivery schedule and of the actions being taken to assure completion of the Project and Services within said schedule. If due to the foregoing unanticipated delays, a delivery date is missed, then the Customer may, at its sole option, provide the Firm with written notice of thirty (30) days to cure the delay before terminating this Agreement for breach of the Agreement. . The Customer may not declare a



breach hereunder if such delay is caused by any action, delay, or failure to act on the part of the Customer. In such cases, the Firm will provide the Customer with written notice that such a delay has occurred and its effect on project timelines and deliverables. Work on the Project shall continue to the extent possible while Customer addresses the delay and shall fully resume when the delay has been resolved to the mutual satisfaction of both Parties, including any applicable adjustment to the schedule and/or deliverables that may result therefrom.

**Section 5.** Acceptance Testing & Delivery.

(a) Upon completion of the Project and Services and the delivery of all items required to be provided under the Work Plan, the Customer shall have fifteen (15) business days from such completion to inspect, test and evaluate the Project to determine whether it satisfies the acceptance criteria set forth in the Work Plan. Should fifteen (15) business days from the date of such notice of completion pass without the Firm receiving notice of acceptance or notice of the Project or Services being incomplete or unacceptable, then acceptance shall be deemed to have occurred, and accordingly, any payment due thereon shall become payable.

If and when the acceptance tests by the Customer establish that the Project complies with the acceptance criteria, the Customer shall notify the Firm that it accepts the Project. If the Project or Service do not satisfy the acceptance criteria, the Customer shall give the Firm written notice stating what is unacceptable. The Firm shall have ten (10) days from the receipt of such notice to correct the deficiencies. The Customer shall then have ten (10) days to inspect, test and reevaluate the Project or Services. If the Project and/or Service still do not satisfy the acceptance criteria, the Customer shall have the option of either: (1) repeating the steps set forth above, or (2) terminating this Agreement pursuant to Section 13.

Acceptance shall also be deemed to have occurred when upon acceptance by Customer Firm delivers the completed Work Product, as defined herein, to the Customer; or when the Customer instructs the Firm to submit all or part of the Work Product to a third party, including, but without limitation, to an app store. "Acceptance" as used in this Agreement shall mean "acceptance" as used in this Section 5.

(b) Unless otherwise agreed in writing, the Firm shall deliver the accepted Work Product, including without limitation, all applicable programming files and code within one business day of receipt of final payment from Customer and shall install or provide installation support to ensure proper functioning of Work Product in accordance with Scope of Work and



Acceptance criteria. Final payment from Customer to Firm shall be due in accordance with the mutually agreed fee payment schedule in the applicable Scope of Work Payment Plan.

**Section 6. Authority.** The Firm and the Customer each respectively hereby represent and warrant that the execution, delivery and performance of this Agreement has been duly authorized and that the Agreement is a legal, valid and binding agreement of the Firm and the Customer, enforceable in accordance with its terms. The Firm and the Customer further represent that this Agreement does not breach or violate any agreement to which either of them is bound.

**Section 7. Rights to Work Product.** The Firm hereby acknowledges that:

The Deliverables and any other documentation, materials or intellectual property hereunder (collectively, the "Work Product") are works which have been specially commissioned by The Customer and are "works made for hire" for the Customer under U.S. Copyright Act (17 U.S.C. § 101 et. seq.) and any other applicable copyright law, and the Customer shall own all right, title, and interest therein. The Customer shall be considered the author of the Work Product for purposes of copyright and shall own all the rights in and to the copyright of the Work Product. Accordingly, among other things, the Customer shall be the author and owner of the Work Product and shall have the sole and exclusive rights to do and authorize any and all of the acts set forth in Section 106 of the Copyright Act with respect to the Work Product and any derivatives thereof, and to secure any and all renewals and extensions of such copyrights. To the extent the Customer does not own such Work Product as a work made for hire, the Firm hereby assigns, transfers, releases and conveys to the Customer all rights, title and interest to such Work Product, including but not limited to all patent rights, copyrights, and trade secret rights. Additionally, the firm hereby waives any and all moral rights (including, without limitation, rights of integrity and attribution) in and to the Deliverables and other products and works developed by and/or delivered to the Customer hereunder.

**Section 8. Training.** Unless otherwise agreed to in writing by the Parties, the Firm shall not provide training in the use of the Project. As a courtesy to the Customer and not as a result of any binding obligation, limited support via phone or e-mail will be available to the Customer for thirty (30) days following acceptance of the Project and Services, as set forth in Section 5. "Limited support" shall include instructions to access, alter, and maintain the Project using software and/or technology purchased by the Customer. The Firm is not responsible for providing software and/or technology to the Customer.



## Section 9. Representations and Warranties.

(a) **Warranty of Project Performance:** The Firm represents and warrants that, for ninety (90) calendar days following acceptance of the Project, as defined in Section 5, by the Customer, the Project will be in full working order, free from defects in workmanship and materials, and will conform to the specifications in the Work Plan. If programming errors or other defects are discovered by the Customer during the foregoing warranty period and the Customer immediately informs the Firm of such discovery, the Firm shall promptly remedy them at its sole expense within a reasonable period of time.

(b) **Warranty of Title:** The Firm represents and warrants that it owns and has the complete right to license, and convey title and ownership without any restrictions, limitations or encumbrances to the Project, Work Product, and Deliverables covered by this Agreement. The Firm further represents and warrants that it has obtained all required registrations, permissions and consents from all third parties necessary to deliver the Project, Work Product, Background Technology and Deliverables. The Firm shall not grant any rights or licenses to any intellectual property or technology that would conflict with its obligations or the Firm's or the Customer's rights under this Agreement including, without limitation, rights or licenses in and to the Project or any of its components, design, algorithms, code, technology, etc.

(c) **Warranty of Compatibility:** The Firm represents and warrants that the Project shall be compatible with supported platforms specifically set forth in the specifications of the Work Plan.

(d) **DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, THE FIRM DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT WITHOUT LIMITATION, THE PROJECT'S FITNESS FOR ANY PARTICULAR PURPOSE, INCLUDING BUT WITHOUT LIMITATION, ACCEPTANCE OF PROJECT BY MOBILE OR WEB APPLICATION APP STORE FROM ANY COMPANY OR CARRIER, THE PROJECT'S COMPATIBILITY WITH THIRD PARTY SOFTWARE OR DEVICES, THE PROJECT'S PERFORMANCE ON THIRD PARTY WEBSITES, CRAWLERS, MOBILE DEVICES.**

## Section 10. Indemnity.

(a) **Indemnification by the Firm:** The Firm hereby indemnifies and holds harmless the Customer and any of its employees, its successors, assigns, licensees, officers, and agents from and against all claims, liabilities, costs, damages, fees and expenses (including reasonable attorney's



fees) arising from (i) allegedly infringing background technology or deliverables implemented into the Project by the Firm, with the exception of any materials furnished by the Customer as indicated below; or (ii) any breach of any warranty or agreement made by the Firm hereunder. The Customer shall promptly notify the Firm in writing of any third party claim or suit for the foregoing and the Firm shall have sole control and absolute discretion of the defense of any such action and all negotiations for its settlement or compromise at the Firm's sole expense.

(b) Indemnity by the Customer: The Customer hereby indemnifies and holds harmless the Firm and any of its employees, its successors, assigns, licensees, officers, and agents from and against all claims, liabilities, costs, damages, fees and expenses (including reasonable attorney's fees) arising from (i) the use of any materials or content furnished by the Customer to the Firm for the completion of the Project or Services; or (ii) any breach by the Customer of any warranty or agreement made by Customer hereunder.

#### **Section 11. Confidentiality.**

(a) Confidential Information: For purposes of this Agreement, the term "Confidential Information" means all information that is not generally known by the public and that: (i) is disclosed by the Customer to the Firm, or that is learned, discovered, developed, conceived, originated, or prepared by the Firm during the term of this Agreement, and (ii) relates directly to the business or assets of the Customer. The term "Confidential Information" shall include, but shall not be limited to: inventions, discoveries, trade secrets, and know-how; computer software code, designs, routines, algorithms, and structures; product information; research and development information; lists of clients and other information relating thereto; financial data and information; business plans and processes; and any other information of the Customer that the Customer informs the Firm, or that the Firm should know by virtue of its position, is to be kept confidential. This confidentiality requirement shall not apply to: (i) information in the public domain; (ii) information independently developed by either Party without use of the other Party's confidential information; (iii) information received by either Party from a third party under no duty of confidentiality; and (iv) a disclosure of information that is required by law provided that the Firm shall promptly notify Customer of any such disclosure requirements so that Customer may contest such disclosure in its sole discretion; and that the Firm shall limit disclosure of the Confidential Information only to that which is required and shall cooperate with Customer in protecting the Confidential Information to the maximum extent permitted.

(b) Obligation of Confidentiality: During the term of this Agreement, and at all times thereafter, the Firm agrees that it will not disclose to others, use for its own benefit or for the



benefit of anyone other than the Customer, or otherwise misappropriate or copy, any Confidential Information, whether or not developed by the Firm, except as required in the performance of its obligations to the Customer hereunder. The obligations of the Firm under this paragraph shall not apply to any information that becomes public knowledge through no fault of the Firm.

**Section 12.** Term of Agreement. This Agreement commences on the last date of signature and shall continue until full performance by both parties, or until proper termination by either Party under the terms of this Agreement.

**Section 13.** Termination of Agreement. This Agreement may be terminated by the Customer at its sole election upon thirty (30) days prior written notice to the Firm. Upon such termination, all amounts owed to the Firm under this Agreement for completed work in accordance with the Work Plan shall become due and payable. Such payments are to be prorated for any Services or Work Product not rendered or delivered. Upon receipt of all outstanding payments due, the Firm shall deliver all completed Work Product to the Customer.

(a) If this Agreement is terminated by the Customer because of the Firm's default of its obligations hereunder, the Customer may, after thirty (30) days written notice to the Firm and a reasonable opportunity to cure (as defined below) do the following:

(i) upon payment to the Firm of all amounts owed for the work performed under this Agreement, the Customer may require the Firm to deliver to the Customer all Work Product developed by the Firm under this Agreement and, whereupon the Customer shall have complete right, title and interest in such Work Product and all rights, permissions and licenses granted to the Customer by the Firm under this Agreement shall continue, in perpetuity as royalty-free and fully paid rights; or

(ii) subject to the limitation of remedies below, pursue legal remedies against the Firm.

(b) If the Firm terminates this Agreement because of the Customer's default, after a thirty (30) day written notice to the Customer and an opportunity to cure, The Firm may require:



(i) The Customer to pay all amounts then due to the Firm under this Agreement for any work which has been completed and accepted (as defined herein) by the Customer; whereupon the Customer shall have complete right, title and interest in such Work Product and all rights and licenses granted to the Customer by the Firm under this Agreement shall survive as royalty free and fully paid; and

(ii) subject to the limitation of remedies below, pursue all legal remedies against the Customer.

(c) **Limitation of Remedies.** In no event, shall the aggregate maximum liability of the Firm exceed the total amount payable to the Firm, as specified in the Work Plan, for completion of the Project and Services. In no event shall the aggregate maximum liability of the Customer exceed the total amount due to the Firm for work completed on the Project or Services. The prevailing Party shall be entitled to recovery of reasonable attorney's fees. Additionally, the Parties hereby irrevocably and expressly waive all rights to seek injunctive or other equitable relief.

**Section 14. Location of Project.** The Firm shall provide all relevant programming files and code to the Customer or its assigns. The Firm shall use its best good faith efforts to assist the Customer in the installation of the Project to its final location in a timely and efficient manner. The Firm shall also use its best good faith efforts to assist the Customer in relocation of the Project if such relocation should occur within the Warranty period as defined in Section 9, paragraph (a).

**Section 15. General Provisions.**

(a) **Integration:** This Agreement, together with all of its exhibits, appendices or other attachments, represents the entire understanding between the Parties hereto with respect to the subject matter hereof, and this Agreement supersedes all prior understandings, representations, agreements and documentation relating to such subject matter, whether oral or written. In the event of a conflict between the provisions of the main body of this Agreement and any attached exhibits, appendices or other materials, this Agreement or the Work Plan as provided in Section 1 shall govern.





(b) Modifications: This Agreement may not be modified except by an instrument in writing signed by all of the Parties hereto.

(c) Waiver: No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

(d) No Agency: Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties.

(e) Independent Contractor: The Parties acknowledge that the Firm shall perform its obligations hereunder as an independent contractor. The manner and method of performing such obligations will be under the Firm's sole control and discretion. It is also expressly understood that the Firm's employees, contractors, and agents, if any, are not the Customer's employees, contractors, or agents, and have no authority to bind the Customer by contract or otherwise. The Customer shall make no deduction from any payments due to the Firm hereunder for federal and state tax purposes.

(f) Notice: All notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed given when delivered personally, or five (5) days after being post-marked in the United States postage mail, postage prepaid and addressed as follows, or to such other address as each party may designate in writing:

**THE FIRM:**

**VezeTek USA**  
3183 Wilshire Blvd  
Ste. 196 - A44  
Los Angeles, CA 90010

**THE CUSTOMER:**

**ATTN:**

(g) Reasonable Costs: In the event of any controversy concerning or related to this Agreement or the performance of this Agreement, the prevailing party shall be entitled to recover its reasonable expenses (including reasonable attorneys' fees) incurred in resolving such



controversy, in addition to any other monetary relief that may be available subject to the Limitation of Remedies in paragraph 13.c.

(h) **Governing Law:** This Agreement will be governed and construed in accordance with the laws of the State of California. Any litigation or arbitration regarding this Agreement shall be brought exclusively in Los Angeles, California.

(i) **Severability:** If any provision of this Agreement is held invalid, void or unenforceable under any applicable statute or rule of law, the validity of the remaining portions or provisions will not be affected. The invalid or unenforceable provisions will be deemed to be substituted with retroactive effect by a suitable and equitable provision which, to the extent legally permissible, comes as close as possible to the intent and purpose of the invalid or unenforceable provision.

(j) **Bankruptcy.** With respect to either Party hereto, if (a) it shall be adjudicated a bankrupt or an order appointing a receiver of it or of the major part of its property shall be made, or an order shall be made approving a petition or answer seeking its reorganization under any applicable bankruptcy law, and in any such case shall not be stayed within 10 days, or (b) it shall institute proceedings for a voluntary bankruptcy or apply for or consent to the appointment of a receiver of itself or its property, or shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts generally as they become due, for the purpose of seeking a reorganization under the federal bankruptcy laws or otherwise, then in any one or more of such events listed in (a) or (b) above, the other party may terminate this agreement by giving at least ten (10) days prior notice.

(k) **No Disparagement.** It is expressly understood and agreed by the Parties that in no event, whether in termination or default of this Agreement or otherwise, shall either Party disparage, slander, defame or otherwise cause embarrassment to the other Party or its founders, officers, agents, directors, stockholders, owners, partners, employees, consultants, agents and third parties affiliated in any way with them including but not limited to attorneys, insurers, reinsurers, successors, predecessors, assigns, and all affiliated, parent, and subsidiary corporations and each of them, in any public medium whether online, in a writing, or orally.

(l) **Cure.** Neither Party will be in material breach or default of this Agreement until they have received written notice from the non-breaching Party and been given a ten (10) business day opportunity to cure following receipt of such written notice.



(m) Section Headings. The headings of paragraphs, sections or other subdivisions of this Agreement are for convenience in reference only. They will not be used in any way to govern, limit, modify, construe or otherwise be given any legal effect.

(n) Counterparts. This Agreement may be executed and transmitted by facsimile or .pdf digital file format, in which case the facsimile or .pdf copy and the signature set forth thereon will be deemed to be an original, and will have the same legal force as an original. This Agreement may be executed in two (2) or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument.

(o) Construction. Notwithstanding any rule or maxim of construction to the contrary, any ambiguity or uncertainty in this Agreement will not be construed against either Party based upon authorship of any of the provisions hereof.

**[SIGNATURE CAPTIONS TO FOLLOW]**

**IN WITNESS WHEREOF**, the Parties, as represented by their duly authorized signatories below, have executed this Services Agreement which is made effective as of the last date set forth below.

**THE FIRM**

**THE CUSTOMER**