

Terms and Conditions

Definitions

In the provided statements below;

- The term 'you' refers to the entity, person or persons hiring our services or products.
- The terms 'us' and 'ourselves' refers to all agents, sub-contractors and employees of Sqonkenetics Pty Ltd.
- The term 'works' refers to all products and services that we produce for you.

Appointment & Scope of works

This document provides you with the basis upon which you will engage us to produce the aforementioned works, whether they be services or product.

The level and scope of functionality that we will provide is stated in this document.

Additional functionality or features

In some cases during the course of development you may require adjustments or additions to the functionality that was not apparent at the time work commenced. We do our best to cater for a our clients but if the requested changes are deemed by us to be significantly out of scope of the original proposal it may be necessary to provide a further quotation for the new work or an estimate based on the hourly fee schedule detailed below.

3rd Party products and services

In carrying out the Statement of Works, it may be necessary to secure the services of additional contractors or products and services. Where this is necessary, the nature of such activity will be discussed with you and only utilised by your consent.

Confidentiality

We will treat the instructions given to us by you as strictly confidential.

Use of the provided works

The intent of use of the works we produce will be built to your instructions given to us and is expected at all times to be for purposes that abide by local and international laws, including the laws of the country the works may be hosted on.

Ownership of works and Copyright

You guarantee to us that any elements of text, graphics, photos, designs, trademarks, or other artwork that you provide us for inclusion in the works we provide for you are either owned by yourself, or that you have permission to use them.

When we receive your final payment, copyright is automatically assigned as follows:

You own the graphics and other visual elements that we create for you for this project. We will give you a copy of all files and you should store them really safely as we are not required to keep them or provide any native source files that we used in making them.

You also own text content, photographs and other data you provided, unless someone else owns them. If the works provided allows your end-users to contribute or upload data the ownership of said data is a matter between yourself and your users, we make no claims over it.

We retain the ownership to all of the documents and computer programs that we have brought into existence as part of this proposal and we license them to you for use at no further royalty or charge beyond that laid out in this document and quotation.

This does not include documents and computer programs or services prepared and provided by external contractors and third parties.

Terms and Conditions (continued)

We acknowledge your right, at the successful completion of the scope of works, to enlist an alternative party or developer to continue production and development of the works we have provided.

Of course, we value long term and ongoing relationships with our customers but if you do choose to change providers you may do so without further charge so long as no further assistance is required on our behalf, with exceptions See 'Defects, Errors and Liability'.

Reliance on our provided works

All services and products we provided to you should only be used for their intended purpose and not relied upon by any other person or entity they were not originally designed for.

Compatibility of our provided works with intended platform on which they will be run

The works we produce will be compatible with the listed hardware and software at the date and time of production (detailed under 'System Requirements').

We will check during the course of development to ensure that the platform the works are finally deployed to will be compatible enough to be sufficiently usable.

As time goes by both the underlying architecture and software of both server and end-user devices will change and evolve, which may cause some of the provided functionality to break or cease to function as it did originally. In such situations, which is out of our control, we can provide a separate costing for upgrading the provided works upon request.

If the project is web based we will endeavour to test for compatibility with the latest versions of the web browsers stated in the system requirements. We will not test the works in old or abandoned browsers, or versions of existing web browsers we deem to be sufficiently old enough to no longer be relevant.

Defects, Errors and Liability

We cannot guarantee that the works provided by us will be fault or error free at the time of delivery and so we can't be liable to you or any third party for damages, including lost profits, lost savings or other incidental, consequential or special damages arising out of the operation of or inability to operate the provided service or product, even if you have advised us of the possibilities of such damages.

If any provision of this agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this agreement and shall not affect the validity and enforceability of any remaining provisions.

We will, however, attempt to fix any such faults or errors found at no further cost and in a timely fashion so long as:

- The errors or mistakes in question are agreed to be at our fault by both parties.
- The works provided have not been modified in anyway what-so-ever by any entity or agents outside of ourselves.
- The error or mistake in question is directly related to an element included in the scope of works stated within this document.
- The environment or systems upon which the provided works operates have not changed in such a way as to break the original functionality.
- The error or mistake in question is not related to the use of the product or service on a system (server or end-user) that falls outside of the compatibility listed in these terms or the system requirements.

If the error or fault, for any reason, falls outside of the above conditions we will advise you and provide you appropriate costings to correct the problem.

Terms and Conditions (continued)

If we have provided any recommendations in the attached document or works provided, or simply as advice you have sought from us, and that such recommendations are connected to legal matters of any kind then you accept that Sponkenetics Pty Ltd is a technology firm, not a legal firm. In this regard any and all advice we provide in such matters is our non-authoritative opinion and that proper legal advice should be sought in such cases.

Jurisdiction and governing law

Our Terms of Engagement and other documents that we provide to you and the performance of our services for you are governed by and you agree to be bound by the laws of Victoria, Australia. Both you and we irrevocably submit to the exclusive jurisdiction of the courts of Victoria, Australia.

Fees and Charges

Unless agreed otherwise between both parties in writing, the amount of our fees for works not included in this document are calculated on an hourly basis on the basis of time spent by our agents to provide the service.

Fee Schedule Period from 1 July 2019 to 30 June 2020

The standard charges for the professional services we provide is currently: \$95 AUD per hour + GST.

The rate stated above does not include any additional costs that may be required if external contractors or services are needed in order to complete the requested modifications.

Delivery and Timelines

You agree to provide us with everything that we need to complete the project including text, images and other information as and when we need it, and in the format that we ask for. You agree to review our work, provide feedback and sign-off approval in a timely manner too.

We have the experience and ability to perform the services you need from us and we will carry them out in a professional and timely manner. Along the way we will endeavour to meet all the timelines set but we can't be responsible for a missed launch date or a deadline if you have been late in supplying materials or have not approved or signed off our work on-time at any stage.

Data Retention and Backups

Web based solutions and applications can contain data and information that is regularly updated or changed. Some of it may be vital to the functionality of the works provided and may be critical to your organisation.

This extends to any databases, file uploads or other user contributed data that compliment the proposed works, along with the files that make up the final product or service provided.

Unless explicitly stated in this proposal it is your sole responsibility to ensure that all supplied files and relating data are kept safe and backed up as insurance against systems failure or hardware malfunction.

We are happy to provide advice upon request on best practices, what to back up and possible solutions.

Termination of services

You may terminate our services by giving us notice in writing at any time. If you do so, you are obliged to pay our fees for work done and for other charges incurred up to the time of termination.

We may also terminate our engagement by giving you reasonable notice.

If you have any questions relating to these terms and conditions please contact us immediately and before commencing work.

