

## **ARENA3 TERMS & CONDITIONS**

*Your participation is a necessary part of the development process. As such it is important that you read and understand the information presented below.*

### **PROJECT SUITABILITY**

The Client acknowledges responsibility for determining the suitability of this project for their purposes. Arena3 does not make any representations or warrant that the project will meet the Client's particular needs.

This project is presented as is, with only the functionality and features described within this quote. Features not explicitly detailed within this quote are not included in the pricing and timeframe given. Additional features will require separate consideration.

If there is an aspect of the project that you feel has been overlooked or requires discussion, please contact Arena3.

### **TIME FRAME**

The Client will deliver to Arena3 all information and materials required to undertake this project in a timely manner and in any event, in a manner that ensures that Arena3 shall have the necessary time to meet any project or other time schedules agreed between the parties. Arena3 reserves the right to alter the timeframe of this project as required.

The timeframe given is dependent upon the prompt supply of required information. Any delays in providing required information or materials will result in an adjustment to the time frame of this project.

This timeframe commences when this document is signed and returned with the deposit as specified, unless otherwise noted.

### **PAYMENT**

The Client will pay all invoices within 14 days of issue. Failure to pay invoice may result in temporary termination of services provided by Arena3, until payment is made.

Non-payment of an invoice will result in a late-payment fee of \$35.00 per invoice (GST Exclusive) per month, to cover administrative and collection costs.

Any recurring costs specified within this project will be subject to annual review. Arena3 reserves the right to alter these prices as required.

If website hosting is required by this project, hosting fees will be charged from project commencement.

## **INTELLECTUAL PROPERTY**

Subject to the rights of third parties, the Client acknowledges that Arena3 owns all intellectual property rights in the project, and that the Client has a non-exclusive licence to access or use the project. Unless explicitly stated, this agreement does not provide the Client with access to the source code of the project.

Except to the extent permitted by an applicable law that cannot be excluded by Agreement, the Client is not permitted to reproduce, distribute, sublicense, transmit, give access to, reverse engineer or decompile the project.

The Client grants Arena3 a perpetual, royalty-free and non-exclusive licence to reproduce the Client's trademark, business name and other mark or logo which designates the Client's business, for the purposes of indicating the Client as a current or past client of Arena3.

## **DATA STORAGE & HOSTING**

While Arena3 will use all commercial reasonable endeavours to ensure that the project files, and data as hosted by Arena3 (if applicable), are protected from unauthorised access during the Term of this Agreement, the Client acknowledges that:

Arena3 is not obliged to maintain backup copies of the project files and data during the Term of this Agreement; and

To the extent permitted by law, Arena3 will not be liable (whether in contract, tort including negligence, statute or otherwise) for any unauthorised access, misuse, corruption or loss of any of the project files or data.

To the extent permitted by law, Arena3 will not be liable (whether in contract, tort including negligence, statute or otherwise) for loss or failure of any services (hosted or otherwise) provided during the term of this agreement.

## **SUSPENSION AND TERMINATION**

Arena3 may terminate this Agreement immediately by notice in writing to the Client if they are in breach of any of the clauses.

Either party may terminate this Agreement immediately by notice in writing where the other party has failed to rectify a breach within 7 days' notice requiring such breach to be rectified or the other party becomes subject to any form of insolvency administration.

Arena3 may, as an alternative to termination, suspend the Client's access to the project until the relevant breach has been rectified.

## **CONSEQUENCES OF TERMINATION**

Upon termination the Client must immediately pay all outstanding charges, as determined by Arena3, for the project where Arena3 has commenced work for the Client and for any additional services performed in accordance with this Agreement prior to termination. The Client will pay for any additional services at Arena3's then current standard rates.

## **IMPLIED TERMS**

To the extent permitted by law, all conditions or warranties, which would otherwise be implied, are hereby excluded.

## **INDEMNIFICATION**

The Client fully indemnifies Arena3 for any costs (including solicitor and own client costs), expenses, losses, claims or liability ("Damages") incurred or suffered by Arena3 directly or indirectly arising from:

a breach by the Client of this Agreement;

the Client's use of the project; or

the project files in any way whatsoever, including any costs of liability incurred as a result of any claims, proceedings or demands made or brought against Arena3 by any client of the Client.

## **FORCE MAJEURE**

Neither party shall be liable for any delay or failure to perform its obligations pursuant to this Agreement (other than payment obligations) if such delay is due to Force Majeure.

If a delay or failure of a party to perform its obligations due to Force Majeure exceeds 28 days, either party may immediately terminate the Agreement on providing notice in writing to the other party.

## **JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of Queensland and the parties agree, subject to this Agreement that the Courts of that State shall have jurisdiction to entertain any action in respect of, or arising out of, this Agreement.