



Terms and Conditions – For Cognisium Clients

This document details the Terms and Conditions applicable to a Client who wishes to engage an Expert's services using www.cognisium.com

These terms and conditions (also called "this agreement") are the contract between you and Cognisium Pty Ltd ("us", "we", "our" etc).

By visiting or using our Website, you agree to be bound by them.

Cognisium is a trade name of Cognisium Pty Ltd ACN 642 297 130, whose registered office is at LEVEL 1, 9-11 GROSVENOR ST, NEUTRAL BAY, NSW 2089

If you do not agree with these terms and conditions, you should leave our Website and stop using our Website or the services immediately.

Background

- A. Cognisium is a marketplace for executives and senior executives who joined the Platform to provide services to Clients.
- B. The Platform is available to Experts and Clients providing that they are registered in accordance with the "WEBSITE TERMS OF USE" described on this webpage at www.cognisium.com/terms-of-use
- C. Cognisium receives a Fee of 20% of the amount that the Expert charges the Client for the Engagement. This Fee is paid by the Client (in addition to the amount agreed to between the Expert and the Client for the Engagement). If the Engagement results in a full time role, Cognisium receives a one-time Fee of 25% of the Expert's starting base salary. This Fee is also paid by the Client.
- D. Cognisium is not the employer of the Expert, or an agent for the Expert or the Client. Cognisium only facilitates the introduction between the Expert and the Client. The Expert and the Client then separately enter into a contract for the provision of services and jointly agree to the terms, without the involvement of Cognisium Pty Ltd. Cognisium is not a party to the services agreement between the Expert and the Client and has no oversight over or control of that arrangement.
- E. Cognisium does not accept any liability for underperformance, partial performance, mismanagement or cessation of services by the Expert or termination of the Engagement by the Expert or the Client.

1. Definitions

All definitions appearing on this webpage at www.cognisium.com/terms-of-use and titled "Cognisium Pty Ltd – WEBSITE TERMS OF USE" apply.

Consent: By accessing and/or using our Website, you agree to these terms and conditions and our Privacy Policy available at www.cognisium.com/privacy-policy

"Client" means the clients of Cognisium who join the Platform to connect with Experts.

"Client Brief" means the brief that the Client posts on the Platform stating the scope of work for the provision of services by the Expert.

"Cognisium" or "we", "us" or "our" means Cognisium Pty Ltd (ACN 642 297 130).

"Cognisium Membership" means the membership to the Platform we provide.

"Content" means the textual, visual or audio content that is encountered as part of your experience on our Platform. It may include, among other things: text, images, sounds, videos and animations. It includes content posted by you.

"Engagement" means services undertaken by the Expert for the Client.

"Expert" means the freelance member who joins the Platform with the sole objective to provide services to Clients.

"Fee" means the fee that Cognisium receives as a result of the Engagement between the Expert and the Client, calculated as 20% of the total amount that the Expert invoices the Client for any Engagement. This Fee is paid by the Client.

For the avoidance of doubt, the following illustration is given:

If the Expert invoices the Client AUD1,000, then our Fee is AUD200, and we will invoice the Client a total of AUD1,200.

If the Engagement results in the Client employing the Expert in a full time role, Cognisium is entitled to charge and receive a one-time commission of 25% of their starting base salary, excluding bonuses or other incentive payments. This fee is payable by the Client.

"Platform" means the Cognisium online platform at www.cognisium.com developed by us in order to connect Experts with Clients.

"Post" means display, exhibit, publish, distribute, transmit and/or disclose information, details and/or other material on our Website, and the phrases "Posted" and

"Posting" shall be interpreted accordingly;

"Service" means all of the services offered for sale through the Platform by the Expert.

"Website" means any website of ours and includes all web pages controlled by us. It includes the Platform.

"you" or "yours" means you, the party to this agreement

2. Our role

2.1. The Platform facilitates connections between Clients and Experts. On the Platform, Clients may Post Client Briefs and Experts may review and respond to them. Experts may also Post their profiles on the Platform.

2.2. Cognisium provides access to the Platform to both Clients and Experts. Cognisium does not purchase Services from, or provide Services to, Clients.

2.3. We are not a party to a contract for the provision of Services, which is entered into by the Client and the Expert.

2.4. We welcome any comment or complaint about an Expert, which you may make by emailing us. We may act upon a complaint in our discretion, for the benefit of the body of our members.

2.5. The relationship between you and us is limited to the provision of the Platform, where you can access professional services from Experts and we are not your agent, partner or joint venturer.

2.6. We conduct due diligence procedures on each new Expert who joins the Platform. This process includes checking their stated qualifications and skills against publicly available records. We do not, however, guarantee the qualifications, skills, experience, professional membership status or expertise of any Expert.

2.7. On the Platform, the word "Expert" is only meant to differentiate freelance members from Clients. Cognisium is not responsible for an Expert's level of expertise and does not endorse nor recommend their expertise in a particular industry, function or field of expertise. If an Expert does represent and warrant that they are an expert in a field of expertise, topic or function, they acknowledge and agree that the representation has been made without our endorsement or knowledge.

We are not responsible for the supply of any Engagement between you and an Expert or for the terms of any cancellation and refund procedure should you or an Expert decide to cancel an Engagement for any reason.

2.8. Note that Cognisium Membership does not entitle you to a discount on Engagements purchased from an Expert.

2.9. We are in no way responsible for:

2.8.1 your locating and ordering a Service;

2.8.2 your choice of a Service;

2.8.3 any aspect of the provision of the Service;

2.8.4 refund payment for any Service;

2.8.5 any complaint about any Service.

2.10 We do not have any obligation to monitor the use of the Platform or verify information provided by Clients or Experts.

2.11. In any dispute with an Expert, you should deal only with the Expert. We have neither legal obligation nor detailed information about the Services that the Expert provides or the terms of any agreement agreed with Expert.

3. Cognisium Membership – Client

3.1. Cognisium Membership is free. The terms for joining the Platform are stated on this webpage and referred to as "Cognisium Pty Ltd - WEBSITE TERMS OF USE" and in this document.

3.2. When registering to join the Platform you will be requested to provide your email address. We only accept email addresses in the form of username@your_company_domain. No other email addresses will be accepted.

3.3. When registering to join the Platform you will be requested to provide a phone number. We only accept real phone numbers and an attempt may be made by us to contact you with the purpose of validating your registration.

3.4 You acknowledge and agree that we may deny access to the Platform if we determine, acting reasonably, that you are not suitable for the Cognisium Platform.

3.5 We reserve the right to cancel your Cognisium Membership if we find that you contract and trade outside the Platform with an Expert whom you identified using the Platform.

3.6 If you identified an Expert through the Platform and you choose to trade outside the Platform in order to avoid paying our Fee, you acknowledge that you are still liable to pay our Fee.

3.7 For as long as you are registered with Cognisium and six months after your registration comes to an end, you must not solicit the services of, or employ in any capacity a Cognisium Expert, whom you identified via our platform, through means external to Cognisium or with the intent of circumventing our fee.

A Cognisium Expert will become a restricted Expert to Cognisium Clients for the following six months after the date his or her membership with Cognisium ceased to exist ("Restricted Expert").

For a six-month period after your membership or Expert's membership ceased to exist, whichever comes first, you agree not to approach, solicit or employ a Restricted Expert whom you identified via our platform.

If you do decide to employ a Restricted Expert within the restricted period of six months, you agree to pay Cognisium 25% of Expert's total yearly cash compensation package for a full time role and 20% commission for a contract-based role to the balance of six month period.

You acknowledge that this non-solicitation clause is reasonable, and that any violation of this clause is a material breach of our Terms of Use.

3.8 We reserve the right to cancel your Cognisium Membership and block your access to the Platform if we consider that it is necessary to protection our legitimate business interests, including the security of our Website and the user experience of our members.

3.9 We reserve the right to modify these terms and conditions at any time, without notice. Your continued use of Cognisium Platform after such modifications shall be deemed an acceptance by you to be bound by the terms of the modified agreement.

3.10 By accepting these terms and conditions, you instruct us to give you access to use the Platform.

4. Your Cognisium Membership and personal information

4.1 If you are joining as a Client you represent and warrant that you are authorised to create a Cognisium Membership on behalf of your organisation. You agree and state that you are authorised to upload the Client Brief on behalf of your organisation that details the assignment you wish to engage an Expert to complete.

4.2 You represent that you have provided accurate, up to date, and complete information about yourself and your organisation. We are not responsible for the accuracy of any information provided by you or an Expert.

4.3 You acknowledge and agree that you have read and understood our Privacy Policy on our website at www.cognisium.com/privacy-policy.

4.4. Cognisium shall not be held liable for any default or loss arising from the information you uploaded on to the Platform and/or that is expressed in a Client Brief.

4.5. When you visit our Website, you accept responsibility for any action done by any person using your name, Cognisium Membership or password. You should take all necessary steps to ensure that the password is kept confidential and secure and should inform us immediately if you have any reason to believe that your password has become known to anyone else, or if the password is being, or is likely to be, used in an unauthorised manner.

4.6. You agree to notify us of any changes in your information immediately it occurs. If you do not do so, we may terminate your Cognisium Membership.

4.7. Cognisium reserves the right to discontinue the use of the Platform at its discretion by giving one week's notice to Experts and Clients. Upon the termination of the Platform, all data acquired by Cognisium on behalf of Experts or Clients, will be securely deleted and may not be accessible by Cognisium or any other party from that point forward.

5. The buying procedure

5.1. As a condition of your registration, you must upload a Client Brief that details the scope of work for the provision of Services by the Expert. You will not be able to join the Platform without a Client Brief. Once the Engagement ends, you will be able to remain on the Platform in the absence of a Client Brief for a maximum period of 2 years. We shall notify you when two years passes from your last Client Brief.

5.2. You acknowledge that the Expert is able to apply for the Engagement you Post and in doing so you are able to view their profile on the Platform and engage via the Platform's messaging system.

5.3. The Expert's rates listed on the Platform are exclusive of any applicable sales tax and our Fee.

5.4 We will invoice you for the following:

5.4.1 the Expert's charge, including GST or any other applicable taxes; and

5.4.2 our Fee.

5.5 You will be invoiced in AUD if you and the expert are located in Australia, and in AUD at the USD/AUD exchange rate of the date of the invoice if you are located in Australia and the Expert is located outside of Australia. If you and the Expert are located outside of Australia we will invoice you in USD. The invoice is payable to us within 14 days .

5.6 We will pay the Expert within seven (7) days of receiving and clearing payment from you.

5.7. Services will be provided at the times and places specified in the Client Brief. You and the Expert are responsible or liable for duties, taxes, delays or impounding of any item in the country of your Engagements.

5.8. To make future use of our Platform easier and faster for you, we will retain the personal and delivery information you give to us in accordance with our Privacy Policy. For detailed information about disclosure of personal information please see our privacy notice.

6. Goods and Services Tax (GST)

- 6.1. Fees are calculated exclusive of GST.
- 6.2. Cognisium has the right to request additional information about your business so far as it may affect your GST registration, at any time, from you or from a governmental authority.
- 6.3. Cognisium will charge GST to Australian based Clients. This includes, as required for Australian Tax Office compliance, Australian Client registered entities with an offshore operating subsidiary or business entity.

7. Security of your payment information

We take care to make the Platform safe for you to use.

- 7.1. Card payments are not processed through pages controlled by us. We may use one or more online payment service providers who will encrypt your card or bank account details in a secure environment.
- 7.2. If you have asked us to remember your credit card details, we will securely store your payment details on our systems. These details will be fully encrypted and only used to process your payments or other transactions which you have initiated.

8. How we handle your Content

- 8.1. We will handle your personal information in accordance with our Privacy Policy which can be found at www.cognisium.com/privacy-policy. You acknowledge and agree that as a condition for joining the Platform, you have read, understood and agreed to our Privacy Policy that also details how we handle your Content and personal information.
- 8.2. Even if access to your information is behind a user registration it remains effectively in the public domain because someone has only to register and log in, to access it. You should therefore avoid Posting unnecessary confidential information.
- 8.3. You agree to any act or omission which may otherwise infringe your right to be identified as the author and your right to object to derogatory treatment of your information Posted ("work") as that term is understood in the *Copyright Act 1968* (Cth).
- 8.4. For the duration of your Cognisium Membership, you grant to us a non-exclusive, non-transferable, non-assignable licence to use your organisation's name and logo on the Platform in connection with the Client Brief.
- 8.5. Posting content of any sort does not change your ownership of the copyright in it. We have no claim over it and we will not protect your rights for you.
- 8.6. You represent that the Content Posted by you on the Platform will not infringe any third party intellectual property rights. You understand that you are personally responsible for your breach of someone else's intellectual property rights, defamation, or any law, which may occur as a result of any Content having been Posted by you;
- 8.7. You accept all risk and responsibility for determining whether any Content is in the public domain and not confidential.
- 8.8. You must immediately notify us of any security breach or unauthorised use of your Cognisium Membership.

9. Restrictions on what you may Post to the Platform

We invite you to Post a Client Brief to the Platform for the purpose of engaging an Expert for the performance and provision of Services. The Client Brief needs to reflect a real, well-defined business requirement. You may not Post Content other than Client Briefs.

We do not undertake to moderate or check every item Posted, but we do protect our business vigorously. If we believe Content Posted breaches the law, we shall co-operate fully with the law enforcement authorities in whatever ways we can.

You agree that you will not use or allow anyone else to use the Platform to Post Content or undertake any activity which is or may:

- 9.1. be unlawful, or tend to incite another person to commit a crime;
- 9.2. consist in commercial audio, video or music files;
- 9.3. be obscene, offensive, threatening, violent, malicious or defamatory;
- 9.4. be sexually explicit or pornographic;
- 9.5. be likely to deceive any person or be used to impersonate any person, or to misrepresent your identity, age, or affiliation with any person;
- 9.6. use a Posting to solicit responses unconnected with the purpose of our Website or the terms proposed by this agreement;
- 9.7. request or collect passwords or other personal information from another user without his or her permission, nor Post any unnecessary personal information about yourself;
- 9.8. be used to sell any goods or services or for any other commercial use not intended by us, for yourself or for any other person. Examples are: sending private messages with a commercial purpose, or collecting information with the intention of passing it to a third party for his or her commercial use;
- 9.9. include anything other than words (i.e. you will not include any symbols or photographs) except for a logo in your profile in such place as we designate;
- 9.10. facilitate the provision of unauthorised copies of another person's copyright work;
- 9.11. link to any of the material specified in this paragraph;
- 9.12. use distribution lists that include people who have not given specific permission to be included in such distribution process;
- 9.13. send age-inappropriate communications or Content to anyone under the age of 18.

10. Your Content: restricted Content

In connection with the restrictions set out in Clause 9 above and below, we may refuse or edit or remove Content which does not comply with these terms and conditions.

In addition to the restrictions set out above, it must not contain:

- 10.1. hyperlinks, other than those specifically authorised by us;
- 10.2. keywords or words repeated, which are irrelevant to the Content Posted;
- 10.3. the name, logo or trademark of any organisation other than yours;

10.4. inaccurate, false, or misleading information.

11. Removal of offensive Content

11.1. For the avoidance of doubt, this paragraph is addressed to any person who visits our Website for any purpose.

11.2. We are under no obligation to monitor or record the activity of any user of our Website for any purpose, nor do we assume any responsibility to monitor or police Internet-related activities. However, we may do so without notice to you and without giving you a reason.

11.3. If you are offended by any Content, the following procedure applies:

11.3.1 your complaint must be submitted to us in the form available on our Website, or contain the same information as that requested in our form. It must be sent to us by post or email.

11.3.2 we shall remove the offending Content as soon as we are reasonably able;

11.3.3 after we receive notice of a claim or complaint, we shall investigate so far as we alone decide;

11.3.4 we may re-instate the Content about which you have complained or we may not.

12. Security of our Website

You now agree that you will not, and will not allow any other person to:

12.1. modify, copy, or cause damage or unintended effect to any portion of our Website or Platform, or any software used within it.

12.2. link to our Website in any way that would cause the appearance or presentation of our Website to be different from what which would be seen by a user who accessed our Website by typing the URL into a standard browser;

12.3. download any part of our Website, without our express written consent;

12.4. collect or use any service listings, descriptions, or prices;

12.5. collect or use any information obtained from or about our Website or the Content except as intended by this agreement;

12.6. aggregate, copy or duplicate in any manner any of the Content or information available from our Website, other than as permitted by this agreement or as is reasonably necessary for your use of the services;

12.7. share with a third party any login credentials to our Website;

12.8. Despite the above terms, we now grant a licence to you to:

12.8.1 create a hyperlink to our Website for the purpose of promoting an interest common to both of us. You can do this without specific permission. This licence is conditional upon your not portraying us or any product or service in a false, misleading, derogatory, or otherwise offensive manner. You may not use any logo or other proprietary graphic or trademark of ours as part of the link without our express written consent; and

12.8.2 copy the text of any page for your personal use in connection with the purpose of our Website or a service we provide.

13. Storage of Messages

13.1. We assume no responsibility for the deletion or failure to store, deliver or timely deliver messages.

13.2. We may, from time to time and without notice, set limit(s) on the number of messages you may send, store, or receive through the Platform, and we retain the right to delete any messages above such limit(s) without any liability whatsoever, and you hereby release us from any such liability. Any notice provided by us to you in connection with such limit(s) shall not create any obligation to provide future notification regarding any change(s) to such limit(s).

14. Termination

14.1. Your Cognisium Membership expires two years after the date of your latest Client Brief posted on the Platform.

14.2. You may terminate this agreement at any time, for any reason, with immediate effect. You may terminate the agreement by sending notice to us by email at support@cognisium.com

We reserve the right to check the validity of any request to terminate your Cognisium Membership by getting in touch with you and verifying that you wish to terminate membership.

14.3. We may terminate this agreement at any time, for any reason, with immediate effect at our discretion or if you fail to comply with any of the terms of this agreement. Trading outside the Platform with an Expert you identified via the Platform will result in immediate cancellation of your Membership.

14.4. Termination by either party shall have the following effects:

14.4.1 your right to use the Cognisium Membership immediately ceases;

14.4.2 we are under no obligation to forward any unread or unsent messages to you or any third party;

14.4.3 you must pay the Expert for the time of the Engagement being active and they performing the scope of work according to the Engagement terms, Client Brief and the understanding of said scope. You must also pay our Fee.

15. Copyright and other intellectual property rights

15.1. All Content on our Website, for example page text, graphics, logos, images, audio clips, digital downloads, data compilations, and software, is the property of either us or our affiliates, you or Experts. It is all protected by international copyright laws.

15.2. You may not copy, or in any way exploit any of the content, except as is expressly permitted in this agreement or with our written consent.

16. Interruption to the Platform

16.1. We give no warranty that you will find an appropriate Expert to fulfil a Client Brief on the Platform.

16.2. We will do all we can to maintain access to our Website, but it may be necessary for us to suspend all or part of the Platform for repairs, maintenance or other reason. We may do so without telling you first.

16.3. You acknowledge that our service may also be interrupted for reasons beyond our control.

16.4. You agree that we are not liable to you for any loss whether foreseeable or not, arising as a result of interruption of access to the Platform.

17. Your indemnity to us

To the maximum extent permitted by law, you must indemnify us, and hold us harmless, against any losses, liabilities, costs, charges or expenses (including any direct, indirect, special or consequential losses) and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses (including for our own management time) suffered or incurred by us arising out of or in connection with:

17.1 your use of our Platform;

17.2 any breach of these terms and conditions or any applicable laws by you;

17.3 a claim by any person in respect of any Engagement;

17.4 your use of the Cognisium name;

17.5 the infringement or alleged infringement by you, or by any other user of Cognisium Platform using your computer or other device, of any intellectual property or other right of any person or entity; or

17.6 a contractual claim arising from your use of the Cognisium Membership.

This indemnity is a continuing obligation, independent from the other obligations under these terms and conditions and continues after these terms and conditions end. It is not necessary for us to suffer or incur any loss before enforcing this indemnity. Our rights under this indemnity are in addition to any other rights available to us whether those rights are provided for under this agreement or by law. This indemnity applies whether or not we have been negligent or at fault.

18. Disclaimers about the Cognisium name

18.1 Your use of the Cognisium name is without any warranty or guarantee.

18.3 We or our Content suppliers may make improvements or changes to our Website, the Content, or to any of the services described on our Website, at any time and without notice to you. We will only modify Content posted by you in accordance with this agreement.

18.4 You are advised that Content may include technical inaccuracies or typographical errors.

18.5 Our Website contains links to other websites. We have neither power nor control over any such website. You acknowledge and agree that we shall not be liable in any way for the Content of any such linked website, nor for any loss or damage arising from your use of any such website.

18.6. We are not liable in any circumstances for special, indirect or consequential damages or any damages whatsoever resulting from loss of use, loss of data or loss of revenues or profits, whether in an action of contract, negligence or otherwise, arising out of or in connection with your use of our Website or Platform.

19. Disclaimers about the Service

19.1. All of the Content on our Website relating to any Service by an Expert has been provided by that Expert. We do not accept responsibility for the accuracy of any claim or advertisement.

19.2. On the Platform, the word "Expert" is only meant to differentiate the freelance executives from Clients. Cognisium is not responsible for Expert's level of expertise and also does not endorse nor recommend their expertise in a particular industry, function or field of expertise.

19.3. We make no representation, warranty or other provision with regard to the Services.

19.4. So far as concerns any Engagement, we are not liable for:

19.4.1 any Service complying with the requirement of any law or being available;

19.4.2 the Expert performing his or her contract.

19.5. We give no warranty, representation or undertaking whatsoever as to the continuing business or Cognisium Membership of an Expert or that any Service offered for sale by an Expert will be useful or suitable for you.

19.6. You now expressly release us from any and all claims and liability known and unknown, arising in any way from a dispute between you and an Expert identified and engaged via the Platform.

20. Miscellaneous matters

20.1. You undertake to provide us your current address, e-mail address and telephone numbers as often as they are changed together with all information that we may require to enable us to fulfil our obligations under this contract.

20.2. So far as any time, date or period is mentioned in this agreement, time shall be of the essence.

20.3. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.

20.4. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.

20.5. No failure or delay by us to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.

20.6. When you visit our Website or send messages to us by email, you are communicating with us electronically. We communicate with you by email or by posting

notices on our Website. You agree that all our electronic communications satisfy any legal requirement that such communications be in writing.

20.7. Any communication to be served on either of the Parties by the other shall be delivered by hand or sent by express post or recorded delivery or by e-mail.

It shall be deemed to have been delivered:

if delivered by hand: on the day of delivery;

if sent by post to the correct address: within 72 hours of posting;

If sent by e-mail to the address from which the receiving party has last sent e-mail: within 24 hours if no notice of non-receipt has been received by the sender.

20.8. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.

20.9. So far as the law permits, and unless otherwise stated, this agreement does not give any right to any third party.

20.10. We shall not be liable for any failure or delay in our performance of this agreement which is caused by circumstances beyond our reasonable control, including any labour dispute.

20.11. The validity, construction and performance of this agreement and your use of our Site are governed by the laws of Western Australia. You irrevocably and unconditionally submit to the exclusive jurisdiction of the courts operating in Western Australia and any courts entitled to hear appeals from those courts and waive any right to object to proceedings being brought in those courts.

Our Website may be accessed throughout Australia and overseas.

For any questions and notices, please contact us at:

Cognisium Pty Ltd

Email: corporate@cognisium.com

Last update: 16-03-2023