

# APP DEVELOPMENT: WHAT TO LOOK OUT FOR WHEN YOU CONTRACT WITH A DEVELOPER

Category: Commercial Law, Media and OTT, Privacy Law, Infosec, and POPIA, Technology Law  
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You've got a great idea for an app, but you do not have the technical skill to create it on your own so you contract a software development company. They love your idea and are happy to work with you, great! You have approached your attorney who has provided you with an NDA, the developer has signed it and you are confident that your brilliant idea is yours only.

You're really excited and are ready to sign the service agreement so that your fantastic idea can become a reality.

But hold on, stop for a minute and consider the following 5 clauses that are likely to be included in your service agreement:

## Payment Terms

Payment terms vary from developer to developer so never assume when and how much you will be required to pay. Be sure the terms of payment are clear. Some developers send invoices based on milestone completion within the project, others require an upfront payment, some take the payment at the end, and others do a mixture of these, for example: 50% upfront, 20% at a milestone and 30% on completion. The agreement should also be clear about how long after receipt of the invoice, should payment be made: 30 days, 60 days or 90 days.

## Maintenance and service fees

Apps and software often need to be updated from time to time so they are functional. The maintenance section of the agreement should address changes made to the project after the project has been completed. These bug fixes can be handled through a pre-determined maintenance fee, through hourly work by the developer, or the client may handle all future updates themselves. Be aware of what hidden maintenance and service fees you are paying, it would not make sense to pay for a maintenance fee before the app has been developed.

## Termination

The harsh reality is that sometimes, your project may not be completed. The termination section may include the details of how and when either party can terminate the project. If the project is terminated, who pays whom? Who gets the work that has been completed so far?

### Ownership

Who owns the source code for projects is something to really pay attention to. For most work where an individual is contracted for a specific project, the client will own all rights to the source code. However, never assume this is the case and be sure you have that in writing. Some projects the client may be paying for a license to use the code for the app, but not actual ownership of the code. In this scenario, the developer may include an option for the client to buy ownership of the code for a separate fee.

### Indemnity

Indemnity clauses indicate who is responsible to pay for legal claims. An example is if the client is sued by a third-party for copyright violations stemming from code the developer put in the project. The indemnity clause could say that the developer would have to cover the costs of the legal claim.

For more clear, precise advice on how to make your app dreams a reality, contact us.