

Short notes on:

IMPORTANT LEGAL DOCUMENTS EVERY APP DEVELOPER MUST HAVE

Introduction

Applications (“apps”) have become very popular in the last ten years, especially on mobile phones. It is a booming industry where Developers create apps to help our smart phones do more. As an App Developer, it is important to have the Agreements discussed below in place before you go live with your app. These Agreements protect you and your app in various ways as will be discussed.

Non-disclosure Confidentiality Agreement

Many app Developers need funding for them to bring their app idea to life. To this end, they present their ideas to potential investors. It is important to have a properly drafted Confidentiality and Non-Disclosure Agreement (“NDA”) which will protect any confidential information exchanged during the engagement. An NDA will usually include the following a description of the app idea you would like to protect; the purpose for which the disclosure is made; and what occurs in the event of breach of the Agreement.

It is important to have a already-signed NDA in place when pitching an idea. It is also important to enter into one with Employees or Independent Contractor you may work with while developing the app. These are people who will have access to sensitive information about what makes your app unique.

Terms and Conditions

Terms and Conditions are set rules and guidelines that determine how Customers or Clients engage with your products and services. They set out the rights and responsibilities of your Customers and your business when engaging with the app. They create a legally binding Contract between you and the End User. Terms and conditions can also protect your intellectual property and can dictate what can and cannot be done with your intellectual property. Furthermore, Terms and Conditions limit your liability and list instances where you cannot be held liable.

It is strongly recommended that you have Terms and Conditions by the time the app goes live. They must be provided prior to log in or registration. This will help you avoid unnecessary misunderstandings and importantly protect your business from certain liability.

Privacy policy

A Privacy Policy is a legal document that sets out how Customer data is collected, used, managed, and disclosed. This document also explains to the Customer how their personal information will be protected and shared with third parties. It is a legal requirement in many data protection laws such as the Protection of Personal Information Act, No. 4 of 2013 (“POPI”), as amended and European Union’s General Data Protection. The California Online Privacy Protection Act of 2003 amended in 2014 requires you to clearly post a privacy policy on your app.

Third Party services may require you to have a Privacy Policy in place. For an example Third Party services designed to improve your website or app such as Google Analytics, require you to have a privacy policy on how you deal with the information of app User or website visitors. In many instances, you would not have access to these services without having a Privacy Policy in place.

End User Licence Agreement (“EULA”)

The EULA is an important legal agreement that you must have when you are ready to distribute your software app. It is an Agreement between the Software Developer or Publisher (person or company creating the app) and the End User (the user making use of the app). It grants a User a license to use the app and presents important terms relating to restrictions on use, limits in liability and other clauses. The End User must agree before installing or accessing the software.

The Agreement will cover many things depending on the nature of the app. Some examples of the most basic clauses one must include are clauses dealing with licence terms of use; limitation of liability; service description; User accounts; and Consumer protection. A number of other app providers such as Google provide a default EULA to govern mobile apps downloaded from their respective app stores. They also permit Developers to adopt their own custom EULAs instead—subject to a few caveats.

Conclusion

As an App Developer or Publisher, it is important that you protect yourself every step of the way. You must also ensure compliance with local or international laws that may be applicable. This means

having all the right agreements in place before launching your app. Should you require assistance with drafting any of these agreements or require advice, please contact SchoemanLaw Inc.

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