

Service Agreement (Terms & Conditions)

Version 18.7, Revised 20 February 2023

The Client Agreement forms part of and is to be read in conjunction with the Items Schedule.

1. Definitions and Interpretations

1.1 In this agreement

- (a) "Costs" means money outlaid, expended, actually incurred by or billed to the Company in performing or carrying out the work or providing the services;
- (b) "crypto asset" means any private or government-issued digital assets that use cryptography and are designed to work as a medium of exchange;
- (c) "Deposit" means a non-refundable amount payable by the Client in accordance with the terms of Paragraph 7.10;
- (d) "dollars" and "\$" means Australian dollars (\$AUD);
- (e) "fees" means the Company's fees (calculated in accordance with this Agreement) for performing the work which is inclusive of any applicable GST;
- (f) "Item" is a reference to the items set out in the Items Schedule to this Agreement;
- (g) "Minimum Cost" means the amount specified as the Minimum Cost for each Monthly Service Package pursuant to Paragraph 4.3;
- (h) "Month" means a calendar month;
- (i) "Monthly Fee" means a non-refundable amount payable by the Client in accordance with the terms of Paragraphs 4.3;
- (j) "Monthly Service Package" means a service package offered by the company and paid in twelve (12) equal monthly instalments under the names AI GPT-3 Chatbot Package (M), Click Sniper® PPC (M), Extra Campaign PPC (M), Click Sniper® SEM (M), Click Sniper® SEO (M), Additional Local Area Geo-Location (M), Regional Area Geo-Location (M), Capital City Area Geo-Location (M), Australia-Wide Area Geo-Location (M), Page Polish (M), Content Sniper® (M), Standard Hosting (M), Premium Hosting (M), Platinum Hosting (M), Website Design (M), Website Design Extra Page (M), Logo Design (M), Mega Menu (M), Word Polish (M), Word Polish Extra Page (M), Word Seducer (M) and Word Seducer Extra Page (M) as specified in Paragraph 4.3;
- (k) "Prepaid Fee" means a non-refundable amount paid by the Client in accordance with the terms of Paragraph 4.4;
- (l) "Prepaid Service Package" means a service package offered by the company and paid for prior to the commencement of work under the names AI GPT-3 Chatbot Package (P), Click Sniper® PPC (P), Extra Campaign PPC (P), Click Sniper® SEM (P), Click Sniper® SEO (P), Additional Local Area Geo-Location (P), Regional Area Geo-Location (P), Capital City Area Geo-Location (P), Australia-Wide Area Geo-Location (P), Page Polish (P), Content Sniper® (P), Standard Hosting (P), Premium Hosting (P), Platinum Hosting (P), Landing Page Design (P), Website Design (P), Website Design Extra Page (P), Logo Design (P), Mega Menu (P), Word Polish (P), Word Polish Extra Page (P), Word Seducer (P) and Word Seducer Extra Page (P) as specified in Paragraph 4.4;
- (m) "ROI Media" and "ROI Media Australia" means the Company;
- (n) "Signed" means the signing of this agreement in writing or signing by any electronic means and specifically includes the act of the Client or their agent clicking on any AGREE & PAY NOW button on any page of the tonygavin.com website.
- (o) "the Client" means the party (bound jointly and severally where more than one) specified in Item 1 and if the Client is a Corporation then each of the directors of the Client both jointly and severally with the Corporation regardless of them not being named in Item 1;
- (p) "the Company" means Sherpa Way Pty Ltd A.C.N. 629 024 282 (ATF The Shangri-La Unit Trust) A.B.N. 47 401 411 568 Trading as Tony Gavin and/or as ROI Media Australia of Technology Office Park, Ground Floor, Office 11, Building 7, 107 Miles Platting Road, Eight Mile Plains QLD 4113, Australia, their successors and assigns;
- (q) "Tony Gavin" and "Tony Gavin, Esq" means the Company;
- (r) "we", "us" and "our" means the Company;
- (s) "work" means the work referred to in Paragraph 2 of this Agreement;

(t) “you” and “your” means the Client.

2. Full Details of Work and Duties

2.1 The Client has requested the Company to perform the work specified in Item 3. The Client accepts that the work may be extended from time to time, in accordance with the written or verbal advice of the Client, or where the Company does so with the knowledge of the Client.

2.2 The Company agrees to perform the work.

2.3 This agreement applies to all work as described above, performed for and on behalf of the Client from the date of this Agreement.

2.4 The Company’s Duties:

(a) The company will carry out the work required with professional skill and diligence;

(b) The Company will, as far as is reasonable, keep the Client informed of the progress of the work.

2.5 The Client’s duties:

(a) The Client will make reasonable efforts to be available to give the Company instructions in relation to the work to be carried out.

(b) When the Client anticipates being absent during a time when instructions will need to be given to the Company, the Client will make arrangements to enable contact between them.

(c) The Client will advise the Company in writing of any change in address to that set out in Item 1.

3. Persons Who Will Perform the Work

3.1 The Company shall have appropriately experienced persons undertaking work for the Client.

3.2 The Company may in its absolute discretion assign at any time another person to perform the work on its behalf.

3.3 The Client shall inform the Company in writing of any complaint regarding the suitability of the person(s) undertaking work, the quality of the work or services, or the performance by the Company of its obligations under this Agreement and shall be taken to have accepted the quality of all work and services in the absence of any such complaint.

4. Fees – How Calculated

4.1 The Company will charge fees under this Agreement in accordance with Paragraphs 4.2, 4.3 and 4.4 provided that the following terms shall always apply:

(a) The Company may in its absolute discretion upon any terms and at any exchange rate deemed acceptable by the Company accept an alternative currency or crypto asset in lieu of payment in \$AUD.

(b) This Agreement remains denominated in \$AUD at all times regardless of any prior history of acceptance by the Company of payment in lieu of \$AUD by means of any alternative currency or crypto asset.

(c) The Company may vary these rates on thirty (30) days notice. This variation will be deemed accepted if the Client does not object within seven (7) days.

(d) If the Client does object to the variation, and no agreement can be reached, this Agreement may be terminated in accordance with Paragraph 10.

4.2 Standard Charges

The Company will calculate fees using the Standard Charges unless the Client is contracted to a Monthly Service Package or Prepaid Service Package, in which case the fees pursuant to the Client’s Monthly Service Package or Prepaid Service Package shall apply. The Standard Charges are:

Strategy Session (1 hour): \$689

Junior Staff: \$39 per hour

Senior Staff: \$69 per hour

Tony Gavin: \$489 per hour

4.3 Monthly Service Packages

The Company will charge fees for the Monthly Service Packages on the following basis:

(a) Monthly Service Package Name	Deposit	Monthly Fee	Minimum Cost
AI GPT-3 Chatbot Package (M)			
AI GPT-3 Chatbot Package (M)	N/A	\$699	\$8,388
Click Sniper® PPC + Extras Package (M)			

Click Sniper® PPC (M)	\$2,999	\$1,299	\$18,587
Extra Campaign PPC (M)	\$500	\$300	\$4,100
Page Polish (M)	N/A	\$129	\$1,548
Click Sniper® SEM + Extras Package (M)			
Click Sniper® SEM (M)	N/A	\$2,999	\$35,988
Extra Campaign PPC (M)	N/A	\$300	\$3,600
Additional Local Area Geo-Location SEO (M)	N/A	\$800	\$9,600
Regional Area Geo-Location SEO (M)	N/A	\$1,300	\$15,600
Capital City Area Geo-Location SEO (M)	N/A	\$2,000	\$24,000
Australia-Wide Area Geo-Location SEO (M)	N/A	\$11,000	\$132,000
Page Polish (M)	N/A	\$129	\$1,548
Click Sniper® SEO + Extras Package (M)			
Click Sniper® SEO (M)	N/A	\$1,699	\$20,388
Additional Local Area Geo-Location (M)	N/A	\$800	\$9,600
Regional Area Geo-Location (M)	N/A	\$1,300	\$15,600
Capital City Area Geo-Location (M)	N/A	\$2,000	\$24,000
Australia-Wide Area Geo-Location (M)	N/A	\$11,000	\$132,000
Page Polish (M)	N/A	\$129	\$1,548
Content Sniper® Packages (M)			
Content Sniper® Regional (M)	N/A	\$6,999	\$83,988
Content Sniper® National (M)	N/A	\$14,999	\$179,988
Hosting Packages (M)			
Standard Hosting (M)	N/A	\$39	\$468
Premium Hosting (M)	N/A	\$69	\$828
Platinum Hosting (M)	N/A	\$149	\$1,788
Website Design + Extras Package (M)			
Website Design (M)	N/A	\$499	\$5,988
Website Design Extra Page (M)	N/A	\$49	\$588
Logo Design (M)	N/A	\$129	\$1,548
Mega Menu (M)	N/A	\$69	\$828
Word Polish (M)	N/A	\$299	\$3,588
Word Polish Extra Page (M)	N/A	\$49	\$588
Word Seducer (M)	N/A	\$699	\$8,388
Word Seducer Extra Page (M)	N/A	\$115	\$1,380

(b) The Monthly Fee is payable for each of the twelve (12) months immediately following the signing of this Agreement with such payments commencing on the date when the Agreement is signed.

(c) The Monthly Fee is payable regardless of the number of hours of work performed by or any other services provided by the Company.

(d) The Company shall charge fees for all work performed that falls outside the scope of the Monthly Service Packages (“additional work”) pursuant to the Standard Charges.

(e) The Client acknowledges that the minimum cost over twelve (12) months for the Monthly Service Package or Monthly Service Packages is the sum of the Monthly Fee applicable to the Monthly Service Package or Monthly Service Packages multiplied by twelve (12).

(f) The Monthly Fee and fees for additional work shall be payable via Stripe Subscription or any other method notified by the Company.

(g) In the event that this Agreement is terminated in accordance with Paragraph 10 the Client will

be liable to pay immediately to the Company an amount equal to;
 (i) the total of all Monthly Fees remaining unpaid; plus
 (ii) any other monies owing to the Company at the termination date.

4.4 Pre-Paid Service Packages

The Company will charge fees for the Pre-Paid Service Packages on the following basis:

(a) Monthly Service Package Name	Prepaid Fee
AI GPT-3 Chatbot Package (P)	
AI GPT-3 Chatbot Package (P)	\$6,999
Click Sniper® PPC + Extras Package (P)	
Click Sniper® PPC (P)	\$17,288
Extra Campaign PPC (P)	\$3,800
Page Polish (P)	\$1,419
Click Sniper® SEM + Extras Package (P)	
Click Sniper® SEM (P)	\$32,989
Extra Campaign PPC (P)	\$3,300
Additional Local Area Geo-Location SEO (P)	\$8,800
Regional Area Geo-Location SEO (P)	\$14,300
Capital City Area Geo-Location SEO (P)	\$22,000
Australia-Wide Area Geo-Location SEO (P)	\$121,000
Page Polish (P)	\$1,419
Click Sniper® SEO + Extras Package (P)	
Click Sniper® SEO (P)	\$18,689
Additional Local Area Geo-Location (P)	\$8,800
Regional Area Geo-Location (P)	\$14,300
Capital City Area Geo-Location (P)	\$22,000
Australia-Wide Area Geo-Location (P)	\$121,000
Page Polish (P)	\$1,419
Content Sniper® Packages (P)	
Content Sniper® Regional (P)	\$76,989
Content Sniper® National (P)	\$164,989
Hosting Packages (P)	
Standard Hosting (P)	\$390
Premium Hosting (P)	\$690
Platinum Hosting (P)	\$1,490
Landing Page Design Package (P)	
Landing Page Design (P)	\$1,699
Website Design + Extras Package (P)	
Website Design (P)	\$4,990
Website Design Extra Page (P)	\$490
Logo Design (P)	\$1,290
Mega Menu (P)	\$690
Word Polish (P)	\$2,900
Word Polish Extra Page (P)	\$490
Word Seducer (P)	\$6,900
Word Seducer Extra Page (P)	\$1,150

- (b) The Prepaid Fee is payable immediately following the signing of this Agreement.
- (c) The Prepaid Fee is payable regardless of the number of hours of work performed by or any other services provided by the Company.
- (d) The Company shall charge fees for all work performed that falls outside the scope of the Prepaid Service Package or Prepaid Service Packages (“additional work”) pursuant to the Standard Charges.
- (e) The Prepaid Fee and fees for additional work shall be payable via Stripe or any other method notified by the Company.
- (f) In the event that this Agreement is terminated in accordance with Paragraph 10 the Client will be liable to pay immediately to the Company an amount equal to;
 - (i) the total of all Prepaid Fees remaining unpaid; plus
 - (ii) any other monies owing to the Company at the termination date.

5. Costs

In addition to the fees referred to in paragraph 4, the Client will pay all costs properly incurred by the Company which may include;

- (a) Services the Company (or any associate of the Company) uses or supplies on the Client’s behalf in performing the work.
- (b) Outlays made on the Client’s behalf in performing the work.

6. Extraordinary Items

Any extraordinary items of work performed by the Company and outside of the scope of work specified in Item 3 will be approved by the Client.

7. Accounts

7.1 All accounts submitted by the Company to the Client will be in the form of a brief narrative of the principal activities carried out or services provided, or any extraordinary item of work performed in accordance with Paragraph 6.

7.2 Accounts will be issued at the Company’s sole discretion either on an interim basis which may involve the issuing of accounts at monthly rests or such other period or periods as the Company may consider appropriate.

7.3 The Client agrees that accounts will be paid within seven (7) days of their issue.

7.4 The Company will charge a fee of \$29.00 on each occasion that an account issued to the Client is not paid in accordance with Paragraph 7.3 as a genuine pre-estimate of the loss in collecting delinquent accounts.

7.5 In the event that the Client fails to pay any account in accordance with Paragraph 7.3 the Company may in its absolute discretion refuse to provide further service to the Client until the account is paid.

7.6 The Company will charge interest at the rate of two percent (2%) per month (“the Default Interest”) on accounts issued to the Client that are overdue.

7.7 The Default Interest shall be calculated on the daily outstanding balance of any amounts owing to the Company by the Client.

7.8 The Default Interest shall accrue from the day that the account first became overdue until the Client has received payment in full from the Client.

7.9 The client agrees to complete a Stripe subscription agreement (“subscription payment”) in favour of the Company or its nominee if requested to do so by the Company.

7.10 The Company may in its absolute discretion require the Client to make prepayment of any amount specified by the Company prior to the Company performing the work.

8. Charge

The Client charges all real property owned by the Client both now and in the future to secure the payment of all sums due under this Agreement and consents to the Company lodging at the Clients expense a caveat or any other form of equitable lien over the title to such property to better secure such interest.

9. Change of Service Provider

9.1 The Client may change to another service provider at any time provided that the Clients remain liable in the event of default and provided that the Client must give the Company notice in writing of the change.

9.2 The Client indemnifies the Company for fees and costs incurred up to the time when notice is

given to the Company in the event work is performed by another service provider without the knowledge and approval of the Company.

9.3 The Company may retain the Client's files or other property until all fees and costs are paid.

9.4 Irrespective of who terminates the agreement, the Company also retains a general lien on all money or files or property held by the Company for or on behalf of the Client which will continue until all fees and costs payable by the Client to the Company have been paid.

10. Termination of this Agreement

10.1 Notwithstanding paragraph 9.1 of this Agreement the Client may terminate this Agreement and withdraw its instructions at any time and for any reason.

10.2 The Company may terminate this Agreement and cease to work for the Client for any lawful cause or if the Client:

- (a) Breaches this Agreement;
- (b) Requires the Company to act unlawfully or unethically;
- (c) Fails to give the Company adequate instructions;
- (d) Indicates that the Client has lost confidence in the Company;
- (e) Fails to pay any accounts pursuant Paragraph 7 or fails to provide any advance payment required under Paragraph 7.10; or
- (f) Loses legal capacity.

10.3 The Company will give the Client not less than seven (7) days notice of its intention to terminate the Agreement pursuant to paragraph 10.2.

10.4 The Client may only terminate this agreement by giving one (1) month prior written notice to the Company.

10.5 If this Agreement is terminated by the Company or the Client, the Company is entitled to all outstanding fees and costs up to the termination date and in accordance with Paragraph 4 of this Agreement and will be entitled to retain possession of the Client's files or other property until payment of those fees and costs.

10.6 The Client agrees to meet all of the Company's costs in respect of enforcing or attempting to enforce their rights under the terms of this Agreement on a full indemnity basis.

11. Independent Advice

The Client (including the Directors where appropriate) acknowledges that it has been informed by the Company that it should seek independent advice in respect of this Agreement.

12. The Client's Records

On completion of the work, the Company will store the Client's records relating to the work for such period as the Company in its discretion shall deem fit, upon the Company's servers.

Thereafter, they will be archived by the Company for a total period of three (3) years after completion of the work, at which time the Client's records will be destroyed. At any time up to three (3) years after completion of the work the Client may request its records. In such case the Company will be entitled to charge the Client an archive retrieval fee (that the Company considers reasonable in all of the circumstances), which can be subject to increase depending upon the fees charged to the Company for production of records.

13. Acknowledgements

13.1 The Client has read, understands and agrees to be bound by the terms of this Agreement.

13.2 Any variation to the terms of this agreement must be in writing and signed by the Company and the Client.

13.3 The Client acknowledges, by execution of the Items Schedule, that it has received and will retain its own copy of this Agreement.

13.4 The Client agrees that any legal process for recovery of unpaid fees or costs may be served by post to the address set out in Item 1 or such other address notified to the Company and in the case of a company, the addresses shown in a current company search for both the company and its directors.

14. Limitation of Liability

14.1 If any of the work performed by the Company proves to be deficient or defective in any manner then the liability of the Company shall be limited to providing a person of their own choosing to rectify the defects or deficiencies.

14.2 The Client shall indemnify the Company against all costs incurred by the Client in identifying

or rectifying any defect or deficiency in the work by a person other than a person appointed by the Company to rectify such defects or deficiencies.

14.3 The Client indemnifies the Company against the payment of any fees, charges, penalty interest, fines or any other costs arising as a result of the performance of work howsoever caused, including acts of negligence by the Company.

15. Internet Access to Information and Data

The Client acknowledges and agrees that they or any third party authorised by them may access, view and modify information or data in respect of the Client via the internet. The Client agrees to assume the risks associated with accessing, viewing and modifying information and data via the internet whether such information or data is accessed, viewed or modified by them or any third party authorised by them and agrees that the Company accept no such risks. The Client agrees to fully release and indemnify the Company from any claims which the Client may otherwise have as a result of any person accessing, viewing, modifying or interfering with any information or data via the internet.

16. Jurisdiction

This agreement is governed by the laws of Queensland and the Parties submit to the exclusive jurisdiction of the Courts in Brisbane, Australia. The parties may by mutual written consent vary this agreement to be governed by the laws of an alternative jurisdiction and/or agree to submit to the Courts of an alternative jurisdiction.