

# Professional Services Terms and Conditions

These are the general terms and conditions under which Astron Technology Pty Limited, hereinafter referred to as Astrontech, will provide Professional Services to the Customer.

## 1. Astrontech Responsibilities

Astrontech shall assign personnel that it deems to have appropriate education and experience to provide services to assist the Customer. Astrontech will assign an appropriate resource to be the main interface with the Customer over the course of the engagement.

Astrontech shall provide information on any analysis or recommendations if required by the customer. Astrontech shall endeavor to complete each work effort hereunder within any estimated time and cost noted on the applicable SoW, Quotation or Purchase Order.

Astrontech does not guarantee that any such work effort can be completed for such estimated amounts and will not continue performance or incur obligations beyond that amount unless authorized by the customer in writing to do so.

## 2. Customer Responsibilities

The customer shall assign a representative/coordinator to monitor the work and provide guidance and assistance.

Where work is to be carried out at customer premises, the customer shall provide Astrontech reasonable and timely access to the area where the work is to be performed. The customer shall also provide workspace and access to facilities, equipment, and services as required including appropriate telephone and telecommunications equipment, test equipment, and computer hardware and software as necessary. The customer will take all reasonable precautions to ensure the health and safety of Astrontech personnel while they are on the customer premises

The customer will provide Astrontech will all necessary documentation and support that may reasonably be required to accomplish the work.

All of the above items of the customer responsibility shall be provided to Astrontech at no cost.

The customer acknowledges that its input is critical and agrees that they will take all actions which are its responsibility under the agreement in a timely, accurate and complete manner, and will make all decisions in a timely manner and without delay. Delays in completion of these obligations by the customer or the work by Astrontech that occur as a result of inadequate, inaccurate, or untimely performance by the customer of its responsibilities set forth in the agreement, may give rise to the need for remedial measures in order to complete the work in a timely manner and/or an extension of time for the completion of the work including additional cost to the customer.

The following Occupational Health and Safety responsibilities apply

- Astrontech requires that the Customer undertake the following steps when a Contractor starts on site
- Provide the Contractor with a site-specific safety induction outlining work health and safety duties, policies, procedures, and practices in the workplace including consultation methods.
- Treat the Contractor as you would employees and other workers, with respect to health and safety and the provision of a safe working environment practices and personal protective equipment (PPE).
- Provide adequate supervision of the Contractor to ensure that work is being performed safely.
- Consult with Astrontech and the Contractor worker regarding any changes which may affect work health and safety. The Customer should not transfer Contractors to new tasks or change the nature of their work tasks until you have consulted with the Contractor about this and obtained the approval of Astrontech to the proposed changes.
- Provide any further training, instruction, or information necessary prior to transferring a Contractor to new tasks.
- Encourage Contractors to participate in the identification of hazards specific to their work.
- Support and encourage Contractors to participate in workplace consultative arrangements.

- If requested, allow Astrontech access to the workplace and to relevant documents for the purpose of workplace safety assessments and to fulfill their work health and safety duties as a Person Conducting a Business or Undertaking (PCBU).
- Encourage workers to maintain contact with Astrontech throughout their placement.

### **3. Mutual Responsibilities**

The customer and Astrontech shall complete a separate Agreement and Purchase Order for each work effort. The customer may issue a Purchase Order incorporating the information and support that would otherwise be required to be set forth on an Agreement in lieu of completing the Agreement itself.

### **4. Change Orders**

Changes to the scope of the agreement shall be made only in writing and executed by authorized representatives of Astrontech and Customer.

### **5. Charges and Payments**

Astrontech will perform the work at the rates published in this document at the time of acceptance. The rates applicable to any purchase order for specific work will remain firm for such purchase order for a period of 3 months from the purchase order date.

The rates for normal hours are based on an 8.30 am to 5pm workday, Monday through to Friday less holidays observed locally. Work at other times shall be performed an agreed rate before the work is to commence. Time spent in work related transit will be charged as time worked. Work is subject to minimum charges as indicated in this document.

Payment is due upon customer's receipt of each properly issued tax invoice and within 30 days of issue. There may be multiple invoices under any order or Agreement.

Customer is entitled to withhold payment of any disputed amounts. Should any invoice remain unpaid for more than 30 days, interest shall be paid at a rate of 12% per annum.

Any taxes arising out of this arrangement other than those on Astrontech's net income shall be Customer's responsibility.

Astrontech shall be reimbursed by Customer for all reasonable expenses incurred by Astrontech, which have been approved by the Customer, including, but not necessarily limited to, travel and lodging expenses, communications charges, and supplies.

Any estimated contract amount or the like is not binding on either party as a guaranteed amount to complete any efforts.

Charges, fees and prices are exclusive of, and the customer is responsible for, all applicable taxes (except taxes based on Astrontech 's net income) and all applicable duties and custom charges and other charges that may be required by government authorities.

Upon written demand from Astrontech, the Customer will pay interest on any invoiced amount not paid by the due date. The interest will be calculated on the daily balance of the invoiced amount that remains unpaid at the rate of 2% per annum above the 30-day Bank Bill Swap Reference Rate published in the Australian Financial Review on the first Business Day after the due date. Astrontech may apply any subsequent payment from the Customer first to payment of interest and then to payment of any invoiced amount. Astrontech reserves the right to put a hold on rendering further services until full payment of the outstanding invoiced amount and interest has been received.

### **6. Confidential Information**

The parties agree that certain information may be exchanged between the parties. Confidential information shall be identified in writing as such and shall remain the property of the provider. Each party agrees to treat the confidential information of the other party with the same degree of care which it treats its own confidential information. No obligation is imposed with respect to any information which is in the public domain, is known to the recipient prior to receipt, is independently developed by the recipient or is lawfully received by the recipient from a third party.

AstronTech acknowledges that the Customer's data in whatever form and on whatever media remains the property of the Customer. AstronTech shall use best endeavors to ensure the Customer's data:

- remains confidential and secure from any unauthorized access and is protected from any unauthorized disclosure to any third parties.
- is only used for the purposes of performing the services under the Statement of Work.
- is not transferred to any country outside of Australia, without the prior written consent of the Customer.

Where AstronTech utilizes subcontractors to perform the services under the agreement, they shall require each subcontractor to execute Confidentiality Agreements, on terms satisfactory to the Customer, to ensure that their subcontractors are bound by the same confidentiality obligations under this Agreement. AstronTech's obligations to maintain the confidentiality of the Customer's data under this agreement continue, whether or not there are signed Confidentiality Agreements with any subcontractor.

## **7. Termination**

If either party fails to perform its obligations as specified and such failure continues for a period of ten days after written notice, the other party has the right to terminate. The customer may terminate at any time by giving sixty days prior written notice. AstronTech shall be paid for services rendered and reimbursed for expenses incurred to the time of termination.

## **8. Non-Solicitation**

The Company acknowledges that AstronTech has incurred significant costs in recruitment and training its employees to enable them to provide the Services and vice versa. Accordingly, both Parties acknowledge that during the period of the Agreement and for a period of twelve (12) months after its termination or expiry, except for where such action is a result of a bona fide public recruitment process, neither Party shall entice or seek to employ or engage directly or indirectly (without the other Party's prior written agreement) or make or seek to make any offer of employment or engagement to any of the other Party's staff, including any of its subcontractors who have dealt with the other Party in the course of the negotiation, conclusion and performance of this Agreement and also including any staff in the other Party's Group;

Each Party acknowledges that damages may not be an adequate remedy for that Party if the other Party breaches this Clause 8, and the non-breaching Party will be entitled to seek injunctive relief and any other equitable remedies with respect to such breach.

If any employee of a Party leaves the employment of that Party as a result of a breach of this Clause 8, and commences employment with, or provision of services to, the other Party or any other member of the other Party's Group it shall pay the non-breaching Party 50% of the higher of: -

- the annual salary (including any benefits-in-kind, bonus payments, commissions, and other emoluments) of the employee at the date that they ceased to be an employee of non-breaching Party; or
- the annual salary of the employee at the time they commence employment by the breaching Party or other member of the breaching Party's Group.

Each Party acknowledges that any such payment is by way of liquidated damages and is a reasonable and genuine pre-estimate of non-breaching Party's losses.

The parties agree that the provisions of this clause 8 will not apply in the case of any such person responding without enticement to a job advertisement which is capable of being responded to by members of the public (or sections thereof) generally or to transfer of staff pursuant to the operation of Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) following the termination of this Agreement.

## **9. Limitation of Liability**

AstronTech's liability for any cause whatsoever shall be limited to the amount paid for the services that are the subject of the customer's claim. This limitation shall apply regardless of the form of action, whether contract or tort, including without limitation negligence. In no event will AstronTech be liable for any damages resulting from loss of data or use, lost profits, or revenue or any special, indirect, or consequential damages. The foregoing limitations do not apply to damages resulting from physical injury to persons caused by AstronTech's negligence.

AstronTech shall not be liable for claims asserted by third parties. AstronTech shall not be liable in any event for any loss or injury to persons or property to the extent caused by acts of omission of the customer or its



employees, contractors, agents, or suppliers, or by the failure or malfunction of any tools, equipment, software, facilities, or devices not provided by AstronTech.

#### **10. Warranty**

AstronTech warrants that its services will be performed in a professional and workmanlike manner. AstronTech does not warrant or guarantee that any particular results can or will be obtained. The foregoing warranty is the sole and exclusive warranty of AstronTech with respect to the services provided hereunder.

#### **11. Disclaimer of Warranty**

To the extent permitted at law, the warranty set forth in section 10 is a limited warranty, is Astron's only warranty concerning the services to be performed under the statement of work and is made expressly in lieu of all other warranties and representations, express or implied, including any implied warranties of fitness for a particular purpose, merchantability or otherwise.

#### **12. Insurance**

AstronTech carries Workers' Compensation and Employer's Liability Insurance and Comprehensive General Liability Insurance. Certificates of Insurance will be furnished upon the Customer's written request.

#### **13. Force Majeure**

Neither party shall be liable for any delays or failures in performance (other than payment obligations hereunder) due to or resulted from circumstances beyond its reasonable control.

#### **14. General**

These terms and conditions and the applicable Statement of Work constitute the complete agreement between the parties with respect to the subject matter hereof. Purchase orders placed for services are subject exclusively to these terms and conditions and any provision of any purchase order which seeks to vary these terms or the applicable SoW or which is inconsistent therewith shall be void and of no effect.