

Trading Terms

These Terms and any documents referred to in them constitute the entire agreement about which Astron Technology Pty Limited, hereinafter referred to as AstronTech, supplies of Products and Services to Customer.

A reference in these Terms to; the singular includes the plural and vice versa, the word "including" means "including, but not limited to," and the word "includes" means "includes, without limitation". A reference to a gender includes all genders; and a reference to a person (including a party) includes an individual, company, other body corporate, partnership, firm, joint venture, or a trust.

1. Definitions

In these terms:

"Customer" means the person, business or company that is the purchaser of the Products.

"Products" means any products (including software) or services (where applicable) supplied to Customer by AstronTech and described in AstronTech's invoice;

"Sales Contract" means any sales contract or agreement entered into by Customer and AstronTech in respect of the Products and services supplied to Customer in which these Terms are deemed to be incorporated; and

2. Orders

All orders for Products placed by Customer are subject to acceptance by AstronTech, and no order will be deemed to have been accepted by AstronTech unless Products are supplied, or a back-order or delivery delay is confirmed in writing by an authorised representative of AstronTech to Customer.

AstronTech may reject any order placed by Customer if there is an insufficient supply of Products which prevents AstronTech from being able to fulfil such an order.

AstronTech will not be bound by any terms attaching to Customer's order and unless those terms are expressly agreed to in writing by an authorised representative of AstronTech, Customer agrees that those terms are hereby excluded.

3. Payment

The price of the Products will be AstronTech's quoted price.

Payment is required prior to delivery of the Products to Customer unless an AstronTech Credit Application form has been completed and approved by AstronTech. If Customer fails to make payment in accordance with this clause after demand for payment by AstronTech, all amounts owing by Customer to AstronTech on any account will immediately become due and payable together with legal costs of enforcement.

AstronTech may, in its sole discretion: suspend the provision of credit to Customer until all amounts owing are paid for in full; and from time to time and at any time, vary or cancel any credit facility it makes available to Customer.

Customer must pay AstronTech, on demand, any tax (other than income tax) payable under these Terms, any matter or thing done under these Terms, or any payment, receipt or other transaction contemplated by these Terms, including any goods and services or value-added tax, customs duty, sales tax, excise duty, stamp duty, other duty, governmental charge, fee, levy, or impost, together with any fine, penalty or interest payable because of a default by Customer.

Customer shall pay the amount due to AstronTech under this clause in full, despite any right of set-off that Customer may have. Customer shall not deduct from that amount any tax in relation to purchase of the Products. Customer shall reimburse AstronTech for any taxes AstronTech pays on its behalf.

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.

4. Delivery

Delivery times advised to Customer are estimates only and AstronTech will not be liable for any loss, damage or delay suffered or incurred by Customer or its customers arising from late or non-delivery of the Products.

5. Part deliveries

Customer agrees to accept partial delivery of Products ordered unless otherwise mutually agreed by the parties in writing. Where the Products are delivered in instalments, each delivery shall constitute a separate Contract. Failure by AstronTech to deliver any one or more of the instalments in accordance with these Agreements or any claim by Customer in respect of any one or more instalments shall not entitle Customer to treat a Contract as repudiated or to cancel any other instalment.

6. Software

To the extent that a Product supplied under these Terms is a software Product then, in addition to these Terms, that Product will be supplied subject to the terms and conditions of the relevant licence agreement applicable to it.

Software licence agreements may be packaged with the software, may be separately provided to Customer for execution or may require on-screen acceptance by Customer. Customer agrees to use the software Product in accordance with the terms and conditions of the relevant licence agreement.

Where the term "supply" is used in these Terms to refer to a software Product, such term means the sale and purchase of the licence to use that software Product.

7. Inspection and acceptance

Customer must:

in the case of all Products ordered (other than software Products), inspect such Products upon delivery to Customer's premises; or,

in the case of software Products, test or inspect such software Products upon those Products being authorised by AstronTech for downloading by Customer, and must, within 7 days of delivery or downloading (as the case may be), give written notice to AstronTech of any matter or thing by which Customer alleges that the Products do not accord with Customer's order.

Failing such notice and to the extent permitted by law, the Products will be deemed to have been accepted by Customer.

8. Title and risk

Products supplied by AstronTech to Customer will be at Customer's risk immediately upon delivery of the Products to the Customer, Customer's agent or into the Customer's custody or control or collection of the Products by the Customer's nominated carrier or agent.

Risk in the Products will always remain with Customer unless AstronTech retakes possession of the Products in accordance with clause 8(3).

If Customer has breached these Terms or the terms of any relevant Sales Contract, Customer authorises AstronTech, at any time, to enter onto any premises upon which AstronTech's Products are stored to enable AstronTech to inspect the Products and/or reclaim the Products.

Customer acknowledges that in the case of software Products, any refusal or failure to pay may result in cancellation of the licence to use the software Product.

Customer agrees that the provisions of this clause 8 apply despite any arrangement under which AstronTech grants credit to Customer

9. Returns

Customer must notify AstronTech in writing of any Products it wishes to return within 7 days from the date of the invoice relating to those Products.

Return of faulty products will be subject to AstronTech's Faulty Products Returns Procedure as advised to Customer and amended by AstronTech from time to time.

A No Fault Product is a Product returned by the Customer to AstronTech in circumstances where the return is not due to the fault of AstronTech or any fault with the Product.

Return of No-Fault Products will be subject to AstronTech's No Fault Products Returns Procedure as advised to Customer and amended by AstronTech from time to time.

AstronTech will not be liable for any damage or defects in the Products that have been caused by the improper storage, warehousing, or transport, or by any neglect, abuse or improper use, installation, maintenance or

The provisions of this clause 9 do not extend to any Products which have been added to, varied, or otherwise modified by, any person other than AstronTech.

10. Force majeure

If the performance of AstronTech's obligations under these Terms or any relevant Sales Contract is prevented, restricted, or affected by force majeure including strike, lock out, raw material shortage, breakdown of plant, transport or equipment or any other cause beyond the reasonable control of AstronTech, AstronTech will give notice of such cause to Customer and after 60 days from the receipt by Customer of such notice, either party may terminate the relevant Sales Contract without penalty.

11. Buffer Stock

If AstronTech agrees to hold Product as Buffer Stock to assist Customer manage supply lead times and demand variability, Customer must commit to take delivery and pay for all Product acquired by AstronTech within a mutually agreed time period, not exceeding 90 days, and enter into a Buffer Stock Agreement that defines the procedure for determining restocking levels.

12. Customer's cancellation

Unless otherwise agreed in writing by an authorised officer of AstronTech, Customer may not cancel an order which has been accepted by AstronTech.

If Customer's right of cancellation is agreed to by an authorised officer of AstronTech in writing, the right must be exercised by notice in writing from Customer to AstronTech not later than 7 days before the estimated date of shipment by the manufacturer or AstronTech (as the case may be).

Unless otherwise agreed between Customer and AstronTech, upon cancellation prior to shipment, any deposit paid by Customer will be forfeited to AstronTech.

Orders for "Configure To Order" (CTO) products are not eligible for cancellation.

Buffer Stock Product Orders are not eligible for cancellation.

13. Default of Customer

Without prejudice to any of AstronTech's other rights under these Terms, if Customer fails to make any payment due to AstronTech under these Terms, AstronTech may, in its sole discretion, and without further liability to Customer: refuse to make further supplies to Customer under the relevant Sales Contract; and/or terminate the Sales Contract without notice.

The Customer agrees that these Terms shall give rise to an interest in land thereby enabling AstronTech to lodge a caveat against the title to any land owned partly or wholly by the Customer, in order to protect and secure the interests of AstronTech under these Terms and under any Sales Contract.

In the event that AstronTech lodges a caveat against any land owned partly or wholly by the Customer, the Customer hereby irrevocably agrees to endorse its consent upon any relevant forms or documents to enable the lodgement and timely registration of any such caveat by AstronTech.

14. Warranty

Products are covered by manufacturers' warranty. To the extent permitted by law, AstronTech's entire responsibility with respect to warranties for the Products is to pass on to Customer the benefit of any such warranties. Subject to clause 14(3), software Products are not warranted by AstronTech under these Terms. Such software Products are warranted in accordance with the relevant licence agreements governing their use.

To the extent permitted by law, the manufacturers' warranties referred to in clause 13(1) are in substitution for all other terms, conditions and warranties, whether implied by statute or otherwise (including implied warranties with respect to merchantability and fitness for purpose) and all such terms, conditions and warranties are expressly excluded.

Certain legislation may imply warranties or conditions or impose obligations upon AstronTech which cannot be excluded, restricted or modified or cannot be excluded, restricted or modified except to a limited extent. These Terms must be read subject to those statutory provisions. If those statutory provisions apply, to the extent to which AstronTech is able to do so, its liability will be limited, at its option, to: in the case of products: the replacement of the products or resupply of equivalent products; repair of the products; payment of the cost of replacing the products or acquiring equivalent products; or the payment of the cost of having the products repaired; and in the case of services: the supply of the services again; or the payment of the reasonable cost of having the services supplied again.

AstronTech does not warrant that repair facilities or parts will be available in respect of any of the Products.

AstronTech will provide warranty on refurbished products for a period of 14 days from the date of invoice, that the equipment and its components appearing on the invoice (excluding batteries) will be free from any material defect.

All Laptop batteries are sold on an "as-is" basis with no warranty are covered by manufacturers' warranty.

AstronTech will undertake to either repair, replace or credit the product sold at our sole discretion. If the equipment cannot be repaired cost-effectively, it will be replaced with the same or like product at AstronTech's discretion. If no product is available AstronTech will credit the total purchase price provided that notification has been received within the stated 14-day period from invoice.

15. Liability

To the extent permitted by law, AstronTech will not be liable to Customer or any other person under any circumstances for any loss of use, profit, revenue, interest, goodwill, or data, or for any injury or death to any person, or for any indirect, incidental, or consequential damages sustained or incurred by Customer.

16. Credit assessment

If any Products are supplied to Customer on credit, Astrontech may need to disclose to a credit reporting agency certain information referred to in clause 16(3) about Customer when assessing Customer's application for credit and managing Customer's account with Astrontech. Customer authorises Astrontech to disclose such information to a credit reporting agency for these purposes.

Subject to Astrontech's obligations under the Privacy Act 1988 (Cth) as amended and any other applicable laws, Astrontech may provide the information referred to in clause 16(3) to a credit reporting agency to obtain a consumer credit report about Customer or to allow the credit reporting agency to create or maintain a credit information file about Customer. Customer agrees that Astrontech may disclose a credit report about it to any credit provider, debt collecting agency or Astrontech's insurers for the purposes of assessing Customer's creditworthiness or to collect any overdue payments (as the case may be).

Astrontech may disclose the following information relating to Customer in accordance with clauses 16(1) and (2):

Customer's name and address; credit limits on Customer's accounts; the amount of any payments which are overdue for at least 60 days; where an overdue payment has been previously reported, advice that the payment is no longer overdue; Any method of payment including, but not limited to, cheques, electronic funds transfer, BPay, credit card payments which have been dishonoured; information that, in the opinion of Astrontech, Customer has committed a serious credit infringement; and information that Astrontech has ceased to supply the Products and services to Customer.

Customer agrees that Astrontech may obtain information about Customer from any business which provides information about the commercial creditworthiness of persons for the purposes of assessing Customer's application to purchase the Products on credit and collecting any overdue amounts.

Astrontech may refuse to supply the Products to Customer on credit on the basis of Astrontech's credit assessment of Customer.

17. Privacy

Customer agrees to Astrontech collecting, using and disclosing information about Customer of the kind referred to in clause 17(3) for various purposes, including to: assess creditworthiness as outlined in clause 17; supply the Products and services to Customer and the management of Customer's account, including suppliers; communicate with Customer about the Products and services which Astrontech or its partners or affiliates may provide to Customer; implement these Terms and any Sales Contract; and comply with relevant laws.

Astrontech, at the written request of Customer, will: provide Customer with access to any personal information relating to Customer held by Astrontech; and correct or amend any personal information relating to Customer held by Astrontech which is inaccurate or out of date.

Astrontech will handle Customer's personal information in accordance with relevant laws.

18. Intellectual Property

Customer acknowledges that: all trademarks, copyright and other intellectual property rights ("Intellectual Property") embodied in or in connection with the Products and any related documentation, parts or software are the sole property of Astrontech or its suppliers; and all Intellectual Property of Astrontech or its suppliers may only be used by Customer with the express written consent of Astrontech or its suppliers, during the continuance of any relevant Sales Contract, and such consent extends only to use essential for the purposes stated in it.

Customer must not register or use any trademarks, trade name, domain name, trading style or commercial designation or design used by Astrontech or its suppliers in connection with the Products.

Customer will indemnify Astrontech against all liabilities, damages, costs, and expenses which Astrontech may suffer or incur as a result of any work performed by Astrontech in accordance with Customer's



specifications or as a result of the combination or use of the Products with other equipment, parts or software not supplied by Astronotech, and which results in the infringement of any Intellectual Property of any person.

19. Confidentiality

Customer acknowledges that Astronotech has disclosed and may from time to time disclose to Customer certain confidential information and documentation of Astronotech relating to the Products, their marketing, use, maintenance, and software, including technical specifications ("Confidential Information").

Subject to clause 19(5), Customer must: only use the Confidential Information solely for the purposes contemplated under any relevant Sales Contract; and not, during the continuation of such Sales Contract or thereafter, disclose (whether directly or indirectly) to any third party the Confidential Information, other than is required to carry out such purposes.

If disclosure of Confidential Information to third parties is necessary, Customer will obtain from such third parties binding agreements to maintain in confidence the Confidential Information disclosed at least to the same extent as Customer is bound to protect Astronotech's Confidential Information under this clause 19.

Upon the expiry or termination of any relevant Sales Contract, Customer must cease to use and must return or destroy (as Astronotech may instruct) Astronotech's Confidential Information in its possession or control.

The provisions of this clause 19 do not extend to any information which is: at the time of disclosure, rightfully known to or in the possession or control of Customer and which is not subject to an obligation or confidentiality; public knowledge (otherwise than as a result of a breach of this clause 19 or any other obligation of confidentiality);

approved in writing by an authorised officer of Astronotech to be disclosed; or required to be disclosed by a government authority or by relevant laws provided that notice of any such required disclosure is first given to Astronotech.

20. General

Astronotech may amend these Terms at any time, by giving Customer notice by mail, e-mail. By continuing to place orders for Products, Customer will be deemed to have accepted the revised Terms.

Any provision of these Terms which is invalid or unenforceable will be read down to the extent necessary, and the remaining provisions will continue unaffected.

Customer acknowledges that some Products may be controlled under export laws in force at the time of the Sales Contract. Customer shall not export, re-export, or distribute Products, in violation of any such export control laws or regulations.

Customer acknowledges that certain Products may be subject to license requirements or other restrictions specific to certain transactions. Where applicable, Customer agrees to be bound by any such terms and conditions and/or restrictions and shall indemnify Astronotech for any liability suffered by it arising from Customer's breach.

Customer may not assign or attempt to assign any of its rights and obligations under these Terms.

These Terms are governed by the laws of the State of New South Wales and the courts of the state of New South Wales shall have exclusive jurisdiction to hear any disputes arising from or relating to this agreement.