

Service Schedule - Professional & Consulting Services

Service Terms

1 Service Description

- 1.1 Telstra will supply and Customer will purchase from Telstra Services on the terms of this Agreement, including this Service Schedule and the relevant Statement of Work.

2 Change Request

- 2.1 Customer and Telstra may, at any time, request a change to the Services, a Deliverable or a Statement of Work. Telstra then will provide Customer with a written proposal setting out:

- (a) any proposed amendments to the Statement of Work;
- (b) any new or amended Fees; and
- (c) any other information reasonably requested by Telstra in relation to the change.

- 2.2 Any variation to the Services, a Deliverable or a Statement of Work under this Section 2 must be set out in a Change Request executed by Customer and Telstra.

3 Services and Deliverables

- 3.1 Customer must provide Customer Inputs by the dates specified in the Statement of Work or where no dates are specified as soon as possible upon Telstra's request.
- 3.2 Telstra will perform the Services and deliver to Customer the Deliverables according to the Specifications.
- 3.3 Telstra aims to perform Services and deliver Deliverables by the relevant Delivery Date but Telstra does not guarantee that it will do so.

Delay in delivery

- 3.4 In respect of any delay which is not caused solely by Telstra:
- (a) Telstra will not be responsible for any delay in delivering Services, a Deliverable or a subsequent Deliverable that depends on that Deliverable;
 - (b) the Delivery Date or due date for Deliverables and/or Services will automatically be extended by a period equal to the period of delay; and
 - (c) Customer must pay Telstra
 - (i) the reasonable additional fees, at Telstra's standard rates, for additional work performed by Telstra Personnel; and
 - (ii) all additional out-of-pocket expenses incurred by Telstra,as a consequence of the delay.

4 Title and Risk

- 4.1 Risk in a Deliverable passes to Customer when Telstra delivers that Deliverable to Customer.
- 4.2 Subject to Section 9, property in and title to a Deliverable remains with Telstra until Customer has paid Telstra in full the applicable Fee for that Deliverable.
- 4.3 Customer must not pledge or encumber a Deliverable until title has passed to Customer.

5 Acceptance of Deliverables

5.1 The relevant Statement of Work will set out whether the Acceptance Process will apply to a Deliverable.

Acceptance Process

5.2 During the Acceptance Test Period, Customer may assess the Deliverable to ensure that it contains no Defects.

5.3 If there are no Defects in the Deliverable, Customer must sign the applicable Certificate of Acceptance on or before expiry of the Acceptance Test Period.

5.4 If the Deliverable contains a Defect, Customer must issue a Notice of Rejection on or before expiry of the Acceptance Test Period. The Notice of Rejection must contain sufficient information regarding the Defect to enable Telstra to identify the Defect or, in the case of documentation, list any errors or omissions identified.

5.5 If Customer issues a Notice of Rejection in relation to a Deliverable Telstra will rectify the Defect and re-submit the rectified Deliverable for testing in accordance with the Acceptance Process. Sections 5.2 to 5.6 will apply to the resubmitted Deliverable and the relevant Acceptance Test Period will be the same as the original Acceptance Test Period for that Deliverable.

5.6 Acceptance of a Deliverable occurs on the earliest of:

- (a) the date of delivery where the Statement of Work does not specify that the Acceptance Process applies;
- (b) the date Customer signs a Certificate of Acceptance;
- (c) the date Customer uses the Deliverable in any way (except for test purposes); and
- (d) expiry of the Acceptance Test Period unless Customer has issued Telstra a valid Notice of Rejection.

6 Defects

6.1 Telstra does not represent or warrant to Customer that each Deliverable will be free from defects.

6.2 If a Deliverable has a Defect then Customer's sole remedy for that Defect is that Telstra must at no cost to Customer:

- (a) at Telstra's discretion, repair, replace or rectify, the Defect; and
- (b) deliver the repaired, replacement or rectified Deliverable to Customer.

6.3 Telstra has no liability and Section 6.2 does not apply where Customer Input and/or Customer Material or any action taken or inaction by Customer has resulted in a Defect in a Deliverable or where a Defect occurs as a result of misuse of or intentional damage to the Deliverable other than by Telstra.

6.4 Deliverables presented for repair may be replaced by refurbished goods of the same type rather than being repaired. Refurbished parts may be used to repair the Deliverable.

6.5 If Deliverables Customer sends to Telstra for repair are capable of retaining user-generated data please note that some or all of Customer's stored data may be lost during the process of repair. Customer must ensure that it has saved this data elsewhere prior to sending to Telstra or repair.

7 Telstra Personnel

7.1 Where Telstra Personnel perform the Services at Customer Premises, Customer must ensure that Customer Premises comply with all health, safety, environment and community laws and regulations.

7.2 Customer must obtain any consents and fund any site access and induction fees that are necessary to enable Telstra Personnel to access Customer Premises for the purpose of providing the Services to Customer.

7.3 Customer must not, and must ensure that its related bodies corporate do not, during the term of each Statement of Work and for 3 months after the completion of the Services the subject of that Statement of Work (or such

other period as set out in the Statement of Work), seek to employ or engage the services of any of Telstra's employees or contractors involved in providing the Services to Customer. This does not apply in relation to a person who responds to a genuine published advertisement. Customer acknowledges that the restraint in this Section 7.3 is reasonable in its extent and goes no further than is reasonably necessary to protect Telstra's interest in maintaining its personnel.

8 Payment

- 8.1 Customer must pay to Telstra the Fees set out in the Statement of Work. Customer must reimburse Telstra for all out-of-pocket expenses reasonably and actually incurred by Telstra in performing the Services, provided that Telstra:
- (a) first obtains verbal approval for each expense from Customer Primary Contact; and
 - (b) produces a valid invoice or receipt when claiming the expense.

Time and Materials Budget Limit

- 8.2 If a Time and Materials Budget Limit applies to a Statement of Work and the Time and Materials Budget Limit is reached then Telstra will:
- (a) notify Customer Primary Contact in writing and may suspend all work in relation to the Statement of Work; and
 - (b) inform Customer Primary Contact of Telstra's estimation of the additional time and cost required to complete the Services under the Statement of Work;
 - (c) Customer will be responsible for payment in respect of all work undertaken to the date of the notice under sub-section (b) regardless of whether the Services or Deliverables have been completed; and
 - (d) Telstra will have no further obligation or liability to complete the Services and/or Deliverables.
- 8.3 Following a notice under Section 8.2, the parties will meet in an effort to agree to a revised Time and Materials Budget Limit for the relevant Statement of Work.

Timesheets

- 8.4 Where agreed in a Statement of Work, Telstra Personnel will maintain and submit timesheets. Upon receipt of a timesheet from Telstra Personnel, Customer Primary Contact must, within 2 days:
- (a) sign and return the timesheet to Telstra Primary Contact; or
 - (b) notify Telstra Personnel why the timesheet has not been accepted, in which case Telstra Personnel will:
 - (i) confirm the timesheet submitted was accurate; or
 - (ii) submit a revised timesheet.
- 8.5 Any dispute in relation to timesheets will be dealt with in accordance with the dispute resolution procedures set out in the Agreement Terms. For the avoidance of doubt, any such dispute does not affect our rights to bill Customer, or Customer's obligations to pay, for Services in accordance with this Agreement. If the dispute is resolved in Customer's favor and gives rise to an adjustment to Fees already paid then Telstra will refund or credit any such adjustment to Customer.

9 Materials

Licensed Material

- 9.1 Telstra grants to Customer a non-exclusive, non-sub-licensable and non-transferable license to use, adapt and reproduce the Licensed Material incorporated in a Deliverable in the Territory solely for Customer's internal business purposes.
- 9.2 As between Customer and Telstra, Telstra retains all right, title and interest (including Intellectual Property Rights) in and to the Licensed Material, and Customer acquires no interest in or to the Licensed Material, other

than the license set forth in Section 9.1.

- 9.3 Except to the extent expressly permitted by applicable law, Customer must not, and must not permit others to, copy, reproduce, adapt, merge with other software, modify, decompile, reverse-engineer, disassemble or translate all or any part of the Deliverables including any Licensed Material.
- 9.4 Customer must not use the Deliverables other than in accordance with the terms of this Agreement, any documentation provided with the Deliverables and Telstra's reasonable instructions.
- 9.5 Customer must not challenge or impair the validity of or Telstra's title to or interest in any Intellectual Property Rights in the Licensed Material.

Customer Material

- 9.6 Customer or its licensors retain ownership of the Intellectual Property Rights in Customer Material. Customer grants Telstra a royalty-free license to use Customer Material for the sole purpose of performing Telstra's obligations under this Service Schedule including the right to:
 - (a) copy, modify, adapt and make derivative works of Customer Materials; and
 - (b) permit Telstra's subcontractors to use, copy, modify, adapt and make derivative works of Customer Materials.
- 9.7 Telstra acknowledges that the licence granted in Section 9.6 does not transfer to Telstra any ownership rights (including Intellectual Property Rights) in any of Customer Materials.
- 9.8 Customer warrants and represents that:
 - (a) Customer has and will during the Service Term have full power and authority to grant the rights in respect of Customer Material; and
 - (b) no rights of any third party will be infringed by Telstra's use of any of Customer Materials in accordance with this Agreement.

Responsibility for Customer Materials

- 9.9 Customer must pay any loss, damage, liability, costs or expenses incurred by Telstra as a result of a claim that Customer Material or its use by Telstra in accordance with the terms of this Agreement and the Work Order infringes the Intellectual Property Rights of any person.

10 Use by or for Third Parties

- 10.1 Unless expressly agreed otherwise in the Statement of Work, Telstra is not responsible for the use by a third party or use by Customer for the benefit of a third party of the Services or any Deliverables.
- 10.2 Customer must pay any loss, damage, liability, costs or expenses incurred by Telstra as a result of any use by a third party or use by Customer for the benefit of a third party of the Services or any Deliverables (unless such use is expressly permitted in the Statement of Work).

11 Term and Termination

- 11.1 Each Statement of Work commences on the date specified in the relevant Statement of Work and continues until all the Services are completed and all Deliverables are delivered unless terminated earlier.

Terminating a Statement of Work

- 11.2 Customer may terminate a Statement of Work at any time by giving Telstra not less than 14 calendar days' prior written notice (or such other notice as may be specified in the Statement of Work). Telstra must cease work in accordance with that notice.
- 11.3 Upon termination of a Statement of Work under Section 11.2, Customer must pay Telstra the following Early Termination Fee:
 - (a) the Fees for all work done before the date of termination of the Statement of Work; plus

- (b) the amount of Telstra's unavoidable out of pocket expenses (including any third party costs).
- 11.4 Telstra will advise Customer of the amount of the Early Termination Fee calculated in accordance with Section 11.3 upon request.
- 11.5 Customer acknowledges that the Early Termination Fee is a genuine pre-estimate of the loss or damage Telstra is likely to suffer as a result of termination of the Service prior to the expiration of the Service Term of the Service.

12 Definitions

- 12.1 The following definitions apply in this Service Schedule, in addition to the definitions in the Agreement Terms, unless the contrary intention appears.

Acceptance Process means the process set out in Section 5.2 to 5.6 or such other process set out in the Statement of Work.

Acceptance Test Period means the period set out in the Statement of Work or if no period is specified 14 days from the date the Deliverable is delivered to Customer.

Agreement Terms means the section of this Agreement with that title, to which this Service Schedule is attached.

Certificate of Acceptance means a written certificate issued by Telstra and executed by Customer as confirmation that Customer accepts a Deliverable.

Change Request means the document described in Section 2.

Customer Input means the goods, services and other assistance to be provided by Customer as specified in the Statement of Work.

Customer Material means all Material that Customer provides Telstra to enable Telstra to perform its obligations under this Service Schedule.

Customer Premises means a building, site or location other than Telstra's where Telstra Personnel are required to perform the Services.

Customer Primary Contact means the person designated in the Statement of Work as responsible for managing Customer's obligations under a Statement of Work on Customer's behalf.

Defect means any characteristic which makes the whole or any part of the Deliverable materially inoperable or materially inconsistent with the Statement of Work.

Deliverable means an item (including, without limitation, any software or hardware) required to be provided to Customer or a task to be completed by Telstra for Customer as specified in the Statement of Work.

Delivery Date means the date as specified in the Statement of Work for the completion of the development of, and the delivery to Customer of a Deliverable or provision of Services.

Expenses means all expenses specified in the Statement of Work.

Fee means the fees and charges set out in the Statement of Work.

Fixed Price Fee means the sum of all amounts payable to Telstra as set out in a Fixed Price Statement of Work.

Fixed Price Statement of Work means a Statement of Work where the amount payable under that Statement of Work is a specified fixed amount.

Licensed Material means all Material comprised in a Deliverable, including Material created or developed by Telstra or on Telstra's behalf, supplied by Telstra to Customer under this Service Schedule excluding Customer Material.

Material means material in any form, including documents, reports, products, equipment, information, data,

software, software tools and software development methodologies.

Notice of Rejection means a written notice setting out the Deliverable(s) that Customer does not accept and setting out the reasons for rejection.

Services means the professional services described in the relevant Statement of Work.

Standard Rate means the 'standard rate' for the work of Telstra Personnel as specified in the relevant Time and Materials Statement of Work.

Specifications means the specifications for a Deliverable set out in the Statement of Work.

Statement of Work means a statement of work in a form setting out the scope of the Services and each Deliverables and the corresponding Fees. A Statement of Work is an "Order" for the purposes of the Agreement.

Telstra Personnel means any person, company or other contracting party engaged to provide services to or on behalf of Telstra under a contract of services, either directly or indirectly (for example, through a third party) and includes employees, agency workers, consultants, agents and suppliers who perform the Services.

Telstra Primary Contact means the person designated by Telstra as responsible for managing the Statement of Work on Telstra's behalf.

Territory means the place(s) specified in the Statement of Work.

Time and Materials Budget Limit means the maximum amount of Time and Materials Fee payable by Customer in connection with a Time and Materials Statement of Work, as specified in such Statement of Work, unless varied in accordance with this Service Schedule.

Time and Materials Fee means the amount payable by Customer in connection with a Time and Materials Statement of Work calculated by reference to the Fees and, where requested, timesheets,.

Time and Materials Statement of Work means a Statement of Work where the amount payable under that Statement of Work is on a time and materials basis.