

**Terms and Conditions for Provision of Services by the Australian Radiation Protection and Nuclear Safety Agency
(Agreement)**

Please read these Terms and Conditions carefully as they specify the basis of the Agreement under which the Service is provided to the Client by the Commonwealth of Australia through the CEO of ARPANSA.

1. Our responsibilities

1.1 ARPANSA shall provide the Service in accordance with this Agreement.

2. Your responsibilities

2.1 The Client shall read this Agreement carefully and ensure compliance with its Terms and Conditions including ensuring that payment is made for the Service provided within the prescribed times.

3. Definitions

3.1 For the purposes of this Agreement the following definitions apply:

ARPANSA – the Commonwealth of Australia acting through the Australian Radiation Protection and Nuclear Safety Agency

ARPANS Act – the *Australian Radiation Protection and Nuclear Safety Act 1998*

Client – the individual, company or other legal person receiving the Service under this Agreement

ARPANSA web site – www.arpansa.gov.au

GST – goods and services tax

GST Act – *A New Tax System (Goods and Services Tax) Act 1999*

Quoted Price – the price quoted by ARPANSA for providing the Service that is described in the Quotation

Quotation – the document containing the Quoted Price for providing the Service under this Agreement signed by the Client by way of acceptance

Terms and Conditions – the terms and conditions which form this Agreement and are the basis upon which the Services under this Agreement are provided.

Schedule of Charges – the prescribed price lists for Services provided by ARPANSA

Service – the Service provided by ARPANSA under this Agreement as described in the Quotation or Service Request Form

Service Request Form – the document completed by the Client detailing the Services requested from ARPANSA

4. Parties

4.1 The parties to this Agreement are the Client and ARPANSA.

5. Conditions

5.1 From 1 August 2008 these Terms and Conditions supersede, revoke and replace any existing conditions of Agreement operating between the parties.

5.2 Subject to any Special Conditions, this Agreement represents the entirety of the Agreement for the provision of Services by ARPANSA and ARPANSA is no way bound by any representations which have not been expressly confirmed by ARPANSA in writing.

6. Special Conditions

6.1 Provision of the Service may also be subject to Special Conditions that are outlined in the Quotation document, Service Request Form or noted at the end of this Agreement and which are expressed to be in addition to the Terms and Conditions set out in this Agreement by ARPANSA.

7. Quotations

7.1 Where ARPANSA provides a Quotation for the Service, the Quoted Price is valid for acceptance for 30 days from the date of that Quotation unless stated otherwise.

8. Prices

8.1 The price for the provision of the Service is that contained in the Quotation sent by ARPANSA and accepted in writing by the Client or in the prescribed Schedule of Charges for the Service.

8.2 The Schedule of Charges may be varied from time to time. Services already commenced will not be affected by a price change. Services which have not already commenced will be subject to any price change noted on the ARPANSA web site.

8.3 The Client must pay all freight, transport or postage charges in connection with any equipment, device or material furnished to ARPANSA in connection with the Services.

9. Terms of Payment

9.1 ARPANSA is liable for GST under the GST Act subject to the current Schedule 1 of *A New Tax System (Goods & Services Tax) (Exempt Taxes, Fees & Charges) Determination*. Unless otherwise stated, all prices for Services under this Agreement will be inclusive of GST and payable by the Client.

9.2 ARPANSA agrees to issue the Client with a tax invoice in relation to taxable supplies made under this Agreement.

10. Time for payment

10.1 The Client shall pay all charges under this Agreement by the due date specified on the invoice.

10.2 ARPANSA reserves the right to discontinue provision of the Service where invoices remain outstanding for a period of 60 days from the date specified on the invoice.

10.3 All monies owing under this Agreement are debts due and payable to the Commonwealth of Australia and may be recovered in a court of competent jurisdiction.

11. Jurisdiction and applicable law

11.1 The laws of the State of Victoria in Australia govern this Agreement.

12. Warranties

12.1 ARPANSA excludes any statutory warranties or implied terms to the extent legally permitted in respect of the Service.

12.2 ARPANSA warrants that the Service is of merchantable quality within the meaning of the *Trade Practices Act 1974*.

12.3 ARPANSA takes all reasonable care to ensure an accurate and cost effective Service is provided to the Client under this Agreement, however all warranties under this Agreement are subject to the Client following ARPANSA's instructions or subject to any limitations expressed by ARPANSA in relation to the provision of the Service.

12.4 In any case:

(a) ARPANSA is not liable to the Client for any direct, indirect or consequential loss or damage arising out of its performance or non-performance of its obligations under this Agreement or from any cancellation of the Agreement or from any negligence, misrepresentation or other act or omission on the part of ARPANSA its servants, agents or contractors.

(b) Notwithstanding the previous clause, ARPANSA's liability to the Client, however it may arise, will not exceed, in aggregate, the amount payable by the Client for Services under this Agreement.

(c) ARPANSA will not be liable for any damage, loss or injury suffered by the Client due to the Client in any way using or relying upon the Service, including information supplied to the Client, and the Client shall indemnify ARPANSA against any liability incurred by ARPANSA arising from ARPANSA endeavouring to complete the Service, or from the use or reliance on the Service by the Client.

13. Termination

13.1 The Agreement shall terminate:

(a) upon completion of the Service and payment of all monies owing by the Client under the Agreement; or

(b) upon mutual agreement of the parties that has been reduced to writing and signed by both parties; or

(c) at the discretion of ARPANSA, including but not limited to, if the Client commits any act of bankruptcy, enters into any composition with the Client's creditors or (in the case of a company) does any act which would render it liable to be liquidated, or if a resolution is passed or proceedings commenced for the liquidation of the Client or if a receiver,

statutory manager or similar functionary is appointed in respect of its assets.

13.2 If the Agreement is terminated in accordance with clause 13.1(b), the Client shall pay for the Service or part of the Service that was provided by ARPANSA prior to termination.

14. Intellectual property

14.1 Notwithstanding any other provision of the Agreement, and unless otherwise agreed in writing prior to entry into the Agreement, all intellectual property rights arising from or developed in the course of ARPANSA performing its obligations under the Agreement shall vest or remain with the Commonwealth for its sole and unrestricted use and benefit.

15. No assignment

15.1 The Client may not assign any of the Client's rights or obligations under the Agreement without prior written consent of ARPANSA.

16. Waiver

16.1 A party's failure or delay to exercise a power or right does not operate as a waiver of the power or right. A waiver is not effective unless in writing.

17. Conflicts of Interest

17.1 As required by law or statutory obligation, ARPANSA reserves the right to disclose data or information obtained through the provision of the Service. ARPANSA reserves the right to immediately cease provision of the Service where a conflict of interest arises between ARPANSA and the Client or between the provision of the Service and the CEO's obligations under the ARPANS Act (as determined at the CEO's absolute discretion).

18. Reservations

ARPANSA reserves the right to decline to provide the Service to any person or Client at its absolute discretion.

19. Special Conditions Radiofrequency Calibration

s1. In providing this Service, ARPANSA undertakes to provide a calibration report that relates readings on the Client's instrument to values of a calibration field taken under conditions which will be specified in the report.

s2. ARPANSA does not warrant that the calibration information contained in the calibration report remains valid for any specified period. Where a "Calibration Due" sticker is affixed to the equipment, this is done for the convenience of the Client who may wish to have equipment re-calibrated annually. Otherwise, ARPANSA does not warrant the performance of the equipment in any other way and is unable to state any such conformance.

s3. Although ARPANSA will make every effort to record calibration data before and after the calibration process, ARPANSA is not responsible for any information that is lost during the Calibration process.

s4. Responsibility for Damage to Equipment – ARPANSA does not accept responsibility for any damage to equipment which occurs during transport of the Client's equipment to and from ARPANSA's premises. Where the Client does not make arrangements for return transport ARPANSA will arrange transport by means of commercial parcel carriers at the Client's cost and at the Client's risk.

s5. Faulty Equipment – ARPANSA may levy a charge not exceeding \$165 (GST Inclusive) in lieu of the quoted calibration charge when equipment is found to be unserviceable before or during calibration. This charge is at ARPANSA's discretion and will reflect the time involved in performing the partial calibration.

Where a minor fault is discovered, ARPANSA may offer to attempt a repair with the Client's permission. Such repairs will be made at the Client's risk and with no undertaking by ARPANSA that such repair will be effective and/or will not lead to further damage of the equipment. Where such a repair is successful and the calibration is completed, an amount up to \$165 (GST Inclusive) plus the cost of batteries or parts, if applicable, will be charged in addition to the original quoted price for calibration.