Advanced Test Equipment Rentals
The Knowledge. The Equipment. The Solution.
10401 Roselle Street, San Diego, California 92121
800-404-ATEC (2832) • Fax: 858-558-6570 • www.atecorp.com

TERMS AND CONDITIONS FOR SALE OF EQUIPMENT

General Terms

The following are the terms and conditions applicable to sales from Advanced Test Equipment Corporation. This entity herein after will be referred to as ATEC. It is agreed and understood that proper legal jurisdiction and venue resides in San Diego, CA for all agreements entered into henceforth. These terms and conditions will prevail over any similar or conflicting terms and conditions of customer.

Acceptance of equipment by customer constitutes the exclusive and binding agreement by the customer to be bound by these terms and conditions covering the purchase of the goods, equipment and or service of such goods and equipment ordered. The term "equipment" means all hardware, software, firmware, manuals, accessories, options, pouches and containers related to the products set forth.

Customer will be in default thereunder if it fails to pay any sum due to ATEC within payment term granted, or fails to timely perform any other obligation owing to ATEC, or if any bankruptcy or similar proceedings under federal or state law are filed by or against customer. Upon the occurrence of any default, ATEC will (1) require customer to assemble and return all such products and/or equipment, or repossess all such products and/or equipment, and (2) recover from customer all amounts payable hereunder.

ATEC does not have any duty to account to customer for the proceeds of any disposition of equipment subsequent to return or repossession. All rights and remedies of ATEC on default are cumulative and will be exercised simultaneously or successively. No waiver of any one default will waive any other or subsequent default.

Customer indemnifies and holds ATEC harmless for any damage done by equipment to other equipment projects or personnel and will insure ATEC against any such liability.

Customer is responsible for all loss, theft, mysterious disappearance, damages due to fire, flood, wind, or any other cause while equipment is in customer's possession or in transit via any common special carrier or courier.

Limitation of Liability

1. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL ATEC BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO; LOSS OF PROFIT OR REVENUE, LOSS OF USE OF THE PRODUCTS, OR ANY ASSOCIATED EQUIPMENT, COST OF SUBSTITUTED PRODUCTS, FACILITIES, SERVICES, OR REPLACEMENT POWER, DOWN TIME COSTS, OR CLAIMS OF THE CUSTOMER'S FOR SUCH DAMAGES. THE FOREGOING WARRANTY SHALL CONSTITUTE THE SOLE REMEDY OF THE CUSTOMER AND THE SOLE LIABILITY OF ATEC

CUSTOMER IS AWARE THAT ATEC IS NOT THE MANUFACTURER OF ANY EQUIPMENT. THE FOREGOING LIMITED WARRANTY AND REMEDY ARE THE EXCLUSIVE WARRANTY AND REMEDY AND ARE IN LIEU OF ANY ORAL REPRESENTATION AND ALL OTHER WARRANTIES AND REMEDIES, WHETHER IMPLIED OR STATUTORY, OTHER THAN THE FOREGOING LIMITED WARRANTY, ATEC HAS NOT MADE AND DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER WHATSOEVER INCLUDING, WITHOUT LIMITATION, THE DESIGN, COMPLIANCE WITH SPECIFICATION, OPERATION, OR CONDITION OF ANY EQUIPMENT (OR ANY PART THEREOF), THE MERCHANTABILITY OR FITNESS OF ANY EQUIPMENT FOR A PARTICULAR PURPOSE OR ISSUES REGARDING PATENT INFRINGEMENT, TITLE AND THE LIKE, IT IS FURTHER AGREED THAT ATEC SHALL HAVE NO LIABILITY TO CUSTOMER, OR THE CUSTOMERS OF CUSTOMER, OR ANY

OTHER PARTIES FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES BASED ON STRICT AND ABSOLUTE TORT LIABILITY, OR ATEC' NEGLIGENCE OR OTHERWISE.

Pricing and Payment Terms

The sale invoice the customer will receive from ATEC is based upon agreed payment term, description of equipment, and the original sale price between ATEC and customer.

1. Prices do not include taxes. Taxes will be added to the invoice as required by law and will be billed and collected accordingly.
2. Customer is obligated to pay all federal, state, and local taxes without limitation, unless proper tax exemption documentation is provided by the paying entity.
3. Customer agrees that prices specified by seller are acceptable and are presumed to be fair and reasonable.
4. All payments must be paid in United States dollars, unless requested otherwise from customer and approved by ATEC.
5. The payment term is to be paid in advance, unless requested otherwise from customer and approved by ATEC.
6. If customer requests payment arrangements other than payment in advance, customer must cooperate in the completion and submission of credit application to ATEC's accounting department.
7. All credit evaluations are predicated upon customer's credit worthiness, credit history, financial stability, and ability to pay, and are determined without prejudice to race, religion, sex, national origin, age, or any other characteristic protected by law. All credit evaluations are final.
8. If credit terms are granted, any sums not paid within the payment term are subject to a late fee and a 1.5% finance charge per month, or what the current law permits.
9. Any invoice that remains unpaid after the due date is considered delinquent.
10. Non-payment or delinquent payment annuls any and all warranties.
11. Customer understands and agrees that all required collection fees, legal expenses, and interest will be charged to debtor in the event of default, or failure to pay by debtor.
12. No installment or payment plan is expressed or implied, and total amount is due according to the payment term established in writing with customer prior to shipment of equipment.
13. ATEC does not modify a payment term once it is established between customer and ATEC.
14. In the event customer defaults on payment, ATEC will terminate the sale agreement and repossess all ATEC equipment at customer's expense.
15. Title remains with ATEC until customer fulfills all payment obligations to ATEC.
16. Customer must keep equipment free from all liens, levies, and encumbrances up until all payment obligations for equipment have been fulfilled.

Freight and Shipping

17. All equipment is shipped to and from ATEC at customer's expense, unless otherwise agreed to in writing.
18. All shipping arrangements must be designated by customer and shipped freight collect unless otherwise agreed to in writing.
19. Any request other than freight collect on customer account is subject to the standard freight rate of the courier or carrier.
20. It is customer's obligation to notify ATEC if equipment is being returned.
21. All equipment is shipped F.O.B. point of origin.
22. ATEC is not responsible for transportation delays.
23. Customer bears all risk for such shipment to and from ATEC, and after the time of delivery to the carrier or forwarding agent.
24. Customer is responsible for handling all damaged shipment claims with freight carriers.
25. Customer is responsible for filling out End-Use Certification Form if the equipment's end use location is outside the United States.

Insuring Equipment

26. It is customer's responsibility to insure all shipments for full, new replacement value.
27. In the event appropriate insurance is not obtained it will be assumed that customer wishes to self-insure.
28. It is customer's responsibility to file damage claims with courier or carrier.
29. Customer accepts responsibility to insure all equipment purchased from ATEC against loss, theft, or any damage due to fire, flood, wind, or any other calamity caused by man or nature.

Reporting discrepancies upon receipt of equipment

30. Upon receipt of equipment, it is customer's obligation to immediately inspect equipment to confirm equipment received is; (a) as stated on packing list (b) as agreed to in writing between ATEC and customer (c) not damaged due to shipping d) in good operating and physical condition.
31. ATEC only guarantees that equipment shipped to customer is as specified per written agreement between ATEC and customer, and that equipment will be covered under ATEC. warranty.
32. In the event there are discrepancies with packing list and equipment received by customer, customer is dissatisfied with equipment, equipment fails, and/or equipment is received damaged, customer is obligated to notify ATEC within time allowed as follows: ATEC ALLOWS 72 HOURS FROM RECEIPT OF EQUIPMENT TO REPORT ANY DISSATISFACTION WITH EQUIPMENT, EQUIPMENT FAILURE, OR DAMAGE TO EQUIPMENT. FAILURE TO COMPLY WITH THIS OBLIGATION CONSTITUTES CUSTOMER'S ACCEPTANCE OF EQUIPMENT IN FULL AND IN GOOD OPERATING AND PHYSICAL CONDITION, FORFEITURE OF RIGHT TO REFUTE PAYMENT TO ATEC, AND FORFEITURE OF ANY CLAIM(S) AGAINST ATEC.
33. In the event customer notifies ATEC within time allowed and decides to return equipment, customer must obtain a Return Material Authorization Number and follow the guidelines within the Return Material Authorization terms and conditions to prevent refusal of equipment. (REFER TO RETURN MATERIAL AUTHORIZATION TERMS AND CONDITIONS).
34. In the event customer returns equipment, customer is NOT relieved of any obligation or liability until ATEC evaluates equipment and/or validates customer's claim(s). Additionally, customer will be subject to a restocking fee in the event ATEC is unable to validate customer's claim(s) (REFER TO RESTOCKING FEE SECTION).

Restocking Fee

35. In the event customer decides to return equipment claiming dissatisfaction with equipment and has notified ATEC within the time allowed, customer assumes responsibility to provide ATEC with proper documentation to support their claim(s) that equipment received was NOT as agreed to in the written agreement between ATEC and customer.
36. In the event customer is unable to provide ATEC with proper documentation that the equipment shipped was NOT as agreed to in writing, ATEC will assess a restocking fee of $150.00 or 15% of the sale price, whichever is greater. Restocking fees are due upon receipt of invoice.
37. If a restocking fee applies, the customer assumes responsibility to pay to ATEC for all shipping, installation, and or any other charges incurred by ATEC, aside from the restocking fee.

Return Material Authorization (RMA) for equipment failure within warranty period

38. An RMA form must be completed and signed by customer for failed, damaged or dissatisfaction with ATEC equipment.
39. ATEC is ONLY responsible for associated costs to remedy any equipment failure that is not due to customer abuse, negligence, or operator error. These costs are limited to equipment repair/replacement and transportation to and from customer location via NON-Priority shipping method, contingent upon customer requesting equipment is returned once it is repaired or replaced. All returns must be shipped to ATEC, prepaid by customer. Costs are reimbursable to customer upon absolving customer of abuse, operator error, and or negligence.

40. If upon lab inspection there is evidence of customer abuse, negligence, or operator error, the customer is liable for all transportation costs, evaluation fees, and/or repair charges.
41. ATEC DOES NOT DELIVER REPLACEMENT UNIT(S) PRIOR TO LAB INSPECTION OF FAILED EQUIPMENT.

Sale Returns

42. An RMA is required for all equipment returns (SEE REPORTING DISCREPANCIES AND/OR RETURN MATERIAL AUTHORIZATION SECTION TO ADDRESS THESE MATTERS).
43. Customer must return all equipment, manuals, and accessories prepaid within 7 days of receipt of RMA number.
44. All items must be shipped to Advanced Test Equipment Corporation, 10401 Roselle Street, San Diego, CA 92121.
45. Customer assumes all liability for shipping damage due to improper handling, packaging, and or loss of equipment by any special courier or carrier.
46. In the event equipment is returned damaged, defective, or is missing manuals and/or accessories, customer will be required to pay for all costs associated with repairing and/or replacing equipment, missing manuals and/or accessories, including but not limited to; labor, parts, and/or replacement costs for equipment, and/or manuals and accessories.

Warranty

47. ATEC warrants only that equipment when delivered will be in good operating and physical condition, unless otherwise agreed to in writing.
48. ATEC warranty for equipment is only valid 90 days from shipment date, unless otherwise agreed to in writing.
49. ATEC makes no warranty as to the performance of any software.
50. The sole obligation of ATEC under the foregoing warranty shall be to repair, or replace any equipment that fails to meet said warranty, and such obligation will constitute the sole and exclusive remedy of customer.
51. In no event will ATEC be liable to customer for any consequential, incidental, or exemplary damages, such as loss of revenues or use of any equipment or damage to other equipment, cost of substitute equipment or down time costs.
52. ATEC is not responsible for any damages resulting from misuse or abuse of equipment, including calibration error.
53. ATEC will not be responsible for any delays or failures in making repairs, or sending replacement equipment, due to unavailability of parts or labor, strikes, delays in transportation or other causes beyond ATEC control.
54. The foregoing warranty will not apply to any damage to equipment caused by accident, abuse, negligence, or misuse by customer.
55. ATEC IS NOT THE MANUFACTURER OF ANY EQUIPMENT. ATEC DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE EQUIPMENT OR PROPRIETARY RIGHT OF ANY THIRD PARTY.

I HAVE READ AND ACCEPT THE ABOVE TERMS AND CONDITIONS TO BE BINDING IN ALL DEALINGS WITH ATEC

FOR (COMPANY NAME)_____

BY (PRINT NAME)_____TITLE_____

SIGNATURE_____DATE_____

THE ABOVE TERMS AND CONDITIONS ARE SUBJECT TO CHANGE WITHOUT NOTICE.