

These Terms and Conditions ("**Terms**") and/or the terms indicated on the Advantest quotation and sales order acknowledgement govern the provision and performance of training ("**Training(s)**") to a customer ("**Customer**") by Advantest America, Inc. ("**Advantest**").

1. DEFINITIONS

- a. "**Application Software**" means Advantest proprietary software, test methods and other similar or related applications or software developed by Advantest for use with Advantest's products for the purposes of testing Customer's integrated circuit products or devices.
- b. "**Application Training Credit(s)**" means vouchers for Standard Training Courses in connection with Application Software.
- c. "**Custom Training Course(s)**" means any non-standard Advantest training course, which is adapted to meet Customer's specific requirements.
- d. "**Maintenance Training Credit(s)**" means vouchers for Standard Training Courses in connection with service and support of Advantest's products.
- e. "**Standard Training Course(s)**" means any Advantest training course offered to the Customer if available, which includes a preset curriculum and course held at an Advantest-designated training location.
- f. "**Training Course(s)**" means Standard Training Courses and Custom Training Courses.
- g. "**Training Credits**" mean Application Training Credits and Maintenance Training Credits.
- h. "**Training Documentation**" means the user and training manuals, course materials, guidelines, instructions or similar materials and documentation provided to Customer or otherwise made available to Customer by Advantest in connection with a Training Course.

2. PRICES

- a. **Price.** Prices are valid for the period indicated on the Advantest quotation. Notwithstanding the foregoing, Advantest reserves the right to adjust its prices and fees at any time without prior notice, provided, however, that orders accepted by Advantest prior to the effective date of such adjustments shall not be subject thereto.
- b. **Tax.** Prices exclude any sales, value added, use, withholding or other similar tax and charges and/or any import duties or other assessments imposed by any government or taxing authority (collectively, "sales related taxes and assessments"), all of which shall be payable by Customer in addition to the purchase price if applicable. If exemption from taxes is claimed, Customer shall provide a certificate of exemption. Unless otherwise stated in Advantest's invoice, Customer agrees to pay any and all such sales related taxes and assessments in connection with these Terms or any order. As may be required by such government or taxing authority, Advantest is entitled to adjust or gross up the invoice price in order to recover such sales related taxes and assessments.

3. PREREQUISITES

Training participants must comply with Training Course prerequisites stated in Training descriptions before enrolling for Training Courses. Advantest may exclude a participant from the Training Courses who does not comply with the Training Course prerequisites.

4. CORE SERVICES

- a. **Services.** Advantest will deliver all Training Courses in a commercially reasonable professional manner and in accordance with generally recognized practices and standards. Advantest may select qualified subcontractors to provide Training Courses. Advantest retains the right, at its sole discretion, to design and revise the content of Training Courses.
- b. **Purchase order.** Customer may purchase Trainings or Training Credits by issuing a purchase order to Advantest. All orders are subject to acceptance by Advantest in accordance with the applicable Advantest quotation and shall reference the corresponding Advantest quotation number. Customer shall issue the purchase order within ten (10) working days prior to the start date of the Training Courses. Advantest reserves the right to reject any order that is inconsistent or conflicts with the applicable quotation.
- c. **Training Credits.** Customer may use Training Credits towards the purchase of future Standard Training Courses.
- d. **Training Credits validity.** Training Credits will expire twelve (12) months after the date Advantest receives the purchase order.
- e. **Credits conditions.** Training Credits are required for per person and per individual Training, with a maximum duration of 5 days per training course. One Training Credit cannot be used for multiple people or multiple Training.

f. **Credits usage.** Customer may use Application Training Credits only for trainings in connection with Application Software. Maintenance Training Credits may only be used for Maintenance Training Courses.

g. **Insufficient credits.** If the Customer does not have sufficient Training Credits to enroll in a Standard Training Course, Advantest will request Customer to place an order for the remaining number of Training Credits needed to attend such Standard Training Course.

5. CUSTOMER RESPONSIBILITIES

Customer will be responsible for applying for and procuring any required visas or work permits for its personnel to attend Training Courses.

6. INVOICE AND PAYMENT

- a. **Invoice.** If Training Courses or Credits are included in the purchase of any Advantest products, such Courses or Credits shall be invoiced in the system invoice. Otherwise, Training Courses shall be invoiced upon completion of the Training Course and Training Credits shall be invoiced upon acceptance of the purchase order.
- b. **Payment Date.** Payment terms are subject to Advantest credit approval. All payments are due thirty (30) days from the date of Advantest's invoice. Advantest may change credit or payment terms at any time should Customer's financial condition or previous payment record so warrant
- c. **Late Payment.** Advantest, at its sole option, may assess a fee for any late payments at a rate of one and one-half percent (1.5%) per month, or the maximum permitted by law, if less.
- d. **Discontinuance of Performance.** Advantest may suspend or discontinue performance if Customer fails to pay any sum due, or fails to perform under these Terms if, after five (5) days written notice, the failure has not been cured.

7. LIMITATIONS

- a. **Travel and accommodations.** Training Course prices are exclusive of, and Customer is solely responsible for, any expenses or costs incurred in connection with the attendance or participation of Customer's personnel in any Training Course, including, without limitation, costs of accommodation, travel, incidentals, or any applicable value-added or goods and services tax imposed by any national or local governmental authority or agency on any amounts payable by Customer in connection with these Terms.
- b. **Disclaimer.** Not all Training Courses described in these Terms are available to every Customer or in every country worldwide. Advantest will not be responsible for any business or other decisions made, or actions taken by the Customer based on any material or Training Courses supplied. Customer will have sole responsibility for accomplishing any objective for which Customer purchases any Training Courses hereunder. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, ADVANTEST MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO ANY TRAINING COURSE OR TRAINING DOCUMENTATION PROVIDED IN CONNECTION WITH THESE TERMS INCLUDING ANY: (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.
- c. **Limitation of Liability.**

TO THE EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT FOR LOSS OR DAMAGE TO THE EXTENT CAUSED SOLELY BY THE INTENTIONAL OR WILLFUL MISCONDUCT OF ADVANTEST, CUSTOMER BEARS ALL RISK OF LOSS OR DAMAGE TO ALL EQUIPMENT AND INSTRUMENTS USED IN A TRAINING COURSE. IN NO EVENT SHALL ADVANTEST BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT ADVANTEST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL ADVANTEST'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT (INCLUDING BREACH OF WARRANTY), TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNTS PAID TO ADVANTEST FOR THE

TRAINING COURSE PROVIDED TO CUSTOMER HEREUNDER THAT IS THE SUBJECT OF THE CLAIM.

8. SCHEDULING AND CANCELLATION PROCESSES

- a. **Registration.** Customer may enroll for Standard Training Courses through Advantest's registration tool or its local customer training coordinator. Customer shall contact its local Advantest sales representative or local customer training coordinator for registration.
- b. **Notifications.** Advantest will provide a separate notification of the date and location of the Standard Training Courses. Customer should not make travel arrangements prior to the receipt of the above notification.
- c. **Cancellations and Rescheduling Requests by Customer.** Customer may cancel any order for Training upon written notice to Advantest. Cancellation charges for such Training shall apply as follows: one hundred percent (100%) of the net Training Course price if cancelled ten (10) working days or less prior to the scheduled start date of the Training Courses. Failure to attend Training Courses after receipt of the notification set forth in Section 8.b hereof will be deemed to be a cancellation by the Customer. Advantest may also, at its discretion, apply any unused Training Credits toward the Training Course price; however, unused Training Credits are non-transferable and may not be used for the purchase of any goods or services from Advantest at any time. Customer may request an alternative date for the scheduled Training Courses, by providing notice within ten (10) working days prior to the scheduled start date of the Training Courses. Advantest reserves the right, at its sole discretion, to refuse a rescheduling request. If Advantest refuses such request, Advantest, at its sole discretion, shall, at its option, either (i) provide an alternate date for the Training Courses, (ii) refund Customer the Training Course fee paid or (iii) where Training Credits had been applied to such Training, permit Customer to re-use such Training Credits toward another Standard Training Course that is held during the validity period of the Training Credits. Advantest will be entitled to compensation or costs arising from any such rescheduling.
- d. **Rescheduling and Cancellation by Advantest.** Advantest reserves the right to cancel or reschedule a Training Course until no later than ten (10) working days prior to the scheduled start date of the Training Course. In case of a cancellation by Advantest, Customer's sole remedy shall be receipt of a refund of the Training Course fee paid or, where Training Credits had been applied to such Training, re-use of such Training Credits toward another Standard Training Course that is held during the validity period of the Training Credits.

9. INTELLECTUAL PROPERTY OWNERSHIP

Advantest retains all rights, title and interest in and to all Training Documentation and intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "Intellectual Property Rights") in and to all Training Courses, work product and other materials that are delivered to Customer under these Terms or prepared by or on behalf of Advantest in the course of performing any Training hereunder. Neither the Training Documentation, nor any part thereof, may be reproduced or processed, translated, disseminated, presented or otherwise used for third party consumption without the prior written consent of Advantest.

10. COPYRIGHT PROTECTION

Customer acknowledges that the Training Documentation is protected under United States copyright law and international laws and treaties. These Terms do not grant Customer any ownership interest in or to the Training Documentation, but only a limited right of use that is revocable in accordance with the terms of these Terms. Customer shall reproduce and apply any copyright or other proprietary notices included on or in the Training Documentation to any copies thereof, in whole or in part, in any form.

11. GENERAL

- a. **Force Majeure.** Advantest is not responsible for any delay or failure to perform any of its obligation under these Terms arising from or related to any cause beyond its reasonable control including, without limitation, labor dispute, acts of nature, delays of suppliers or subcontractors or carriers, curtailment of or failure to obtain sufficient electrical or other energy, act of terrorism, governmental action, fire, explosion, geological change, storm, flood, earthquake, tidal wave, explosion, epidemic, radioactive contamination, lightning or act of war, or any acts or omissions of Customer, including but not limited to, non-payment or failure to execute an acceptance certificate or financing documents.
- b. **Hardship.** If, prior to or during the course of the performance of these Terms, the terms and conditions contained in these Terms shall cease to be fair or become inequitable due to factors beyond the control of the parties hereto, including but not limited to, substantial changes in economic circumstances, then the parties hereto shall discuss how far such situation can be taken into

account and shall further review any or all provisions of these Terms as may be necessary.

- c. **No Transfer.** Customer may not assign or transfer these Terms, without prior written consent of Advantest. Any attempt to do so shall be null and void.
- d. **Export Control.** Customer who exports, re-exports, transfers or imports technology or technical data purchased hereunder, assumes responsibility for complying with applicable U.S. and other laws and regulations, and for obtaining required export and import authorizations. Customer shall comply with U.S. and other laws and regulations prohibiting transfers, exports and re-exports to certain end-users and destinations or for certain end-uses, unless written authorization is obtained from the appropriate government. Advantest may suspend performance if Advantest believes that Customer is in violation or threatened violation of applicable laws or regulations. As part of Advantest's export compliance program, Customer may be required to provide end use, end user statements as well as trade compliance statements and export policy statements regarding the Trainings purchased by Customer.
- e. **Governing Law.** Disputes arising in connection with these Terms are governed by, and construed in accordance with, the laws of the State of California, U.S.A., excluding that body of law known as choice of law. The parties agree to submit any claim or action arising from or relating to these Terms to the exclusive jurisdiction of the applicable state or federal courts situated in Santa Clara County, California Each party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against any other party in any way arising from or relating to this Agreement and all contemplated transactions in any forum other than United District Court for the Northern District of California or, if such court does not have subject matter jurisdiction, the courts of the State of California sitting in Santa Clara County, CA, and any appellate court from any thereof. Each party agrees that a final judgment in any such action, litigation or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
- f. **Continuity.** Provisions herein which by their nature extend beyond the expiration or termination of any performance of Trainings shall remain in effect until fulfilled
- g. **No Waiver.** Neither party's failure to exercise any of its rights under these Terms shall be deemed a waiver or forfeiture of those rights.
- h. **Confidentiality.** Customer shall keep confidential and not disclose to any third party the provisions of these Terms, and any other non-public information disclosed to Customer by Advantest, including without limitation technical data and/or Training Documentation or pricing information, and/or terms contained in or attached to Advantest's quotation, sales order acknowledgement and invoice. As between Advantest and Customer, Advantest retains all intellectual property rights to and ownership interest in any Advantest confidential information disclosed or provided to Customer arising from or related to these Terms. Any disclosure without Advantest's prior written consent could cause irreparable harm and significant injury that monetary damages may be inadequate to remedy and may entitle Advantest to injunction relief or equitable relief in addition to monetary damages. No rights in any confidential or proprietary information of Advantest shall be transferred to Customer by virtue of its purchase of any Trainings from Advantest.
- i. **Severability.** To the extent that any provision of these Terms is determined to be illegal or unenforceable, the remainder of these Terms shall remain in full force and effect.
- j. **No Application of CISG.** The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms.
- k. **Entire Agreement.** The Terms constitute the entire agreement between Advantest and Customer, and supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder. These Terms take precedence over any of Customer's additional or different terms and conditions, including without limitation, those contained in any purchase order, to which notice of objection is hereby given by Advantest. Customer's purchase of any Training under these Terms shall constitute Customer's acceptance of these Terms. In case of a conflict between these Terms and any Customer purchase order or other document provided by Customer, these Terms shall prevail. No change or modification of any of these Terms will be valid or binding on either party unless in writing and signed by the party against whom enforcement is sought.
- l. **No Reverse Engineering.** Customer shall not directly or indirectly reverse engineer, disassemble or decompile any technology, software, prototype, or other tangible objects which are provided pursuant to these Terms.
- m. **Notice.** Any required notices shall be given in writing at the address of the receiving party either by registered or certified mail, postage prepaid, return receipt requested, or courier with proof of delivery.