

# Advance Product Services Ltd

## Terms and Conditions

**Issue 03 – 20th March 2003**

### **1. Definitions**

“Company” means Advance Product Services Ltd.

“Contract” means any contract between the Company and the Customer for goods or services

“Customer” means the person(s) or company whose order for Services is accepted by the Company

“Goods” or “Services” means any goods or services that the Company is to supply to the Customer

### **2. Conditions**

A contract with the Terms and Conditions set out below comes into being when an order is placed with the Company and when that order is accepted by the Company irrespective of whether work has been started. These terms and Conditions shall override and exclude any other terms stipulated or incorporated or referred to by the Customer during any negotiations or in any course of dealing between the Customer and the Company unless agreed in writing by a Director of the Company.

### **3 Pricing**

Pricing for Services shall be based on the Company’s Standard Repair Charges or as otherwise agreed between the Customer and the Company prior to commencing any work. Should the price of the work exceed any agreed pricing then the Company will contact the Customer for authority to proceed at the higher price level and the Customer’s verbal acceptance will be taken as sufficient to form a Contract at the higher price.

Standard Repair Charges are not applicable to items that have suffered damage in transit, have missing parts or have been damaged by previous attempts at repair.

Standard Repair Charges exclude replacement of sub-assemblies and major components that will be charged additionally. The cost of carriage, packaging, insurance and VAT is not included in Standard Repair Charges and will be added to quoted prices. The Company will endeavour to minimize carriage charges.

Faulty items which the Company are unable to repair or which have been repaired under warranty will be returned to the Customer free of all parts and labour charges.

Items returned for repair which are found to be in full working order will be subject to a charge of 50% of the standard repair charge to cover testing and labour costs.

Quotations made by the Company for Services will be valid for 60 days from the date of issue unless agreed otherwise.

### **4. Payment**

Payment by Credit Account Customers in respect of Services shall be due 30 days net from the date of the Company’s invoice. If the Customer fails to make payment by the due date then, without prejudice to any other right or remedy, the Company shall be entitled to:

i) Retain items subsequently received from the Customer for repair until such time as the account has been settled. If the account has not been settled within 90 days then we reserve the right without further reference to the Customer to sell any items retained under this paragraph in full or part payment (as the case may be) of all sums owing to the Company and if any balance remains following any such sale then the Company will pay this to the Customer.

ii) Charge interest on the amount unpaid by forwarding a further invoice charging 2.5% of the original invoice amount per month.

The Company reserves the right to charge for copy invoices at the rate of £1.00 per copy where the original has been lost or misplaced by the Customer. If legal action is taken to recover monies due to the Company then the Company reserves the right to charge the Customer an administrative fee to cover all and any costs incurred.

Time for payment shall be of the essence.

## **5. Credit Accounts**

A Customer wishing to open a credit account must furnish such information as requested by the Company and the Company may make a search with a credit reference agency. The Company reserves the right in its absolute discretion to grant, refuse or discontinue any credit facilities or reduce or suspend any credit limit at any time.

## **6. Warranty**

The Company warrants any item that has been repaired or refurbished by the Company for 180 days from despatch from the Company's premises (or such other period as the Company may specify in writing prior to undertaking the required work). If any item fails due to faulty workmanship or by the use of faulty materials provided by the Company (but not for any other reason) then the Company will rectify any such defect at our premises. At our discretion, the Company may in the alternative refund to the Customer the sums paid by the Customer to the Company for the original defective repair work.

A charge will be made at the Company's standard rates (details available on request) for labour and additional parts subsequently found to be faulty during warranty investigations in addition to the parts that were originally repaired.

If the item has been tampered with before return to the Company, subjected to misuse, returned for no apparent reason or returned for any reason outside the terms of the original order then the warranty described above shall be void and the Company shall be entitled to charge standard repair prices.

## **7. Damage or Loss in Transit**

The Customer must inspect the goods as soon as is reasonably practicable after delivery and advise the Company within 48 hours of receipt of any damaged goods. On receipt of specific instructions from the Company, any damaged goods must be returned complete and securely packed, carriage paid, quoting the Company's advice note and giving the reasons for return and the number and date of the Company's invoice.

Unless otherwise stated, the risk of damage to or loss of Goods will pass to the Customer when the Goods are unloaded from the Company's carriers at the Customer's premises.

## **8. Repair and Service Process**

Items submitted for tests and repairs shall be processed in accordance with the Company's defined repair procedures, which include a final acceptance test prior to despatch. Where possible this shall include testing in accordance with the manufacturers original specifications. Details of final acceptance tests are available on request.

The Company has a large stock of OEM components and wherever possible we will replace components on a like for like basis. Where an exact replacement is not practical, because of cost or lead times, the Company reserves the right to use a commercially available alternative.

The Company shall use all reasonable endeavours to comply with the standard repair cycle time of 10 (ten) working days, subject to spares being available. If an item has to be held awaiting parts the Customer will be notified as soon as is reasonably practicable. Repair cycle time is the period from the first working day on which the item is received at our premises until the date of despatch to the Customer.

Time for repair shall not be of the essence.

Items received without an order shall be "quarantined" until details of the order are received from the Customer. Similarly, if the Customer has an outstanding account with the Company then the Company may deal with the items in accordance with paragraph 4.

Where a repair order cannot be fulfilled by the Company further instructions shall be requested from the Customer. Where the unrepaired item is to be returned to the Customer, it shall be identified by a label stating the reasons for return. Where the item is not to be returned it shall be disposed of by the Company. Any disposal cost may be passed on to the Customer.

### **9. Force Majeure**

The Company shall have no liability to the Customer for any delays in performance or any non-performance of our obligations as a result of causes beyond our control (which for the avoidance of doubt shall include, but not be limited to, government actions, war, fire, explosion, acts of God, strikes, import or export regulations or embargoes, lock-outs, non-availability or the extended lead time of parts, etc).

### **10. Limit of Liability**

The Company's total liability to the Customer in contract, tort (including negligence or breach of statutory duty) misrepresentation or otherwise shall be limited to the repair price quoted for each item and in no circumstances shall the Company be liable to the Customer for loss of data or for loss of profit. No liability or responsibility whatsoever is accepted by the Company for any third party claims against the Customer in relation to any items on which the Company have carried out any work provided that this exclusion does not apply to any claim for death or personal injury caused by the Company's negligence.

The Company shall not be liable to the Customer for any indirect or consequential loss or damage (whether loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (whether caused by the negligence of the Company, its employees, agents or subcontractors) which arise out of or in connection with any Contract.

### **11. General**

These Terms and Conditions constitute a complete and entire statement of all Terms and Conditions which shall apply to services provided by the Company, replace all previous written or oral terms and conditions and shall be in lieu of and to the exclusion of all other warranties, conditions and other terms implied by statute or common law save for any implied terms which by law cannot be excluded. Nothing in these Terms and Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.

These Terms and Conditions may be amended by the Company when required by sending amended Terms and Conditions to the Customer which shall apply to all orders placed by the Customer after the Customer has deemed to have received the amended Terms and Conditions (which for these purposes shall be deemed to be two days after the date of posting by the Company). No other amendments or variations shall be valid unless signed by a Director of the Company. Failure by either the Company or the Customer to exercise any rights under these Terms and Conditions shall not constitute a waiver or forfeiture of such rights.

### **12. Legal Construction**

The construction validity and performance of these Terms and Conditions and any contract incorporating these Terms and Conditions shall be governed by the Laws of England and the English Courts shall have exclusive jurisdiction.