



Advantech Corporation Terms and Conditions

1. PRICE QUOTATIONS

- a. Unless otherwise stated on the face of the quotation, or otherwise agreed to in writing by Advantech all quotations expire thirty (30) days after the date of the quotation. All prices quoted are valid for the period stated only if Buyer's requested delivery dates (including any change orders) on any resultant purchase order or commitment is within six (6) months of the expiration date on the original quotation.
- b. Unless otherwise agreed to in writing by Advantech, all prices quoted are exclusive of transportation and insurance costs, and any and all taxes including, but limited to, state and local use, sales, property (ed valorem) and similar taxes. Buyer agrees to pay such taxes unless Buyer has provided Advantech with an exemption resale certificate in the appropriate form for the jurisdiction of Buyer's place of business and any jurisdiction to which equipment is to be directly shipped hereunder or unless such sale is otherwise exempt from such taxes. When applicable, such transportation and taxes shall appear as separate items on Advantech's invoice.

2. PAYMENT AND SECURITY TERMS

Unless otherwise agreed to in writing by Advantech, Buyer shall pay all invoices issued within thirty (30) days from the date of invoice. Advantech reserves the right to change its standard credit terms at any time when, in Advantech's opinion, Buyer's financial condition or previous payment record so warrants. Should Buyer become delinquent in the payment of any sum due Advantech, after ten (10) days from the date of written notice to Buyer, Advantech shall not be obligated to continue performance under any agreement with Buyer. In addition, Advantech shall have the right to seek recovery through any legal channel, and Buyer agrees to pay all costs associated with said recovery, plus interest at the rate of 1.5% per month on any outstanding invoice amount.

3. DELIVERY DATES

Shipments of any products purchased are subject to Advantech's schedule. Advantech shall make every reasonable effort to meet any delivery date(s) quoted or acknowledged. However, Advantech will not be liable for its failure to meet such dates.

4. DELAYS IN PERFORMANCE

Advantech shall not be liable for any delay in performance hereunder due to unforeseen circumstances or due to causes beyond its control including, but not limited to, acts of nature, acts of government, labor disputes, delays in transportation and delays in delivery or inability to deliver to Advantech suppliers.

5. SHIPMENT. RISK OF LOSS AND PACKING

- a. All prices are FOB/FCA Shipping Point unless otherwise agreed to in writing by Advantech. Buyer shall pay all rigging, draying insurance and transportation charges which, unless prepaid, shall be added, on a dollar for dollar basis, to the invoice for the products being shipped.
- b. Advantech shall make every effort to ship in accordance with Buyer's shipping instructions. In the absence of specific instructions, or if Buyer's instructions are deemed unsuitable, Advantech reserves the right to ship by the method it deems most appropriate.
- c. Unless otherwise agreed to in writing by Advantech, all products shall be packed for shipment in accordance with standard commercial practices. All Packing will conform to requirements of carrier's tariffs.
- d. Any discrepancies in shipment must be reported within four (4) days of receipt of product.

6. ORDER OF PRECEDENCE

- a. These terms and conditions of sale and any attachments take precedence over Buyer's additional or different terms and conditions, to which notice of objection is hereby given. Acceptance by Buyer is limited to these terms and conditions. Neither Advantech's commencement of performance, nor delivery shall be deemed or constructed as acceptance of Buyer's additional or different terms and conditions.



b. Buyer's purchase of Advantech products hereunder represents acceptance of these terms and conditions of sale and any attachments, which together constitute the entire understanding between the parties and supersede any previous communications, representations, or agreements by either party whether verbal or written. No change or modification of any of the terms or conditions herein shall be valid or binding on either party, unless in writing and signed by an authorized representative of each party.

7. CHANGES AND CANCELLATIONS

Custom Product is Non-Cancellable and Non-Returnable (NCNR)

8. PATENT INDEMNITY

Advantech shall, except as otherwise provided herein, defend or settle any claim made, or any suit or proceeding brought against Buyers, so far as it is based on an allegation that a product furnished hereunder infringes a patent of the country in which Buyer takes delivery of said product. Advantech must be notified promptly in writing and given information, assistance, and the sole authority to defend or settle same at Advantech's expense, and Advantech shall pay all damages and costs finally awarded therein against Buyer. In case said product is in such suit held to infringe and the use of said product is enjoined, Advantech shall have the option, at its own expense to procure for Buyer the right to continue using said product, replace same with a non-infringing product, or modify same so it becomes non-infringing, or refund the depreciated value of said product and accept return of same. Advantech shall have no liability for any infringement of patents or trademarks resulting from compliance with Buyer's design, specification, instructions, or modification of said product use other than as specified in relevant Advantech publications, or use of said product not supplied by Advantech.

9. COPYRIGHT MATERIALS

Unless otherwise agreed to in writing by Advantech, Advantech copyrighted materials (software and printed documentation) may not be copied except for archival purposes to replace a defective copy or for program error verification.

10. WARRANTY

Advantech hardware products are warranted against defects in materials and workmanship. If Advantech receives notice of such defects during the warranty period, Advantech shall, at its option, either repair or replace hardware products which prove to be defective.

a. **DURATION AND COMMENCEMENT OF WARRANTY PERIOD.** The warranty period for each product is one year except for CPU(s) which is limited to 30 days after delivery.

b. For product warranties requiring return to Advantech, Buyer shall prepay shipping charges (and shall pay all applicable duties, taxes, and other said charges) for products returned to Advantech for warranty service. Except for products returned to Buyer from a country other than the United States or Canada, Advantech shall pay for return of products to Buyer.

c. **LIMITED WARRANTY**

The forgoing warranty shall not apply to defects resulting from:

1. Improper or inadequate maintenance by Buyer.
2. Buyer supplied software or interfacing.
3. Unauthorized modification or misuse.
4. Operation outside of the environmental specification for the product.
5. Improper site preparation and maintenance.
6. Warranty will be voided once the warranty label is removed.

THE WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL IS EXPRESSED OR IMPLIED ADVANTECH SPECIFICALLY

DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.



Enabling an Intelligent Planet

11. LIMITATION OF REMEDIES AND LIABILITY

THE REMEDIES PROVIDED HEREIN ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES. IN NO EVENT SHALL ADVANTECH BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) WHETHER BASED ON CONTRACT TORT, OR ANY OTHER LEGAL THEORY.

In the event that any Advantech product sold hereunder is determined by a court of competent jurisdiction to be defective and to have directly caused bodily injury, death or property damage, Advantech's liability for property damage shall not exceed greater than \$30,000 or the purchase price of the specific product that caused such damage.

12. NUCLEAR AND AVIATION APPLICATIONS

Advantech products are not specifically designed, manufactured or intended for sale as parts, components, or assemblies for the planning, construction, maintenance, operation or use of any nuclear facility nor for the flight navigation, or ground support equipment. Any Buyer using Advantech products in these applications agree that except as otherwise provided herein, Advantech is not liable in whole or in part for any claims or damages arising from such use. If Buyer uses Advantech products for these applications, Buyer agrees to indemnify and hold Advantech harmless from any claims for loss, cost, damage, expense or liability arising from or in connection with the use and performance of Advantech products in such nuclear or aviation applications. Test equipment used in a static application, which is not a functional part component or assembly of an aircraft, and is not attached to or utilized in the flight of an aircraft, is not subject to this paragraph.

13. MISCELLANEOUS

- a. Any dispute regarding the interpretation or validity hereof shall be governed by the laws of the State of California. The parties hereby agree that any dispute retailing the products sold hereunder shall be subject to the jurisdiction of the courts within the State of California.
- b. Buyer certifies that the products purchased will not be exported without prior notice to and with written consent of Advantech.
- c. Microsoft products can only be sold with system orders.