

# **EXPERT PERSONAL COMPUTER SERVICES, INC.**

## **Terms and Conditions of Sale - Home, Home Office and Small Business Customers**

**PLEASE READ THIS DOCUMENT CAREFULLY! IT CONTAINS VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU. THIS DOCUMENT CONTAINS A DISPUTE RESOLUTION CLAUSE.**

This Agreement contains the terms and conditions that apply to purchases by Home, Home Office, and Small Business customers from the Expert Personal Computer Services, Inc. entity named on the invoice ( "*Expert Personal Computer Services*" ) that will be provided to you ( "*Customer*" ) on orders for computer systems and/or related products or services sold in the United States. You agree to be bound by and accept this agreement as applicable to your purchase of product(s) or service(s) from Expert Personal Computer Services, Inc. By accepting delivery of the computer systems and/or other products or services described on that invoice, Customer agrees to be bound by and accepts these terms and conditions.

THESE TERMS AND CONDITIONS APPLY (i) UNLESS THE CUSTOMER HAS SIGNED A SEPARATE FORMAL PURCHASE AGREEMENT WITH Expert Personal Computer Services, IN WHICH CASE THE SEPARATE AGREEMENT SHALL GOVERN; OR (ii) UNLESS OTHER Expert Personal Computer Services STANDARD TERMS APPLY TO THE TRANSACTION.

These terms and conditions are subject to change without prior written notice at any time, in Expert Personal Computer Services, Inc. sole discretion.

**1. Other Documents.** Other than as specifically provided in any separate formal purchase agreement between Customer and Expert Personal Computer Services, Inc, these terms and conditions may NOT be altered, supplemented, or amended by the use of any other document(s). Any attempt to alter, supplement or amend this document or to enter an order for product(s) which is subject to additional or altered terms and conditions will be null and void, unless otherwise agreed to in a written agreement signed by both Customer and Expert Personal Computer Services, Inc.

**2. Governing Law.** THIS AGREEMENT AND ANY SALES THEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS RULES.

**3. Payment Terms; Orders; Quotes; Interest.** Terms of payment are within Expert Personal Computer Services's sole discretion, and unless otherwise agreed to by Expert Personal Computer Services, Expert Personal Computer Services must receive payment prior to Expert Personal Computer Services's acceptance of an order. Payment for the products will be made by credit card, wire transfer, or some other prearranged payment method unless credit terms have been agreed to by Expert Personal Computer Services, Inc. Invoices are due and payable within the time period noted on the invoice, measured from the date of the invoice. Expert Personal Computer Services, Inc. may invoice parts of an order separately. Orders are not binding upon Expert Personal Computer Services, inc. until accepted by Expert Personal Computer Services, Inc. Any quotations given by Expert Personal Computer Services will be valid for the period stated on the quotation. Customer agrees to pay interest on all past-due sums at the highest rate allowed by law.

**4. Shipping Charges; Taxes.** Separate charges for shipping and handling will be shown on Expert Personal Computer Services's invoice(s). Unless Customer provides Expert Personal Computer Services with a valid and correct tax exemption certificate applicable to the product ship-to location prior to Expert Personal Computer Services's acceptance of the order, the Customer is responsible for sales and all other taxes associated with the order, however designated, except for Expert Personal Computer Services's franchise taxes and taxes on Expert Personal Computer Services net income. If applicable, a separate charge for taxes will be shown on Expert Personal Computer Services's invoice.

**5. Title; Risk of Loss.** Title to products passes from Expert Personal Computer Services to Customer on shipment from Expert Personal Computer Services's facility. Loss or damage that occurs during shipping by a carrier selected by Expert Personal Computer Services is Expert Personal Computer Services's responsibility. Loss or damage that occurs during shipping by a carrier selected by Customer is Customer's responsibility. Title to software will remain with the applicable licensor(s).

**6. Warranties.** THE LIMITED WARRANTIES APPLICABLE TO BRANDED PRODUCTS ARE INCLUDED IN THE DOCUMENTATION ALONG WITH THE PRODUCTS. Expert Personal Computer Services MAKES NO EXPRESS WARRANTIES EXCEPT THOSE STATED IN Expert Personal Computer Services's APPLICABLE WARRANTY STATEMENT IN EFFECT ON THE DATE OF THE INVOICE. ANY SUCH WARRANTIES WILL BE EFFECTIVE, AND Expert Personal Computer Services WILL BE OBLIGATED TO HONOR ANY SUCH WARRANTIES, ONLY UPON Expert Personal Computer Services 's RECEIPT OF PAYMENT IN FULL FOR THE ITEM TO BE WARRANTED.

**7. Return Policies.** Expert Personal Computer Services systems and parts that are purchased directly from Expert Personal Computer Services by an end-user

Customer may be returned by Customer in accordance with Expert Personal Computer Services's *"Total Satisfaction Return Policy"* in effect on the date of the invoice.

**8. Exchanges.** From time to time, Expert Personal Computer Services may, in its sole discretion, exchange products or portions of a product. Any exchanges will be made in accordance with Expert Personal Computer Services's exchange policies in effect on the date of the exchange.

**9. Products.** Expert Personal Computer Services's policy is one of ongoing product update and revision. Expert Personal Computer Services may revise and discontinue products at any time. Expert Personal Computer Services will ship products that have the functionality and performance of the products ordered, but changes between what is shipped and what is described in a specification sheet or catalog are possible. The parts and assemblies used in building Expert Personal Computer Services products are selected from new and equivalent-to-new parts and assemblies in accordance with industry practices. Spare parts may be new or reconditioned.

**10. Limitation of Liability.** Expert Personal Computer Services DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH HEREIN, INCLUDING ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST OR CORRUPTED DATA OR SOFTWARE. Expert Personal Computer Services WILL NOT BE LIABLE FOR LOST PROFITS, LOSS OF BUSINESS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY EXCEPT AS EXPRESSLY PROVIDED HEREIN. CUSTOMER AGREES THAT FOR ANY LIABILITY RELATED TO THE PURCHASE OF PRODUCTS OR SERVICES, Expert Personal Computer Services IS NOT LIABLE OR RESPONSIBLE FOR ANY AMOUNT OF DAMAGES ABOVE THE AGGREGATE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PURCHASE(S) UNDER THIS AGREEMENT.

**11. Binding Arbitration.** Customer agrees to settle by arbitration any disagreement or controversy arising between Customer and/or its users and Expert Personal Computer Services relating to this agreement. Such arbitration shall be conducted according to standard arbitration rules then in effect for the Judicial Arbitration and Mediation Service (JAMS) of Buncombe County, North Carolina. Initiation of arbitration may be made by serving written notice to the other party. This arbitration agreement is binding upon all parties. Any award the arbitrator makes will be final and binding on all parties and judgement on it may be entered in any court having jurisdiction. This arbitration provision shall be enforced and interpreted exclusively in accordance with applicable law, including the Federal Arbitration Act. Furthermore, the prevailing party shall be entitled to recover reasonable attorney's fees.

**12. Applicable Law; Not For Resale.** Customer agrees to comply with all applicable laws and regulations of the various states and of the United States. Customer agrees and represents that it is buying for its own internal use only, and not for resale. Expert Personal Computer Services has separate terms and conditions governing resales.

**13. Headings.** The section headings used herein are for convenience of reference only and do not form a part of these terms and conditions, and no construction or inference shall be derived there from.