

BuyitDirect Limited Terms and Conditions of Sale (Effective from 1st July 2007 until further notice)

THESE TERMS AND CONDITIONS DO NOT AFFECT THE STATUTORY RIGHTS OF ANY CONSUMER

1. DEFINITIONS & INTERPRETATION

- 1.1 In these conditions, the following words and phrases shall have the meanings ascribed to them below:
- 1.1.1 "Customer" means the person or party who purchases the Products from the Seller;
 - 1.1.2 "Seller" means BuyitDirect Limited (Company Number 04171412) whose registered office is at Unit A, Trident Business Park, Leeds Road, Huddersfield, West Yorkshire, trading as Laptopsdirect.co.uk and ServersDirect.co.uk;
 - 1.1.3 "Contract" means any contract between the Seller and the Customer for the sale and purchase of the Products, subject to and incorporating these conditions;
 - 1.1.4 "Products" means any Products agreed in the Contract to be supplied to the Customer by the Seller (including any part or parts of them).
- 1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.3 Words in the singular include the plural and in the plural include the singular.
- 1.4 A reference to one gender includes a reference to the other gender.
- 1.5 Condition headings do not affect the interpretation of these conditions.

2. ENTIRE AGREEMENT

- 2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, communication, specification or other document).
- 2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These conditions apply to all the Seller's sales and any variation to these conditions and any representations about the Products shall have no effect unless expressly agreed in writing and signed by a director of the Seller.

3. ORDER PROCESS

- 3.1 All orders placed by the Customer are subject to final acceptance by the Seller.
- 3.2 Following receipt of any order, the Seller may send to the Customer an order acknowledgement detailing the Products which have been ordered. This communication is not an order confirmation or order acceptance from the Seller.
- 3.3 Acceptance of the Customer's order and the completion of the Contract between the Seller and Customer will take place on despatch to the Customer of the Products ordered unless the Seller has notified the Customer that the order has not been accepted or it has been cancelled by the Customer.

4. DESCRIPTION AND PRICING

- 4.1 The description of the Products shall be as set out on the Seller's website at the time the Customer places an order.
- 4.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Seller and any descriptions or illustrations contained in the Seller's website are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract which is not a sale by sample.
- 4.3 Every effort is made by the Seller to ensure that prices shown on the Seller's website are accurate. If an error is found, the Supplier will inform the Customer as soon as possible and offer the option of reconfirming the order at the correct price, or cancelling the order. If the Seller does not receive an order confirmation within 3 days of informing the Customer of the error, the order will be cancelled automatically. If the Customer cancels the order, or if the order is cancelled automatically due to the expiry of the 3 day period, the Seller will refund or re-credit the Customer for any sum that has been paid.
- 4.4 All prices are shown in UK £s (pounds sterling) and unless expressly stated otherwise, include VAT (where applicable) at the applicable current rates but exclude delivery charges.

5. DELIVERY

- 5.1 Delivery of the Products shall be made:
- 5.1.1 to the Customer's address;
 - 5.1.2 at the Seller's sole discretion, to any address specified by the Customer; or
 - 5.1.3 by the Customer collecting Products at the Seller's premises at any time after the Seller has notified the Customer that the Products are ready for collection.
- 5.2 The Customer acknowledges that it may be required by the Seller to provide proof address and identification (in the form of photo identification) prior to delivery being made.
- 5.3 Any dates specified by the Seller for delivery of the Products are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 5.4 If delivery is made in accordance with condition 5.1.3 above, the Customer shall take delivery of the Products within 5 days of the Seller giving it notice that the Products are ready for delivery.
- 5.5 If for any reason the Customer fails to accept delivery of any of the Products when they are ready for delivery, or the Seller is unable to deliver the Products on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
- 5.5.1 risk in the Products shall pass to the Customer (including for loss or damage caused by the Seller's negligence);
 - 5.5.2 the Products shall be deemed to have been delivered; and
 - 5.5.3 the Seller may store the Products until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 5.6 If the Seller is requested to re-deliver the Products following a failed delivery in accordance with condition 5.5, the Seller reserves the right to make an additional charge for such re-delivery.
- 5.7 The Seller may deliver the Products by separate instalments. Each separate instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 5.8 The Customer shall be required to notify the Seller of any delivery shortages within 24 hours of delivery. If the Customer fails to notify the Seller of any such shortages within this time scale, the Customer shall be deemed to have accepted delivery of all Products.

6. RISK

- 6.1 The Products are at the risk of the Customer from the time of delivery.

7. PAYMENT

- 7.1 Payment for the Products by the Customer can be made by any method shown on the Seller's website.

8. CUSTOMERS RIGHT OF CANCELLATION UNDER THE COMSUMER PROECTION (DISTANCE SELLING) REGULATIONS 2000

- 8.1 If the Customer purchases the Products using the Sellers website or telephone number, the Customer may cancel the Contract for any reason, but no later than 7 workings days after delivery of the Products.
- 8.2 For the avoidance of doubt, there shall be no right to cancel any Contract if the Products: (i) were purchased on site at the Sellers premises; or (ii) software or extended warranty items which have been opened or unsealed by the Customer; (iii) are computers which have been registered in the Customers name with the manufacturer.
- 8.3 The Customer may cancel the Contract by writing to the Seller in this regard.
- 8.4 If the Customer elects to cancel the Contract, they shall at their own cost return the Products to the Sellers premises.
- 8.5 Whilst the Products are in the possession of the Customer, the Customer shall be under a statutory duty to take reasonable care of the Products.
- 8.6 If the Products are IT equipment, the Seller will deem that the Customer has not taken reasonable care of the Products if they have been damaged in the Customers possession, (or in transit whilst being returned) or used and not subsequently restored to their factory settings in accordance with the instructions issued by the Seller.
- 8.7 The Seller will refund the purchase price within a period of 30 days from the date of cancellation. However, if a Returns Authorisation Number was obtained in advance from the Seller and detailed on any returns packaging, any refund made shall be expedited.
- 8.8 If the Seller delivered the Products using a delivery service, the cost of such delivery service may be deducted from any amount refunded pursuant to condition 8.7.
- 8.9 The Seller reserves the right to make a "Service Charge" (which is advertised on the Sellers website from time to time) if the Products are IT equipment and have not been restored to their factory settings or that the Sellers deems that the Customer has not taken reasonable care of the products in accordance with condition 8.6.
- 8.10 The Customer authorises the Seller to recover the Service Charge by: (i) debiting any credit or debit card of the Seller, immediately following any refund made pursuant to condition 8.7; or setting-off the Service Charge against any refund made pursuant to condition 8.7.
- 8.11 The Customer acknowledges that the Service Charge will compensate the Seller for any loss suffered by it as a result of the Customers failure to take reasonable care of the Products in accordance with conditions 8.5 and 8.6.

9. LIMITATION OF LIABILITY

- 9.1 The following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 9.1.1 any breach of these conditions;
- 9.1.2 any use made or resale by the Customer of any of the Products, or of any product incorporating any of the Products; and
- 9.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 9.2 Nothing in these conditions excludes or limits the liability of the Seller:
- 9.2.1 for death or personal injury caused by the Seller's negligence; or
- 9.2.2 under section 2(3), Consumer Protection Act 1987; or
- 9.2.3 for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or
- 9.2.4 for fraud or fraudulent misrepresentation.
- 9.3 Subject to condition 9.2 and condition 9.3:
- 9.3.1 the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- 9.3.2 the Seller shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses.

10. ASSIGNMENT

- 10.1 The Seller may assign the Contract or any part of it to any third party.
- 10.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

11. UNFORSEEABLE DELAYS

- 11.1 The Seller reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Products ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 90 days, the Customer shall be entitled to give notice in writing to the Seller to terminate the Contract.

12. EXPORT OF PRODUCTS

- 12.1 The Products may be sold by the Seller for export from the United Kingdom. The Customer shall comply with all applicable legislation and regulations and payment of any duties, import taxes or other costs of import. If the Seller notifies the Customer that export of the products into a country is prohibited under the Sellers export licences, the Customer shall not supply or offer the Products for supply into or within that country. The Customer shall obtain all licences, authorisations and approvals required for export of Products from the United Kingdom or import into any other country and shall indemnify the Seller against any liability in relation to the Customers breach of any of the provisions of this condition 12.

13. GENERAL

- 13.1 Each right or remedy of the Seller under the Contract is without prejudice to any other right or remedy of the Seller whether under the Contract or not.
- 13.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 13.3 Failure or delay by the Seller in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 13.4 Any waiver by the Seller of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 13.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 13.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS SHALL APPLY IF THE CUSTOMER IS PURCHASING THE PRODUCTS IN THE COURSE OF A TRADE, PROFESSION OR BUSINESS

14. DELIVERY

- 14.1 Conditions 5.1 and 5.2 shall not apply.
- 14.2 Delivery of the Products shall be made to the Customers business address.
- 15. PRODUCTS PURCHASED ON CREDIT TERMS**
- 15.1 In relation to any Products purchased by the Customer using any credit facility granted by the Seller, the Seller shall issue an invoice for payment with the Products.
- 15.2 The Customer shall pay any invoice within 30 days of receipt. Time for payment shall be of the essence.
- 15.3 No payment shall be deemed to have been received until the Seller has received cleared funds.
- 15.4 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Seller to the Customer.
- 15.5 If the Customer fails to pay the Seller any sum due pursuant to the Contract, the Customer shall be liable to pay interest to the Seller on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of the Bank of England, accruing on a daily basis until payment is made, whether before or after any judgment. The Seller reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 15.6 Full legal and beneficial title and ownership of the Products shall only pass to the Customer when the Seller has received in full (in cash or cleared funds) all sums due to it in respect of:
- 15.6.1 the Products; and
- 15.6.2 all other sums which are or which become due to the Seller from the Customer under any other contract or account.
- 15.7 Until title and ownership of the Products has passed to the Customer, the Customer shall:
- 15.7.1 hold the Products on a fiduciary basis as the Seller's bailee;
- 15.7.2 store the Products (at no cost to the Seller) separately from all other Products of the Customer or any third party in such a way that they remain readily identifiable as the Seller's property;
- 15.7.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and
- 15.7.4 maintain the Products in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Customer shall produce the policy of insurance to the Seller.
- 15.8 The Customer's right to possession of the Products shall terminate immediately if title and ownership of the Products has not already passed in accordance with condition 15.6 and:
- 15.8.1 the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation of the Customer; or
- 15.8.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under any contract between the Seller and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
- 15.8.3 the Customer encumbers or in any way charges any of the Products.
- 15.9 The Seller shall be entitled to recover payment for the Products notwithstanding that legal and beneficial ownership and title of any of the Products has not passed from the Seller.
- 15.10 The Customer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where the Products are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
- 16. QUALITY**
- 16.1 The Seller is a re-seller and not a manufacturer of the Products. In this respect and to the fullest extent permissible by law, the Seller is unable to offer any express warranties of any kind whatsoever in respect of the Products.
- 16.2 Save to the extent that any exclusion or restriction of liability may be prohibited by statute, all implied warranties relating to the Products (statutory or otherwise) including (without limitation) any warranties relating to quality or fitness for a particular purpose, shall be fully excluded.
- 16.3 The Products may be sold with a manufacturer's warranty, details of which shall be dispatched with the Products.
- 16.4 Products which are found to be defective following delivery shall be dealt with by the Customer in accordance with any subsisting manufacturer's warranty. For the avoidance of doubt, this may mean that the Products are repaired as opposed to replaced and must be returned directly to the manufacturer as opposed to the Seller.
- 17. NO CANCELLATION RIGHTS**
- 17.1 Condition 8 shall not apply. For the avoidance of doubt, the Consumer Protection (Distance Selling) Regulations 2000 do not apply to the sale of Products in the course of a trade, business or profession.
- 18. RETURNS**
- 18.1 Subject to the Seller's written agreement and the payment of a re-stocking charge (which is 25% of the purchase price) by the Customer, the Products may be returned at the expense of the Customer within 7 days of delivery.