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### **Terms and Condition of Business**

The following terms of business are applicable for trading over the internet in addition to direct sale of goods and services from APEX Computer Technology (Ltd). Please read these Term and Conditions and download the .pdf version for future reference. A copy may be request to be sent directly by surface mail.

#### **General Terms 1 Definitions**

- 1.1 "Buyer" means the person who buys or agrees to buy the goods from the Seller.
- 1.2 "Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller.
- 1.3 "Delivery Date" means the date specified by the Seller when the goods are to be delivered.
- 1.4 "Goods" means the articles that the Buyer agrees to buy from the Seller.
- 1.5 "Services" means the services that the Buyer agrees to buy from the Seller.
- 1.6 "Price" means the price for the goods excluding carriage, packing, insurance and VAT.
- 1.7 "Provider" means the internet service provision to the Buyer from the Seller, that being - web hosting, ADSL - broadband and 56K and or ISDN dialup.
- 1.8 "Seller" means APEX Computer Technology or APEX Computer Technology Ltd.

#### **2 Conditions applicable**

- 2.1 These conditions shall apply to all contracts for the sale of Goods or Services by the Seller to the Buyer to the exclusion of all their terms and conditions including any terms and conditions which the Buyer may purport to apply under any purchase order, confirmation of order or similar document. All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods and Services pursuant to these Conditions
- 2.2 Acceptance of delivery of Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.3 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

#### **3 The Price and Payment**

- 3.1 The price shall be the Seller's quoted price. The price is exclusive of VAT (unless otherwise stated), which shall be due at the rate ruling on the date of the Seller's invoice. The Seller reserves the

right to amend prices at any time without prior notice. Errors and omissions are excepted.

- 3.2 Payment of the price and VAT shall be due and payable on the date of the invoice. Time for payment shall be of the essence.
- 3.3 Overdue invoices shall accrue interest from the date when payment becomes due from day to day until the date of payment at a rate of 4% above UK Bank base rate from time to time in force and shall accrue at such a rate after as well as before any judgement. Additional surcharges over and above interest charges may be applicable if the overdue invoice exceeds 30 days and recovery proceedings are initiated - payment of late invoices after initiation of proceeding to recover such debt will still incur additional charges to cover the costs of recovery of the debt.
- 3.4 Disputes over payment must be made in writing within 14 days of delivery of the goods or services provided. The Seller must be given all reasonable opportunity and time to correct errors or remaining problems with the delivered goods or services. The Seller reserves the right to enforce recovery of outstanding owed monies regardless of the final outcome of the dispute. Notification of issues after 14 days from delivery will require full payment regardless, The Seller will respond to the notification of a problem after this time period with all reasonable haste and professionalism in an effort to solve the issue.

#### **4 Orders**

- 4.1 Written confirmation of telephone orders must be clearly marked as such. In default the Seller shall not be held responsible for duplication of an order.
- 4.2 In the event the buyer wishes to cancel an order the Seller reserves the right to apply a cancellation charge. The buyer must obtain a cancellation number from the Seller.

#### **5 The Goods**

- 5.1 The quantity and description of the goods shall be as set out in the Seller's quotation. Errors and omissions excepted
- 5.2 The buyer will ensure that the goods purchased are suitable and compatible with his requirements

#### **6 Warranties and liability**

- 6.1 The Seller warrants that the Goods at the time of delivery correspond to the description given by the Seller. Except where the Buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 Section 12) all other warranties conditions or terms relating to fitness for purpose, merchantability or condition of the Goods and whether implied by statute or common law or otherwise are excluded.
- 6.2 Where the Buyer is dealing as a consumer (as defined in the Unfair Contracts Term Act 1977 Section 12) the Seller will replace, repair or refund strictly at the Seller's option any item found to be faulty within twelve months from the original invoice date, provided that the goods are returned to the Seller in accordance with the 'Returns Policy' Clause and the goods have

not been misused, tampered with, improper application, neglected and/or physically damaged. Normal wear and tear on consumables will not be covered by the warranty i.e. mouse, joystick. The replacement will be to the original specification or above at the Sellers discretion. No refund shall be given unless the goods are returned to the Seller, with all documentation, software and accessories in the original packaging.

**6.2.1** The warranty period between the Buyer and the Seller is strictly 12 months. Under no circumstances can this warranty be extended and warranties given by the manufacturer, dealer or any other party is expressly excluded from this contract between the Buyer and Seller.

6.3 In the case of hard drives that require replacement, these shall be to the same capacity or higher and not necessarily of the same specification or manufacturer.

**6.3.1** CD-ROMs are sold as 40x, 44x, 52x etc. and a warranty replacement will be of the same type, i.e. a 44x will be replaced by a 44x and this replacement may not necessarily be of the same make as the original unit.

6.4 If a faulty item is to be repaired then the Seller may take a reasonable time to affect such repair, which may include the time taken to return it to the original supplier. The Seller shall not be liable for any loss incurred whilst the goods are being repaired and tested.

6.5 The Buyer shall take necessary precautions to back-up the data, the Seller shall not be liable for any loss of data resulting from equipment failure or any repair/upgrade work performed on the Buyers hardware.

6.6 The buyer shall take necessary Anti-Static precautions when handling any electronic component. Any damage as a result of improper handling will void any warranty.

## **7 Returns Policy**

7.1 The Buyer shall obtain a Returns Material Authorisation number (RMA) from the Seller before returning any goods. Goods received without a valid RMA no. will not be dealt with but stored until the seller is contacted by the buyer for the required information.

7.2 The Buyer shall quote the sales invoice number and the serial number on which the goods were purchased, upon verification by the Seller, the Seller shall issue a RMA no. which shall be valid for a period of thirty days.

7.3 The goods shall be returned to the Seller at the Buyers expense, sufficiently packaged so as to avoid damage in transit, with the original documentation, software and accessories. A valid RMA no. should be clearly displayed on the outside of the package. The Seller shall not be liable for loss or damage whilst in transit to the Seller's address.

7.4 If the Buyer returns the goods in person, these goods must be left with the Seller for testing. Goods will not necessarily be tested whilst the customer waits. An RMA number will be issued upon receipt of the sales invoice number. No goods can be left without proof of purchase.

- 7.5 Upon receipt of the goods by the Seller, the Seller shall repair or replace at the Seller's discretion and shall be returned to the Buyer's original invoice address. Goods received by the Seller which are damaged, incomplete or not of the Seller's origin shall not be processed and arrangements for their return to the Buyer, at the Buyer's expense, shall be made.
- 7.6 In the event that the goods are returned and subsequently tested and found to be free of any faults the Seller shall make a minimum charge of £15.00 plus VAT and the return carriage charge. No goods shall be returned without payment of these charges. In the event that payment has not been made within 21 days of notification of the no fault found charge, the goods shall be disposed of without any liability to the Seller.
- 7.7 The Seller shall reserve the right to refuse to restock any goods which have been:-
- i) Supplied in accordance with the Buyer's order.
  - ii) Returned incomplete.
  - iii) Returned not in manufacturer's packaging or defaced packaging.
  - iv) Returned in a non-re-saleable condition.
- 7.8 Goods that are returned for restocking will be charged a minimum of 10% restocking fee (min. £5 plus VAT) and a testing charge of £5.00 plus VAT. The Seller shall reserve the right to refuse to restock any goods which are incomplete and/or not in their original packaging.

## **8 Out Of Warranty Repair & Upgrades**

- 8.1 Where a Buyer authorised the Seller to carry out repair work not covered under any warranty or upgrades; The warranty shall apply only to the parts fitted to the system at this time and not the full system or any other part of the system. The warranty on parts fitted at time of upgrade shall be in accordance with the seller's standard component return to base warranty detailed in clause 6 & 7.
- 8.2 The period of labour warranty is 14 days from the date of the purchase invoice

## **9 Delivery of Goods**

- 9.1 Delivery of Goods shall be made to the Buyer's address on the Delivery Date. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery.
- 9.2 Where the goods are being dispatched via a carrier the time quoted shall be for a nominal service and not guaranteed within a time scale. No refund in full or part shall be offered as a result of late delivery by the carrier.

## **10 Acceptance of Goods**

- 10.1 The Buyer shall be deemed to have accepted Goods 24 hours after delivery to the Buyer.
- 10.2 The Buyer shall advise in writing within 2 days of receipt of the Goods any discrepancies in specification from the Goods

ordered, after which it shall be deemed acceptance of the goods as the specification supplied. After this period, the Buyer shall not be entitled to reject Goods that are not in accordance with the Contract.

10.3 The Seller will not consider any claims for shortage of delivery or damage in transit unless written notice is given to the carrier and Seller within 2 days of the receipt of goods. In this condition time shall be deemed to be of the essence.

## **11 Title and risk**

11.1 The Goods shall be at the Buyer's risk as from delivery.

11.2 In spite of delivery having been made, property in the Goods shall not pass from the Seller until;

11.2.1 the Buyer shall have paid the price plus VAT in full

11.2.2 no other sums whatever shall be due from the Buyer to the Seller

11.3 Until property in the Goods passes to the Buyer in accordance with Clause 11.2 the Buyer shall hold the Goods and each of them on fiduciary basis as bailee for the Seller. The Buyer shall store the Goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Seller's property.

11.4 Notwithstanding that the Goods (or any of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Seller, the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the Seller's money.

11.5 The Seller shall be entitled to recover the price (plus VAT) notwithstanding that the property in any Goods has not passed from the Seller.

11.6 Until such time as property in the Goods passes from the Seller to the Buyer shall upon request deliver up to such of the Goods as have not ceased to be in existence or resold to the Seller. If the Buyer fails to do so the Seller may enter upon any premises owned occupied or controlled by the Buyer where the Goods are situated and repossess the Goods. On the making of such request the rights of the Buyer under Clause 11.4 shall cease.

11.7 The Buyer shall not pledge or in any way charge by way of security for and indebtedness any of the Goods which are the Property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatever owing by the Buyer to the Seller forthwith become due and payable.

11.8 The Buyer shall insure and keep insured the Goods to the full price against "all risks" to the reasonable satisfaction of the Seller until the date that property in the Goods passes from the Seller and shall whenever requested by the Seller produce a copy of the policy of insurance. Without prejudice to the other rights of the

Seller, if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.

## **12 Force Majeure**

12.1 The Seller shall not be liable in any respect whatsoever for delay in the performance of, or the failure to perform, any obligation pursuant to any order or contract, in each case, as a result of circumstances beyond its control. If such circumstances delay or prevent the performance of any obligation under any order or contract for 30 days or more, the Seller shall be entitled by written notice to cancel or terminate such order or contract or its outstanding obligations thereunder.

## **13 Remedies of Buyer**

13.1 Where the Buyer rejects any Goods then the Buyer shall have no further rights whatever in respect of the supply to the Buyer of such Goods or the failure by the Seller to supply Goods that confirm to the contract of sale.

13.2 Where the Buyer accepts or has been deemed to have accepted any Goods then the Seller shall have no liability whatever to the Buyer in respect of these Goods.

13.3 The Seller shall not be liable to the Buyer for late delivery or short delivery of the Goods.

## **14 Data Protection**

14.1 In compliance with the data Protection Act 1998, personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

14.2 We will use your details for fraud prevention purposes. We will check your details with fraud prevention agencies and if you give us false or inaccurate information and we suspect fraud, we will record this.

## **15 Proper Law of Contract**

15.1 This Contract is subject to the Law of England and Wales.

ADSL rental  
and dialup  
facilities

## **16 Acceptable Use**

16.1 This Acceptable Use Policy is in place to protect our customers from a deterioration in service. All customers must agree to the following: These terms may be modified at any time and without notice. All users previous and new are always subject to the newest terms posted here at all times

## **17 Support**

17.1 The Provider will endeavour to provide support as and when required, some faults can be rectified quickly and simply, others have to be referred to the carrier which can take up to 48 hours to test and up to 5 working days to rectify. We endeavour to chase the carrier where commercial dependence is established by the customer on a faulty system.

## **18 Billing**

18.1 After the initial online payment an invoice will be sent each subsequent month, this can be paid online at the online payments page or by cheque, payment is to be received within 10 days of the invoice date. If payment is not received after this time the account will be suspended until such payment is received.

## **19 Cancellation**

19.1 Cancellation can be made via email to sales@pcnetuk.com or to the address provided on the contact page. 1 months clear notice in writing is required and there is no cancellation fee. If an account is cancelled before the exchange equipment is ordered and can be cancelled, you will only pay the existing costs to date, if the account is cancelled past this point the full 3 months contract will become due and a single invoice for payment will be sent. After the initial 3 month period one months written notice is required to cancel the account

## **20 Refusal of Service**

20.1 The Seller reserves the right to refuse, cancel, or suspend the broadband service at our sole discretion.

## Web Hosting **21 Acceptable Use**

21.1 This Acceptable Use Policy is in place to protect our customers from a deterioration in service. All customers must agree to the following: These terms may be modified at any time and without notice. All users previous and new are always subject to the newest terms posted here at all times

## **22 Content**

22.1 The services provided by us must be used for lawful purposes only. Transmission, storage, or presentation of any information, data or material in violation of any British law is prohibited. Copyrighted material, material we judge to be threatening or obscene, or material protected by trade secrets and other statutes are also not allowed. We are not responsible for any claims resulting from the use of our service. This is also true for sites that promote any illegal activity or content that may be damaging to our servers or any other server on the internet. Links to such materials are prohibited. This also includes, but not limited to Adult sites, pirated software, hacker programs/archives, MP3, and Warez sites.

## **23 Commercial Advertising**

23.1 Email (SPAM): Spamming, or the sending of unsolicited email, from our servers or using an email address that is maintained by us is STRICTLY prohibited and will qualify your site for immediate deactivation with no refund. The Seller will be the sole arbiter as to what constitutes a violation of this provision.

## **24 Server abuse**

24.1 Any attempts to undermine or cause harm to any of our servers or customer of us is strictly prohibited. We hold no responsibility for the use of our clients' accounts. Any account that abuses resources and actions are not taken to desist, calls for immediate de-activation without any refund of payments made thus far. Any site using what we deem to be using excessive cpu cycles or any resources that cause strain to other sites may also be offered new terms.

## **25 Bandwidth Limits**

25.1 If the bandwidth limit opposed on your account is reached, We will discuss with the customer what shall be done next. If the customer does not wish to purchase extra bandwidth and continues to exceed their limit, the account shall be suspended until the customer has taken further measures to ensure the limit is not exceeded again.

## **26 Backups**

26.1 We perform daily backups on all of our servers to ensure critical files are never lost. Our server software does create daily backups for user's sites that you may download on your own, we do not restore a file any user has accidentally deleted or modified. The back-up restoration is for emergency procedures only. You are advised to backup all of your own files to your local drive. We are NOT responsible for lost data, time, income or any other resource due to faulty backups or nonexistent back-ups.

## **27 Payments**

27.1 If paying by cheque, payment is to be received within 5 days of account being opened. If payment is not received after this time the account will be suspend until such payment is received.

27.2 Annual renewal will be via invoice 20 days prior to the anniversary of the account, if payment is late by more than 10 days past the anniversary renewal date the account will be suspended until such payment is received and cleared funds are shown.

## **28 Cancellation**

28.1 Cancellation can be made via email to sales@pcnetuk.com or to the address provided on the contact page. No notice is required, and there is no cancellation fee. If account is cancelled within 7 days of the date the account was paid for, you will be refunded for the hosting only, not the domain name this is yours until it expires.

## **29 Refusal of Service**

29.1 The Provider reserves the right to refuse, cancel, or suspend the hosting service at our sole discretion.



