

## Terms and Conditions of Purchase

**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 agreement contains the terms and conditions that apply to your purchase from CompuDirect 3000 inc, that will be provided to you ("Customer") on orders for computer systems, related products and/or services sold in the United States. By accepting delivery of the computer systems, related products and/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 PURCHASE AGREEMENT WITH CompuDirect 3000 inc., IN SUCH CASE, THE SEPARATE AGREEMENT SHALL GOVERN; OR (ii) UNLESS CompuDirect 3000'S STANDARD TERMS APPLY TO THE TRANSACTION. This agreement, the policies printed in the applicable CompuDirect 3000 advertisement, and the policies, terms and conditions stated on the applicable CompuDirect 3000 invoice and/or packing slip constitute the entire agreement between the parties relating to the subject matter herein and cannot be modified except in a written agreement signed by both parties. These terms and conditions are subject to change without prior notice at any time, in CompuDirect 3000 sole discretion.

**1. Other Documents.** These terms and conditions may NOT be altered, supplemented, or amended by the use of any other document(s), except as otherwise noted. Any attempt to alter, supplemented, or amended by the use of any other document(s), except as otherwise noted. Any attempt to alter, supplement or amend the document or to enter an order for product(s) or services that are 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 CompuDirect 3000.

**2. Governing Law.** Transactions between Customer and CompuDirect 3000 shall be governed by and construed in accordance with the laws of the State of California, without regard to the laws regarding conflicts of law. If any provision of this agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this agreement and shall not affect the validity and enforceability of any remaining provisions. THE CUSTOMER CONSENTS TO THE JURISDICTION OF THE FEDERAL OR STATE COURTS LOCATED IN ORANGE COUNTY, CALIFORNIA FOR PURPOSES OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF THIS SALE AGREEMENT.

**3. Payment Terms; Order, Quotes; Interest.** Terms of payment are within CompuDirect 3000's sole discretion, and unless otherwise agreed to by CompuDirect 3000, payment must be made received by CompuDirect 3000 prior to CompuDirect 3000's acceptance of an order. Payment for the products and services will be made by credit card, C.O.D., wire transfer, or other prearranged payment method unless credit terms have been agreed by CompuDirect 3000. Invoices are due and payable within the time period noted on CompuDirect 3000's invoice, measured from the date of the invoice. Customer expressly agrees that upon failure to timely make payment as per terms and conditions of purchase, then any and all receiver of purchased goods in chain of purchase authorized by customer or otherwise, would be held liable and responsible for all unpaid balance due to CompuDirect3000 for customer's purchased goods. CompuDirect 3000 may invoice parts of an order separately. Orders are not binding upon CompuDirect 3000 until accepted by CompuDirect 3000. Any quotation given by CompuDirect 3000 will be valid for the period state on the quotation, otherwise all quotations are expired 24 hours from their submission. 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 CompuDirect 3000's invoice(s). Unless customer provides CompuDirect 3000 with a valid and correct applicable tax exemption certificate applicable to the product ship-to location prior to CompuDirect 3000's acceptance of the order, the Customer is responsible for sales and all other taxes associated with the order. If applicable, a separate charge will be shown on CompuDirect 3000's invoice.

**5. Title; Risk of loss;** Late or Delayed Shipments Title to items being purchased is retained by CompuDirect 3000 until said items are paid for by the purchaser, and title passes to purchaser at that time. Customer takes on full liability for safety and validity of delivery address given to us at the time of purchase. CompuDirect 3000 will not incur any forwarding costs on shipments. Loss or

damage that occurs during shipping by a carrier selected by Customer is Customer's responsibility. Title to software shall remain with the applicable licensor(s).

## **6. Warranty Disclaimer and Limitation of Liability:**

**CompuDirect 3000 Inc. explicitly disclaims all expressed or implied warranties, including any implied warranty of merchantability or fitness for a particular purpose.**

**CompuDirect 3000 SHALL HAVE NO LIABILITY TO ANYONE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR ANY OTHER LIABILITY, INCLUDING 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. CompuDirect 3000 WILL NOT BE LIABLE FOR PRODUCTS OR SERVICES NOT BEING AVAILABLE FOR USE OR FOR LOST OR CORRUPTED DATA OR SOFTWARE. CUSTOMER AGREES THAT FOR ANY LIABILITY RELATED TO THE PURCHASE OF PRODUCTS OR SERVICES, CompuDirect 3000 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.**

**All merchandise is sold AS IS. Unless otherwise noted on the invoice, CompuDirect 3000 makes no warranty as to the performance of any merchandise sold. CompuDirect 3000 is not responsible for system downtime, lost data, etc. CompuDirect 3000 does not warrant that the functions contained in any product sold will be uninterrupted or error-free, or that defects will be corrected, or that its Web site or the server that makes it available are free of viruses or other harmful components. CompuDirect 3000 does not warrant or make any representations regarding the use or the results of the use of any product purchased in terms of its compatibility, correctness, accuracy, reliability or otherwise. This disclaimer by CompuDirect 3000 in no way affects the terms of a manufacturer's warranty, if any.**

**7. Changes: Pricing, availability, and Offers.** Due to the fast-moving nature of the computing industry, prices, promotions and product availability are subject to change without prior notice. CompuDirect 3000 reserves the right to make changes without notice due to market conditions, manufacturer or supplier product discontinuation, or typographical, photographic or technical errors in online or print advertising. Product and packaging depicted may differ from stock available at time of shipment. CompuDirect 3000 reserves the right to substitute equivalent items. If Customer has ordered a product that is subject to a price increase, CompuDirect 3000 shall hold Customer's order and inform Customer of the increase.

## **8. Return Policies and Procedure**

### *Non-returnable Products*

Due to policies and restrictions, the following manufacturers products may not be returned to CompuDirect 3000 for exchange, replacement or credit under any circumstance: **3Com, Apple, Compaq, IBM, Intel, HP, NEC, UMAX, Toshiba, Adobe, Quark, Sony, Xerox, ViewSonic, Iomega, Seagate, Quantum, ATTO Express, Microsoft, Maxtor.** These manufacturers will repair, return or replace them in accordance with their own policies. Customer should refer to owner's manual for contact of these manufacturers.

Defective merchandise should be returned for repair to the manufacturer or any authorized service center in Customer's area. Additional manufacturers may be added to this list as manufacturer policies change.

**Software, Custom orders, volume licensing program software, products designated as special order are final and cannot be returned even unopened.**

*If your product is not made by one of the manufacturers mentioned above, or does not fall on the category of software, special or custom order, the following policy applies:*

**Closed packages:** CompuDirect 3000 cannot accept returns of products once they have been opened. Before opening each product, Customer shall check the packaging and label carefully to be sure that Customer received the correct product and version. If the supplier's original packaging and seal is still intact, Customer may return the product to us within 15 days from purchase for an

exchange, merchandise credit or refund (excluding shipping and handling charges), subject to a 20% restocking fee. Return shipping to CompuDirect 3000 is at Customer's own expense.

NO returns of any type will be accepted without a RA number. All permissible returns under this Agreement for credit are subject to a 20% restocking fee. All products for return must be received in CompuDirect 3000's warehouse within 7 days from the date of RA number issuance. RAs expire in 7 days after they are issued and cannot be extended or re-issued.

After 15 days from purchase, CompuDirect 3000 will not issue an RA and will refer Customer to the manufacturer for warranty service.

All Returns must be 100% complete, in original and resalable condition, with all original boxes and packing materials, have original UPC codes on the manufacturer boxes, contain all manuals, registration card(s), software, blank warranty cards, cabling and other accessories and documentation. CompuDirect 3000 *reserves the right to refuse a return on any product that does not meet these requirements.*

Replacement items will be shipped after the defective item is received and inspected by CompuDirect 3000's Returns Department.

Customer shall call 949-581-3036 or e-mail sales@cd3k.com, obtain a Return Authorization (RA) number before shipping the product. Customer shall have the following information on hand when calling for an RA number: customer name, invoice/order number, Item number and serial number (if applicable), and nature of the problem.

Customer's RA number(s) must appear clearly on the shipping label on the outside of the return shipment. Customer shall not mark the box itself in any other way.

CompuDirect 3000 is not responsible for lost or stolen packages. All authorized returns must include a shipment tracking number. Subsequent to an approval authorization, a credit to an account or issuance of a check may take up to 30 days.

Customer is responsible for shipping charges on all returned items.

CompuDirect 3000 strongly recommends that Customer fully insure the return shipment in case it is lost or damaged and use a carrier that can provide it with proof of delivery for Customer's protection.

CompuDirect 3000 reserves the right to refuse a return on any product that does not meet the above requirements.

**9. Restocking Charge** All permissible returns under this Agreement for credit are subject to a 20% restocking fee. All returned products must be 100% complete in original packaging and in resalable condition, with all packaging, software, manuals, blank warranty cards and other accessories and documentation included.

**10. Defective products** Defective products, other than those listed above as Non-returnable Products, will be accepted for credit, replacement, exchange or repair, at CompuDirect 3000's discretion, within 15 days from the invoice date. CompuDirect 3000's technical support department prior to issuing a return authorization must deem a product defective. Manufacturer restrictions do apply and are outlined in CompuDirect 3000's return policy. Terms of the manufacturer's warranty apply from day one. Non-defective products will be issued a return authorization within 15 days from the invoice date at CompuDirect 3000's discretion. All non-defective returns are subject to 20 percent restocking fee. Shipping charges are not refundable. CompuDirect 3000 cannot accept unauthorized shipments billed to the recipient.

**11. Damaged Shipment** Customer should make sure that the damaged package it is noted on the carrier's delivery record in order CompuDirect 3000 to file a damage claim. Customer shall save the merchandise in the original box and packing it arrived in, notify CompuDirect 3000 immediately to arrange for a carrier inspection and pick up of damaged merchandise. If Customer does not notify CompuDirect 3000 of damaged goods within the first 3 days of arrival, CompuDirect 3000's regular return policy will override any claim of damage, and will fall under all current manufacturer

restrictions. Customer shall call 949-581-3036 to arrange for carrier inspection and a pick up of damaged merchandise.

**12. Dispute Resolution.** The parties will attempt to resolve any claim, dispute or controversy (whether in contract, tort or otherwise) against CompuDirect 3000, its agents, employees, successors, assigns or affiliates (collectively for purposes of this paragraph "CompuDirect 3000 ") arising out of this Agreement, CompuDirect 3000 's advertising, or any related purchase (a "Dispute") through will be referred to mediation before, and as a condition precedent to, the initiation of any adjudicative action or proceeding, including arbitration. The mediation will be held in County of Orange, State of California. Either party may demand mediation in writing, serving on the other party a statement of the dispute, controversy, or claim, and the facts relating to it, in reasonable detail. Furthermore, if within thirty (30) days after such demand, the parties have not agreed upon a mediator and commenced mediation, the matter will be referred to arbitration as explained below. Furthermore, if, within forty-five (45) days after such demand the matter has not been resolved to the satisfaction of both parties, then the matter will be referred to arbitration as follows:

The arbitration will be held in County of Orange, State of California, before a panel of three arbitrators. Either party may demand arbitration in writing, serving on the other party a statement of the dispute, controversy, or claim, and the facts relating to it, in reasonable detail, and the arbitrator nominated by that party.

Within thirty (30) days after such demand, the other party will name its arbitrator, and the two arbitrators named by the parties will, within ten (10) days, select a third arbitrator.

The arbitration will be governed by the Commercial Arbitration Rules of the American Arbitration Association (the "AAA"), except as expressly provided in this Article. However, the arbitration will be administered by any organization mutually agreed upon by the parties. If the parties are unable to agree upon the organization to administer the arbitration, it will be administered by the AAA. The arbitrators may not amend or disregard any provision of this section.

The expenses of arbitration shall be borne by the party against whom the decision is rendered, or apportioned in accordance with the decision of the arbitrators if there is a compromise decision. Judgment upon any award may be entered in any court of competent jurisdiction.

**13. Indemnification** Customer will indemnify, defend, and hold CompuDirect 3000 from any and all claims, damages, losses, costs and actions and expenses from breach of Customer's contractual agreement with any third party as the result of buyer's purchase of merchandise from CompuDirect 3000

**14. Interest, late charge, Collection costs and related fees** Customer agrees to pay interest on all past-due sums at the highest rate allowed by law. Customer is responsible for a monthly late charge equal to \$29 or 1.5% of the outstanding balance, whichever is higher. Customer shall be responsible for all collection fees, including reasonable attorney's fees and cost.

**15. Waiver.** No delay or omission by CompuDirect 3000 to exercise any right or power occurring upon any noncompliance or default with respect to any terms of this Agreement shall impair any such right or power, or be construed as a waiver thereof. A waiver by CompuDirect 3000 of any of the covenants, conditions, or agreements to be performed by Customer shall not be construed as a waiver of any succeeding breach or default in the same or any other term or condition hereof.

**16. Export Restrictions/Legal Compliance** If this transaction involves an export under the Export Administration Regulations, the commodities, technology and/or software sold or distributed under these terms and conditions of sale exported from the United States by CompuDirect 3000 were exported in accordance with the Export Administration Regulations. Diversion, use, export or re-export contrary to United States law is prohibited.

The commodities, technology and/or software sold or distributed under these terms and conditions of sale may not be exported or re-exported in violation of any other applicable laws or regulations. Customer may not access, download, use or export the Site, or the content, software, products or services provided on the Site in violation of U.S. export laws or regulations, or in violation of any other applicable laws or regulations. Customer agrees to comply with all export laws and restrictions

and regulations of any United States or foreign agency or authority, and not to directly or indirectly provide or otherwise make available the commodities, technology and/or software sold or distributed under these terms and conditions of sale of CompuDirect 3000 in violation of any such restrictions, laws or regulations, or without all necessary approvals, including, without limitation, for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction. As applicable, Customer shall obtain and bear all expenses relating to any necessary licenses and/or exemptions with respect to its own use of the commodities, technology and/or software sold or distributed under these terms and conditions of sale of CompuDirect 3000 outside the U.S. Neither the commodities, technology and/or software sold or distributed under these terms and conditions of sale of CompuDirect 3000 nor the underlying information or technology may be used or otherwise provided or made available, either directly or indirectly, (i) into Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria or any other country subject to U.S. trade sanctions, to individuals or entities controlled by such countries, or to nationals or residents of such countries other than nationals who are lawfully admitted permanent residents of countries not subject to such sanctions; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals and Blocked Persons or the U.S. Commerce Department's Table of Denial Orders.

By agreeing to these Terms and Conditions of Use, Customer agrees to the foregoing and represents and warrants that Customer is not located in, under the control of, or a national or resident of any such country or on any such list.