

## POBCOM TERMS AND CONDITIONS OF SERVICE 2009

All customers and website visitors agree to be bound by terms and conditions of service set out below upon usage of any services offered by Pobcom Ltd and its associate partners as defined herein.

### 1. Definitions and Interpretation

1.1 In these terms and conditions the following words or phrases shall have the meanings given:- "Contract" means a contract for the purchase by the Customer of Products or Services from Pobcom Ltd incorporating these terms and conditions and arising from the acceptance by Pobcom Ltd of such an Order; "Customer" means the person, firm or company ordering Products or services;" Default" shall mean any breach by either party of its obligations under a Contract, any default, act, omission, negligence or statement by either party, its employees, agents or sub-contractors arising out of or in connection with a Contract and in respect of which either party may be legally liable; "Pobcom Ltd" means Pobcom Ltd, Pobcom.com, Pobcom.co.uk, Captain PC Geek, captainpcgeek.co.uk, Martin McCullagh, or any such other business Pobcom Ltd may appoint as sub-contractor to provide the Services to the Customer; "Order" means any written order for Products, or Products and Services, received by Pobcom Ltd from the Customer; "Services" means any configuration or installation services provided by Pobcom Ltd as sub-contractor of the Customer to end-users of Products in conjunction with the supply of Products; "Software" means any computer software supplied by Pobcom Ltd, whether embodied in RAM, ROM, firmware or on disk, tape or other media. "Products or Services" such products or Services to be sold by the Seller to the Buyer as may be determined from time to time by the Seller and Buyer; "Purchase Order" the Buyer's purchase order for the Products or Services; "On-site visits" any services delivered at the Customer's premises; "Workshop Repairs" any services delivered on Pobcom Ltd premises; "Data Recovery" any attempt to recover, salvage or retrieve data from any computer storage media such as hard disks, floppy disks, USB disks, flash disks or any other computer-related equipment or media;

1.2 All other words and expressions are to be given their normal English meaning taken in the context of the Contract. Any dispute as to the meaning of a word is to be settled by reference to the Oxford English Dictionary.

1.3 Any reference to a clause shall mean a clause of these terms and conditions unless otherwise stated.

1.4 The use of headings in these terms and conditions shall be for convenience only and shall not affect the interpretation of these terms and conditions.

### 2. Contract Formation

2.1 All Orders submitted by the Customer to Pobcom Ltd and accepted by Pobcom Ltd shall be subject to these following terms and conditions which shall form part of and govern any Contract.

2.2 Usage of any service or receiving any estimate or quotation for any Products and/or Services by the customer, issued by Pobcom Ltd –verbally, by phone or in person or in writing including by email- shall be deemed acceptance of these terms and conditions.

### 3. Price

3.1 All prices for Products or Services stated in any quote, estimate or acceptance of Order are those

current at the time of the Customer's enquiry by phone, by email or any other acceptable means.

3.2 All quoted prices are exclusive of VAT and carriage and VAT and/or carriage will be added to the agreed price if applicable. Cost of parts required to carry out a successful repair will be extra and are not included in the labour charge quoted. A minimum standard charge for 1 hour applies to any on-site visit. If the on-site visit takes longer than 1 hour, the customer will be charged for the extra hours of labour. A quote for the extra hour(s) will be given to the customer at the time of booking. As an example, the customer is charged for 3 hours if the on-site technician completes the job in 2h20 minutes but the customer can ask the technician to stay for the full length of the extra hour to carry out training or any other computer-related work if necessary.

#### 4. Payment

4.1 Payment for parts and services must be made by credit/debit card, cheque or cash prior or upon the delivery of the services by Pobcom Ltd.

4.2. The customer agrees that payment for services and carriage is non-refundable and parts or equipment fitted or supplied will be replaced only if found faulty and/or covered by the manufacturer's warranty.

4.3 The customer agrees to make all payments due under this contract irrespective of any dispute or claim the Customer may have with or against any third party.

#### 5. Warranties

5.1 Pobcom Ltd, to the extent that it is permitted to do so, hereby assigns the benefit of any guarantee or warranty covering any defects in Products received by Pobcom Ltd under an agreement with the manufacturer or supplier of the relevant Product.

5.2 The warranty service (if any) will be that provided by the manufacturer and any validation procedures relating to that warranty service are the responsibility of the Customer.

5.3 Pobcom Ltd may in its discretion offer support or maintenance services with respect to Products or services.

5.4 The warranty of the manufacturer or supplier is in lieu of all other terms or conditions whether express or implied concerning the quality or fitness for purpose of Products and all such other terms and conditions are hereby excluded.

#### 6. Terms of Service

6.1 Pobcom Ltd will make every possible effort to preserve their customers' data, however they make no guarantees whatsoever that data will be intact after the computer(s) have been repaired and tested. The customer agrees not to hold Pobcom Ltd responsible for any loss or damage to data as a result of repairs, upgrades or any other services carried out on their computer(s) or network.

6.3 Onsite visits benefit from a no-fix no-fee policy if the engineer is technically unable to resolve the reported problem. If Pobcom Ltd technician(s) can't fix the problem on-site due to external dependencies such as faulty equipment or no internet service by BT or any other Internet Service Provider or lack of original disks or drivers, the customer is liable to pay the minimum standard charge agreed at the time of booking. If at least one of the original problems reported by the customer is fixed by the on-site technician, the customer is liable to pay the full price agreed at the

time of booking.

6.3 Workshop repairs benefit from a no-fix no-fee policy if Pobcom Ltd is unable to fix the original reported problem but where the fix is possible by replacement of a faulty part or parts and the customer does not agree to the replacement of the faulty part, Pobcom Ltd reserves the right to charge the Customer a diagnostic fee of £55 + VAT. If the fix of the computer(s) is not possible by replacement of the faulty part(s) and/or as a result of extensive damage to the equipment, it is declared irreparable by Pobcom Ltd technicians, no-fix no-fee policy will apply. Where several faults are reported by the customer and at least one of the faults has been successfully repaired, the Customer is liable to pay the full amount agreed at the time of booking. No-fix no-fee does not apply to partially repaired computer(s).

6.4 If Pobcom Ltd is unable to repair the computer(s) due to non-supply of parts by manufacturers or suppliers, a diagnostics fee of £55 + VAT may apply to any computer(s) under repair. The diagnostics fee will cover the time spent on fault diagnosis and re-assembly of the computer(s) and cost of collection and return of the computer(s) if applicable. The return of the customer's computer(s) will be subject to prior payment of diagnostics fee and carriage if applicable. We may waive the diagnostics fee at our discretion.

6.5 If the customer's computer develops a fault in the course of service delivery by Pobcom Ltd on-site or off-site, the customer agrees not to hold Pobcom Ltd responsible for the fault. However, Pobcom Ltd will do its best to remedy the problem at no cost to customer(s) unless parts are required.

6.6 All computers repaired in Pobcom Ltd workshops are checked for viruses and are free from viruses before delivery to the customer. Pobcom Ltd is not responsible for any virus infections that occur after the customer has received the computer(s). A charge will apply for the removal of any virus(es) in the computer(s) after the delivery of the computer(s).

6.7 All the customer's computers once repaired or declared irreparable, must be collected within 14 days from the time the customer is informed. If the customer fails to collect the repaired or unrepaired computer, we reserve the right to charge the customer for storage at a rate of £6 a day until the passage of a maximum of 8 weeks. The customer must claim or collect the computer within 8 weeks, otherwise the computer will be recycled for parts and the customer will lose ownership of the computer.

6.8 Where the Customer requires Pobcom Ltd to carry out any configuration or installation services either for the Customer and /or the end-user, Pobcom Ltd shall do so as sub-contractor to the Customer and this agreement and the terms contained herein shall constitute the sub-contract.

6.9 Pobcom Ltd will use all reasonable endeavours to provide computer services in accordance with the terms of the Contract and will ensure that all the Services are provided with all reasonable care and skill and by suitably trained and qualified persons.

## 7. Liability

7.1 Pobcom Ltd shall a) not be liable for any claims regarding the physical functioning of the equipment/media or the condition or existence of data stored on the media supplied before, during or after services; b) In no event will Pobcom Ltd be liable for any loss of data or loss of revenue or profits or before, during or after services even if Pobcom Ltd has been advised of the possibility of damages or loss to persons or property.

7.2 Pobcom Ltd's liability of any kind with respect to the services, including any negligence or delay in delivery of service on its part, or loss of equipment or media, shall be limited to the quoted price for the services.

7.3 The Customer must be aware of the inherent risks of damage to media or equipment that is involved when undergoing data recovery or computer repair and data recovery, including without limitation, risks due to destruction or damage to the media or equipment and/or data stored and inability to recover data, or inaccurate or incomplete data recovery, including those that may result from the negligence of Pobcom Ltd. The customer agrees not to hold Pobcom Ltd responsible for any damage or loss of equipment or media or data loss. In case of any damage or loss to the original media or equipment, the liability of Pobcom Ltd shall be limited to providing the customer with similar media or equipment of comparable price or capacity.

7.4 The maximum aggregate liability of Pobcom Ltd to the Customer whether in contract, tort or otherwise for any direct loss or damage including to tangible property suffered by the Customer as a result of any default of Pobcom Ltd shall be limited in aggregate to the lesser of £1000 or an amount equal to the sums paid by the Customer under the Contract during the preceding 12 months.

7.5 Pobcom Ltd shall not be liable to the Customer whether in contract, tort or otherwise and even if foreseeable by or in the contemplation of Pobcom Ltd for: (a) any loss of profits, business, revenue, goodwill or anticipated savings, whether sustained by the Customer or any other person; or (b) any special, indirect, or consequential loss whether sustained by the Customer or any other person.

7.6 Any advice or recommendations given to the Customer by Pobcom Ltd or its employees or agents as to storage, application, use or preference of the goods which is not confirmed in writing by Pobcom Ltd, is followed or acted upon entirely at the Customer's own risk and accordingly Pobcom Ltd shall not be liable for any such advice or recommendation which is not so confirmed.

7.7 While Pobcom Ltd will make every effort to preserve the integrity of any equipment under repair, the Customer agrees not to hold Pobcom Ltd responsible for any accidental damages to the equipment in its possession including but not limited to surface scratches, deformations and cracks.

## 8. Confidentiality

8.1 Each party shall treat as confidential all information obtained from the other which is specifically designated as confidential or proprietary and shall not divulge such information to any person (except to such party's own employees and then only to those employees who need to know the same) without the other party's prior written consent.

## 9. Variations

9.1 Pobcom Ltd reserves the right to modify these terms and conditions. Any such modification will apply on the effective date specified in the said notice to all services and products provided by Pobcom Ltd.

## 10. Law

10.1 All Contracts shall be governed by, and construed in accordance with, English law and the parties submit to the exclusive jurisdiction of the English courts.

## 11. Waiver

11.1 The waiver by either party of a breach or default of any of the provisions on this Agreement by either party shall not be construed as a waiver of any succeeding breach of the same or other provisions, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder operate as a waiver of any breach or default by either party.