

## STANDARD TERMS OF SALE AGREEMENT

### DEMONSTRATION AND DISPLAY PRODUCTS

This Agreement applies to any order, purchase, receipt, delivery or use of any demonstration or display products (collectively, "Display Product") from Gateway, Inc. or any of its subsidiaries or affiliates ("Gateway"). **THIS AGREEMENT CONTAINS A DISPUTE RESOLUTION CLAUSE. PLEASE SEE SECTION 6 BELOW.**

**YOUR DISPLAY PRODUCT AND THEIR COMPONENTS ARE NOT NEW AND HAVE BEEN PREVIOUSLY USED AS DEMONSTRATION OR DISPLAY MODELS IN A GATEWAY RETAIL STORE LOCATION(S). YOUR DISPLAY PRODUCT MAY HAVE MISSING OR BROKEN PARTS OR ACCESSORIES. IN CONSIDERATION OF THE SUBSTANTIAL PRICE DISCOUNTS, ALL SALES ARE FINAL AND YOU MAY NOT RETURN DISPLAY PRODUCT FOR ANY REASON. IN ADDITION, GATEWAY WILL NOT REPLACE OR FIX ANY MISSING OR BROKEN PART OR ACCESSORY. PLEASE INSPECT ALL DISPLAY PRODUCTS THOROUGHLY BEFORE MAKING YOUR PURCHASE.**

1. **Payment Terms.** Advertised prices are in U.S. dollars and exclude shipping, handling and taxes unless otherwise noted. You are responsible for paying all taxes associated with your order. Payment is due upon delivery to you. Amounts not paid when due bear interest at the rate of 1.5% per month (18% per annum) or the highest rate allowed under applicable law, whichever is lower.

2. **Delivery and Title.** All sales are "cash and carry." Gateway will deliver Display Products you purchased to you at the Gateway retail location where you purchased the Products. Title and risk of loss to Display Products passes to you when Gateway delivers them to you. Title to software remains with the licensor of the software. Your use of software is subject to license agreements applicable to the software.

3. **Return Policy.** ALL SALES ARE FINAL BECAUSE OF THE SUBSTANTIAL PRICE DISCOUNTS ON DISPLAY PRODUCT. YOU MAY NOT RETURN DISPLAY PRODUCTS FOR ANY REASON. PLEASE INSPECT ALL DISPLAY PRODUCTS THOROUGHLY BEFORE MAKING YOUR PURCHASE. GATEWAY WILL NOT REPLACE OR FIX ANY MISSING OR BROKEN PART OR ACCESSORY.

4. **No Technical Support.** Gateway does not provide technical support for Display Product. **Gateway does not guarantee that software will be free from errors, either in isolation or in combination with hardware.**

5. **No Product Warranty.** DISPLAY PRODUCT IS SOLD IN "AS IS" CONDITION, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. GATEWAY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER APPLICABLE LAW. THE TERM OF ANY IMPLIED WARRANTIES THAT CANNOT BE DISCLAIMED ARE LIMITED TO THE MINIMUM TERM ALLOWED BY LAW. GATEWAY'S AND YOUR MAXIMUM LIABILITY TO THE OTHER IS LIMITED TO THE PURCHASE PRICE YOU PAID FOR DISPLAY PRODUCTS PLUS INTEREST AS ALLOWED BY LAW. NEITHER YOU NOR GATEWAY IS LIABLE TO THE OTHER IF YOU OR IT ARE UNABLE TO PERFORM DUE TO EVENTS YOU OR IT ARE NOT ABLE TO CONTROL, SUCH AS ACTS OF GOD, OR FOR PROPERTY DAMAGE, PERSONAL INJURY, LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS, LOST DATA OR OTHER CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, OTHER THAN THOSE DAMAGES THAT ARE INCAPABLE OF LIMITATION, EXCLUSION OR RESTRICTION UNDER APPLICABLE LAW. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS OR THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

6. **Dispute Resolution.** You and Gateway agree that any Dispute between You and Gateway will be resolved exclusively and finally by arbitration administered by the National Arbitration Forum (NAF) and conducted under its rules, except as otherwise provided below. You and Gateway will agree on another arbitration forum if NAF ceases operations. The arbitration will be conducted before a single arbitrator, and will be limited solely to the Dispute between You and Gateway. Neither the arbitration, nor any portion of it, will be consolidated with any other arbitration or will be conducted on a class-wide or class action basis. The arbitration shall be held at any reasonable location near your residence by submission of documents, by telephone, online, or in person. Any decision rendered in such arbitration proceedings will be final and binding on the parties, and judgment may be entered thereon in any court of competent jurisdiction. Should either party bring a Dispute in a forum other than NAF, the arbitrator may award the other party its reasonable costs and expenses, including attorneys' fees, incurred in staying or dismissing such other proceedings or in otherwise enforcing compliance with this dispute resolution provision. **You understand that, in the absence of this provision, You would have had a right to litigate disputes through a court, including the right to litigate claims on a class-wide or class-action basis, and that You have expressly and knowingly waived those rights and agreed to resolve any Disputes through binding arbitration in accordance with the provisions of this paragraph.** This arbitration provision shall be governed by the Federal Arbitration Act, 9 U.S.C. Section 1, *and et seq.* For the purposes of this provision, the term "Dispute" means any dispute, controversy, or claim arising out of or relating to (i) this Agreement, its interpretation, or the breach, termination, applicability or validity thereof, (ii) the related order for, purchase, delivery, receipt or use of any product or service from Gateway, or (iii) any other dispute arising out of or relating to the relationship between You and Gateway; the term "Gateway" means Gateway, Inc, its parents, subsidiaries, affiliates, directors, officers, employees, beneficiaries, agents, assigns, component suppliers (both hardware and software), and/or any third party who provides products or services purchased from or distributed by Gateway; and the term "You" means you, or those in privity with you, such as family members or beneficiaries. Information may be obtained from the NAF on line at [www.arb-forum.com](http://www.arb-forum.com), by calling 800-474-2371 or writing to P.O. Box 50191, Minneapolis, MN, 55405.

7. **General.** You may not assign this Agreement without Gateway's written consent. Gateway, Inc. and its subsidiaries and affiliates are intended beneficiaries of this Agreement. If there is any inconsistency between this Agreement and any other agreement included with or relating to products or services purchased from Gateway, this Agreement shall govern. This Agreement may not be modified, altered or amended without the written agreement of Gateway. Any additional or altered terms attached to your order shall be null and void, unless expressly agreed to in writing by Gateway. If any term of this Agreement is illegal or unenforceable, the legality and enforceability of the remaining provisions shall not be affected or impaired. This Agreement shall be interpreted under the laws of the State of South Dakota, without giving effect to conflicts of law rules.

**Privacy Notice.** Gateway respects our customers' right to privacy and will take all appropriate steps to keep your personal information confidential. You can review Gateway's Privacy Policy on our web site. The Privacy Policy also explains how you can update your information and elect not to receive email marketing solicitations from Gateway. In addition, Gateway obtains customer information from other companies that provide products and services to our customers. By purchasing, registering for or using other companies' products and services that are distributed by Gateway, you agree that these companies may transfer your customer information to Gateway. Gateway will maintain and use your customer information in accordance with its Privacy Policy.

Please send correspondence about this Agreement to:

**Gateway, Inc.**  
**610 Gateway Drive**  
**Attn: Warranty Services; Mail Stop Y-04**  
**North Sioux City, SD 57049**