



Swiftpage International Limited Terms of Business

This page tells you information about us and the legal terms and conditions (**Terms**) on which Swiftpage International Limited ('we') sell any of our products (**Products**) to you.

These Terms will apply to any contract between us for the sale of Products to you (**Contract**).

Please read these Terms carefully and make sure that you understand them, before ordering any Products from us. Please note that by ordering any of our Products, you agree to be bound by these Terms. If you do not agree to these Terms, you should not order any Products from us.

You should print a copy of these Terms or save them to your computer for future reference.

We amend these Terms from time to time as set out in clause 6. Every time you wish to order Products, please check these Terms to ensure you understand the terms which will apply at that time. These Terms were most recently updated on 3 June 2013, when we first published these Terms.

Unless an alternative language is specifically set out in our licence agreement or support and maintenance agreement, these Terms, and any Contract between us, are only in the English language.

1. OUR PRODUCTS

1.1 The packaging of the Products may vary from that shown on images on our web site (**our site**).

1.2 All Products are subject to availability. We will inform you by e-mail as soon as possible if the Product you have ordered is not available and we will not process your order if made.

2. HOW WE USE YOUR PERSONAL INFORMATION

2.1 We will use any information you give us under this agreement to:

- (a) manage how you use our software;
- (b) meet our obligations under this agreement or any other agreement we have with anyone who licenses us (our licensors), or our subcontractors;
- (c) contact you to see if you would like to take part in our customer research;
- (d) contact you about our other products and services and those of others which we think you will be interested in.

(If we do contact you in this way, we will try to speak to the relevant person in your organisation, and we may contact you directly, or use other organisations which we have hired to contact you for us.)

2.2 We may give information to other companies in our group of companies, our licensors and contractors, and other organisations described in relevant documents. For example, we may give information to the following:

- (a) your software supplier (if you have one)
- (b) the person or company (if any) providing you with finance
- (c) our training providers
- (d) companies which we use to help us send you post and other communications
- (e) research companies
- (f) event organisers
- (g) the owner of any third-party software
- (h) another member of the Swiftpage group of companies, comprising: Swiftpage Inc, Summit 5 LLC (doing business as Swiftpage) and Saleslogix NA LLC, all of the USA.

2.3 The data that we collect from you may be transferred to, and stored at, a destination outside the European Economic Area ("EEA"). It may also be processed by staff operating outside the EEA who work for us, another member of the Swiftpage group of companies (as described in clause 2.2(h)) or for one of our suppliers. Such staff maybe engaged in, among other things, the fulfilment of your order, the processing of your payment details and the provision of support services.

2.4 If you give us information which could give away the identity of an individual, you are agreeing that we can use it as described in clause 2.1. If at any time you do not want us to use such information in that way, please email us at international.legal@swiftpage.com. For more information on how we use information about you, see the relevant privacy policy on our website at www.swiftpage.com.

3. IF YOU ARE A CONSUMER

This clause 3 only applies if you are a consumer.

3.1 We only intend our Products to be used by businesses. If you are a consumer please do not purchase Products from us.

3.2 As a consumer, you have legal rights in relation to Products that are faulty or not as described. Nothing in these Terms will affect these legal rights.

4. IF YOU ARE A BUSINESS CUSTOMER

This clause 4 only applies if you are a business.

4.1 If you are not a consumer, you confirm that you have authority to bind any business on whose behalf you purchase Products.

4.2 These Terms, any software licence agreement, support and maintenance agreement, and scope of service document constitutes the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in these Terms or any document expressly referred to in them.

5. HOW A CONTRACT IS FORMED BETWEEN YOU AND US

5.1 For the steps you need to take to place an order with us, please refer to our Quotation.

5.2 Before placing an order with us, please check the quotation details we provided to you are correct, and amend any errors before submitting your order to us.

5.3 After you place an order, you will receive an e-mail from us acknowledging that we have received your order. However, please note that this does not mean that your order has been accepted. Our acceptance of your order will take place as described in clause 5.4.

5.4 We will confirm our acceptance to you by sending you an e-mail that confirms that the Products are available to download or have been dispatched (**Order Confirmation**). The Contract between us will only be formed when we send you the Order Confirmation.

5.5 If we are unable to supply you with a Product, for example because that Product is not in stock or no longer available or because of an error in the price as referred to in clause 10.5, we will inform you of this by e-mail and we will not process your order. If you have already paid for the Products, we will refund you the full amount as soon as possible.

6. OUR RIGHT TO VARY THESE TERMS

6.1 We may revise these Terms from time to time in the following circumstances:

- (a) changes in how we accept payment from you;
- (b) changes in relevant laws and regulatory requirements; and
- (c) changes in our software and related services.

6.2 Every time you order Products from us, the Terms in force at that time will apply to the Contract between you and us.

6.3 Whenever we revise these Terms in accordance with this clause 6, we will keep you informed and give you notice of this by stating that these Terms have been amended and the relevant date at the top of this page.

7. YOUR CONSUMER RIGHT OF RETURN AND REFUND

7.1 If you are a consumer, you may have a legal right to cancel a Contract for the period specified by relevant law. This means that during the relevant period if you change your mind or for any other reason you decide you do not want to keep a Product, you can notify us of your decision to cancel the Contract and receive a refund. For further details about your legal right to cancel the Contract please contact your own legal adviser. Nothing in this agreement seeks to change or affect that right.

7.2 If you are a consumer, you may have legal rights in relation to Products that are faulty or not as described. These legal rights are not affected by the returns policy in this clause 7 or these Terms.

7.3 Business customers may cancel their contract in accordance with our Billing Policy available on our web site at www.act.com.

8. DELIVERY

8.1 Your order will be fulfilled by the estimated delivery date set out in the Order Confirmation, unless there is an Event Outside Our Control. If we are unable to meet the estimated delivery date because of an Event Outside Our Control, we will contact you with a revised estimated delivery date.

8.2 Delivery will be completed when we deliver the Products to the address you gave us.

8.3 The Products will be your responsibility from the completion of delivery.

8.4 You own the Products once we have received payment in full, including all applicable delivery charges.

9. INTERNATIONAL DELIVERY

9.1 We deliver to many international destinations (**International Delivery Destinations**). However there are restrictions on some Products for certain International Delivery Destinations, so please review your Order Confirmation carefully before ordering Products.

9.2 If you order Products for delivery to one of the International Delivery Destinations, your order may be subject to import duties and taxes which are applied when the delivery

- reaches that destination. Please note that we have no control over these charges and we cannot predict their amount.
- 9.3 You will be responsible for payment of any such import duties and taxes. Please contact your local customs office for further information before placing your order.
- 9.4 You must comply with all applicable laws and regulations of the country for which the Products are destined. We will not be liable or responsible if you break any such law.
- 10. PRICE OF PRODUCTS AND DELIVERY CHARGES**
- 10.1 The prices of the Products will be described in our Quotation. We take reasonable care to ensure that the prices of Products are correct at the time when provide our Quotation. However if we discover an error in the price of Product(s) you ordered, please see clause 10.5 for what happens in this event.
- 10.2 Prices for our Products may change from time to time, but changes will not affect any order which we have confirmed with an Order Confirmation.
- 10.3 The price of a Product excludes VAT (where applicable) at the applicable current rate chargeable in the UK for the time being. If applicable, VAT will be added to the price of your order and be shown in your Order Confirmation. If the rate of VAT changes between the date of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Products in full before the change in VAT takes effect.
- 10.4 The price of a Product does not include delivery charges. Our delivery charges are as set out in our Order Confirmation.
- 10.5 It is possible that, despite our reasonable efforts, we sometimes make mistakes in our Quotations. We will normally check prices as part of our dispatch procedures so that:
- (a) if the Product's correct price is less than the price in our Quotation, we will inform you of the situation and ask how you wish to proceed; and
 - (b) if the Product's correct price is higher than the price stated on our site, we will contact you as soon as possible to inform you of this error and we will give you the option of continuing to purchase the Product at the correct price or cancelling your order. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing.
- 11. HOW TO PAY**
- 11.1 You must pay for Products using the methods specified in our Quotation.
- 11.2 Payment for the Products and all applicable delivery charges is in accordance with the terms of our invoice. If you are paying by debit or credit card, we will not charge it your until we dispatch your order.
- 12. OUR WARRANTY FOR THE PRODUCTS**
- 12.1 Please see the Product licence agreement for details of our warranty for the our Products.
- 12.2 If you are a consumer, any warranty is in addition to your legal rights in relation to Products that are faulty or not as described.
- 13. OUR LIABILITY IF YOU ARE A BUSINESS**
- This clause 13 only applies if you are a business customer.**
- 13.1 We only supply the Products for use only as described in our Software Licence Agreement.
- 13.2 Nothing in these Terms limit or exclude our liability for:
- (a) death or personal injury caused by our negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 - (d) defective products under the Consumer Protection Act 1987.
- 13.3 Subject to clause 13.2, we will under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- (a) any loss of profits, sales, business, or revenue;
 - (b) loss or corruption of data, information or software;
 - (c) loss of business opportunity;
 - (d) loss of anticipated savings;
 - (e) loss of goodwill; or
 - (f) any indirect or consequential loss.
- 13.4 Subject to clause 13.2 and clause 13.3 , our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total amounts described in the Software Licence Agreement and the Support and

- Maintenance agreement and any other relevant agreement we have provided to you and agreed to in writing.
- 13.5 Except as expressly stated in these Terms, the Software Licence Agreement, the Support and Maintenance agreement and any other relevant agreement we have provided to you and agreed to in writing, we do not give any representation, warranties or undertakings in relation to the Products. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Products are suitable for your purposes.
- 14. OUR LIABILITY IF YOU ARE A CONSUMER**
This clause 14 only applies if you are a consumer.
- 14.1 If we fail to comply with these Terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breach of these Terms or our negligence, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if they were an obvious consequence of our breach or if they were contemplated by you and us at the time we entered into the Contract.
- 14.2 If you are a consumer and you have bought a licence of the Product, or related service contract from us despite our request that you do not do so, we only supply the Products for your private use. You agree not to use the product for any commercial, business or re-sale purposes, and we have no liability to you for any loss of profit, loss of business, business interruption, or loss of business opportunity.
- 14.3 We do not in any way exclude or limit our liability for:
- (a) death or personal injury caused by our negligence;
 - (b) fraud or fraudulent misrepresentation;
 - (c) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
 - (d) any breach of the terms implied by section 13 to 15 of the Sale of Goods Act 1979 (description, satisfactory quality, fitness for purpose and samples); and
 - (e) defective products under the Consumer Protection Act 1987.
- 15. EVENTS OUTSIDE OUR CONTROL**
- 15.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in clause 15.2.
- 15.2 An **Event Outside Our Control** means any act or event beyond our reasonable control[, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks [or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport].
- 15.3 If an Event Outside Our Control takes place that affects the performance of our obligations under a Contract:
- (a) we will contact you as soon as reasonably possible to notify you; and
 - (b) our obligations under a Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our delivery of Products to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.
- 16. COMMUNICATIONS BETWEEN US**
- 16.1 When we refer, in these Terms, to "in writing", this will include e-mail.
- 16.2 If you are a consumer:
- (a) To cancel a Contract in accordance with your legal right to do so as set out in clause 7, you must contact us in writing by sending an e-mail to software.support@sage.com. You may wish to keep a copy of your cancellation notification for your own records. If you send us your cancellation notice by e-mail then your cancellation is effective from the date you sent us the e-mail.
 - (b) If you wish to contact us in writing or by phone for any other reason, you can use the e-mail address, postal address or phone number given on our contact us web page.
- 16.3 If we have to contact you or give you notice in writing, we will do so by e-mail or by pre-paid post to the address you provide to us in your order.

- 16.4 If you are a business, please note that any notice given by you to us, or by us to you, will be deemed received and properly served immediately when posted on our site, 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- 17. OTHER IMPORTANT TERMS**
- 17.1 We may transfer our rights and obligations under a Contract to another organisation, but this will not affect your rights or our obligations under these Terms.
- 17.2 You may only transfer your rights or your obligations under these Terms to another person if we agree in writing.
- 17.3 This contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties Act) 1999 or otherwise.
- 17.4 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 17.5 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 17.6 If you are a consumer, please note that these Terms are governed by English law. This means a Contract for the purchase of Products through our site and any dispute or claim arising out of or in connection with it will be governed by English law. You and we both agree that the courts of England and Wales will have non-exclusive jurisdiction.
- 17.7 If you are a business, these Terms are governed by English law. This means that a Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), will be governed by English law. We both agree to the non-exclusive jurisdiction of the courts of England and Wales.
- 17.8 We will not file a copy of the Contract between us.

LAST AMENDED: OCTOBER 2016