

End User Licence Terms

Advanced Customers shall be granted a sub-licence to use the Software in accordance with the following terms and conditions:

TERMS AND CONDITIONS

These terms and conditions govern Your use of the Site as a Buyer. They constitute the entire written agreement between Science Warehouse Limited ("SWL") and You. For the purpose of this agreement "You" shall include an individual, a corporate entity or partnership and their employees, members, agents, successors and assigns.

1. DEFINITIONS

The following words and expressions have the following meanings when used in this agreement:-

"Buyer" means You or any other Subscriber who uses the Site to purchase goods or services from a Supplier.

"Buyer Specific Marketplace Price" means the price charged to You by a Supplier on the Site for any particular goods or services.

"Catalogue" means a Supplier's catalogue or part thereof.

"Confidential Information" means information of a proprietary nature including but not limited to prices, request(s) for quotation, purchase requisitions, purchase order information, invoice information, Subscriber to Subscriber transactional information, the Fee and this agreement.

"Electronic Catalogue" means the structured electronic and or digital version of the Catalogue suitable for display and interrogation on the Site.

"Fee" means the sums set out in the registration form.

"Force Majeure" means any act or condition beyond the reasonable control of a party and not occasioned by the fault or negligence or the affected party.

"Implementation Consultancy" means the SWL resource provided to support Your implementation of the Site including work carried out both on and off Your premises.

"Implementation Date" means the first date that SWL visits You to begin implementing the Site.

"Site" means SWL's digital marketplace to be found at www.sci-ware.com.

"SKU" means a stock keeping unit.

"Subscriber" means a registered user of the Site whether a Buyer or Supplier.

"Supplier" means any Subscriber who places or authorises the placement of their Catalogue in an electronic format on the Site or the creation of an interface between the Site and the Supplier's website with the intention of supplying goods or services to a Buyer.

“SWL” means Science Warehouse Limited a company registered in England no. 2890957 whose registered address is Birmingham Road, Henley in Arden, West Midlands, B95 5QA

“Working Day” means any day Monday to Friday except UK public holidays.

Words importing the singular shall include the plural and words importing the masculine shall include the feminine where the context so admits.

2. REGISTRATION

By returning a completed registration form You are representing that the information on the form regarding You is true and accurate in all respects and that You have the authority to enter into this agreement. You agree to keep us informed via email of any changes in the information set forth in this form. Please email SWL at contract@sci-ware.com

3. AMENDMENT

SWL may from time to time vary, amend or alter these terms and conditions by emailing the amended terms and conditions to You and You shall be deemed to have accepted the amended terms and conditions if You continue to use the Site after a period of 7 days from such email notification.

4. THE SITE

SWL acts solely in providing the venue for trading (i.e. the Site), it does not control any aspect of the sale transaction and is not involved in the actual transaction between Subscribers. SWL has no control over and is not responsible for the quality, description, fitness for purpose, safety or legality of any goods or services offered by any Suppliers or the truth or accuracy of the Electronic Catalogue, the ability of any Suppliers to sell goods or deliver services or Your ability to buy goods or services, and gives no warranties or representations thereto. Accordingly it is for the Subscribers to determine the terms and conditions on which they contract. Where there is no agreement between the Subscribers the Buyers terms and conditions shall take precedence. Notwithstanding this, You undertake and agree to :-

- 1) Treat and maintain as confidential all Confidential Information supplied by SWL or a Subscriber. Confidential Information may only be used for the purposes of fulfilling the Subscribers obligations under this agreement. Notwithstanding the above, the Subscriber may disclose Confidential Information pursuant to a valid court order or where the Confidential Information is already in the public domain through no fault of the Subscriber;
- 2) Conduct Your business at all times in a manner which will reflect favourably on the operation of the Site;
- 3) Undertake such credit or trade checks as You deem fit and proper for any Supplier;
- 4) Comply with such rules, regulations, policies or procedures governing the use and/ or operation of the Site as may be issued by SWL, its agent or sub-contractors from time to time;
- 5) Supply VAT exemption certificates promptly to a Supplier as and when necessary.

5. RESERVATION OF RIGHTS

SWL reserves the right at its discretion to refuse to provide You with access to the Site.

6. ACKNOWLEDGEMENT

You acknowledge and accept that :-

- 1) At no time does title or risk in any of the goods and services supplied by a Supplier, vest in SWL and that You enter in to any contract with any Subscriber entirely at Your own risk;
- 2) It is Your responsibility to comply with all laws, rules, regulations or Directives on inter alia the purchase of goods or services;
- 3) The posting of the Electronic Catalogue on the Site does not constitute an invitation to treat and a placement of a purchase order by a Buyer does not constitute an acceptance. An order becomes contractually binding on both Subscribers when the Supplier accepts a purchase order by notifying the Buyer of his acceptance in whole or in part of the purchase order;
- 4) SWL has no control over or responsibility for the content of any material transmitted from or received by any Subscriber;
- 5) SWL has no control over the willingness or ability of any Supplier to participate in the Site;
- 6) SWL has no control over or responsibility for the content, availability or performance of any websites for which an interface or link may be provided from the Site
- 7) If You have a dispute with any Subscriber and require SWL to assist in resolving such dispute, You agree to indemnify and save harmless SWL against all costs and expenses, including reasonable legal fees, incurred or suffered by SWL in connection with such assistance;
- 8) Where a go-live date is given in the order or subsequently this shall be an anticipated date and in any event subject to You complying with your obligations in a timely manner. Time shall not be of the essence.
- 9) You are authorised to use the Site only as a Buyer not as a Supplier which, if applicable, will be subject to separate terms and conditions.

7. WARRANTIES

You represent and warrant that: -

- 1) You will use the Site only for lawful purposes and You will not use the Site to distribute, display, transmit or publish obscene, defamatory, offensive, abusive or otherwise indecent material.
- 2) You will not modify, reproduce, retransmit, distribute, disseminate, sell, publish, broadcast, circulate, decompile, reverse engineer, disassemble, rent, lease, lend or sublicense any of the material, content, software or programs on or in the Site.

- 3) You will not use any device, software or routine to interfere or attempt to interfere with the proper working of the Site or any transaction being conducted on the Site;
- 4) You will not use the Site to transmit any material (including viruses) which is likely to cause harm to the Site or any computer system;
- 5) You will cooperate with and assist SWL in carrying out its obligations under this agreement including without limitation notifying Suppliers of their obligations in a timely fashion and providing SWL and its agent's access to Your premises, staff and resources to the extent reasonably requested by SWL to fulfil its obligations. Where information consent or approval are requested by SWL such information shall be provided by You within the time period stipulated by SWL. Where no time period is stipulated such information consent or approval shall be supplied within 5 Working Days. Where the request relates to either approval or consent and no consent or approval has been provided within the period stipulated or within 5 Working Days (as is appropriate) such consent or approval shall be deemed to have been given or granted.
- 6) You will use the Site as your preferred procurement route and will use all reasonable endeavours to ensure that your users make use of the Site as their means of procurement;
- 7) You will keep your user name and password confidential. Where the confidentiality of Your user names or passwords is compromised, You must advise SWL immediately on You becoming aware. Failure to maintain their confidentiality may result in Your participation in the Site being suspended for security reasons.

8. LICENCE

SWL grants to You a limited licence to use the Site from the Implementation Date for the purposes of searching the Supplier's Electronic Catalogue, and making and placing orders and/ or requests for quotations for goods and services. The licence will terminate immediately if you fail to comply with these terms and conditions or this agreement is terminated in any way whatsoever.

9. FEES AND PAYMENT

- 1) SWL will invoice You upon signature of this agreement for the sign on fee and quarterly in advance for the recurring fees. Fees are exclusive of any applicable VAT which You will be additionally liable for. Payment will be due within 30 days of the date of the invoice. Failure to pay on time may result in the suspension of the Service and/ or SWL may charge You interest on the amount outstanding at the rate of 3% above Barclays Bank PLC's base lending rate for the period that the payment remains outstanding.
- 2) You hereby further agree that SWL may upon each anniversary of the agreement: increase the recurring fees by such an amount as shall reflect the percentage increase (if any) between the Consumer Price Index published by the Office for National Statistics ("The Index") last published before the date of such anniversary and that published at the same time the previous year.

10. IMPLEMENTATION

- 1) SWL will provide Implementation Consultancy up to the maximum number of days specified on the registration form. Where You require the Implementation Consultancy to be carried out on Your premises this time will be allocated in minimum units of a half day.
- 2) You undertake and agree that You will notify each of Your Suppliers in a timely fashion in writing that You intend to purchase goods and services from them solely through the Site.

11. PUBLICITY

You will allow SWL to use Your name in connection with any publicity, marketing or sales material relating to Your use of the Site providing that any such material is submitted to You for Your prior written approval, which shall not be unreasonably withheld or delayed.

12. INDEMNITY

You agree to defend, indemnify and hold harmless SWL, its Directors, employees, agents, successors and assigns from and against any and all losses, costs, expenses, actions, claims or incurred as a result of any action, or threatened action, claims, demands or liabilities that SWL may suffer or incur or agree to pay in settlement of any claim, action, or threatened action, claim or demand, whether arising in tort or in contract in so far as the same arises directly or indirectly out of your use of the Site or the performance of your obligations under this agreement Your breach or non-observance of these terms and conditions.

13. TERMINATION

- 1) In addition to any of the rights and remedies that SWL may have under this agreement, SWL may immediately terminate this agreement upon the giving of written notice of such termination to You, if it has reason to believe that You are in breach of these terms and conditions or if a competent regulatory authority requires SWL to terminate the Service.
- 2) In the case of termination under clause 13.1 due to Your breach of these terms and conditions SWL will be entitled to recover any fees that You would have been liable for under the terms of the agreement.
- 3) You may terminate this agreement upon 30 days written notice to SWL if SWL commits a material breach of this agreement and in the case of a breach capable of remedy has not taken steps to cure such breach or omission within 30 days after receipt of written notice from You.
- 4) Subject to Clause 13.1 and 13.3 above this agreement shall subsist for four years and thereafter on an annual basis unless terminated by either party on sixty days notice to the other.
- 5) Clauses 4(1), 7, 12 and 15 shall survive this agreement.

14. SWL WARRANTIES

- 1) SWL will endeavour to ensure the Site operates on a 365 day 24x7 basis but specifically disclaims any warranty or representation that access to the Site will be uninterrupted and free of failures or errors.
- 2) SWL will maintain any Confidential Information provided to it as it would maintain its own.

3) SWL will provide a telephone and email technical support facility. This facility shall be available each Working Day between 9 am and 5 pm. All enquiries that relate to matters other than technical support shall not receive a response. SWL shall use its reasonable endeavours to respond to all technical support enquiries within a reasonable period of time.

15. LIMITATION OF LIABILITY

Notwithstanding any clause or statement to the contrary, SWL excludes any and all liability howsoever arising to the fullest extent permissible by law and in any event the entire liability of SWL under or in connection with this agreement shall not exceed 10% of the fees paid by You during the preceding 12 month period. For the avoidance of doubt this exclusion of liability shall include lost profits, data loss, business interruption, any indirect special or consequential loss or damages or economic loss. Nothing in this Clause shall exclude liability for fraudulent misrepresentation, death or personal injury caused by SWL's negligence.

16. MISCELLANEOUS

1) If the performance of this agreement or any obligation hereunder except the making payments is prevented or interfered with by an event of Force Majeure the party so affected shall be excused from such performance to the extent of such prevention or interference.

2) Any notices shall be given by sending the same by e-mail to the other party's address as may be designated in writing from time to time. Any notice sent by e-mail shall be deemed to have been delivered on the next working day following transmission.

3) Any failure or delay by SWL party in exercising any right hereunder will not operate as a waiver. This agreement will be binding on the parties hereto their successors and permitted assigns. This agreement will be construed under the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English Courts. If any provision of this agreement is found to be invalid or unenforceable by a court of competent jurisdiction the remaining portions of this agreement shall remain in full force and effect and the parties will use their best endeavours to replace the offending clauses with a similar but non offending clause. Subject to the provisions of clause 3 this agreement reflects the entire understanding of the parties. The headings in this agreement are for reference purposes only and shall not be used as an aid to the interpretation of any particular clause.

Support Services

All Support Services will be provided directly to Advanced Customers by SCIENCE WAREHOUSE according to Science Warehouse's service levels set out below:

SERVICE LEVEL AGREEMENT

1. Implementation Support

The following services will be provided to Advanced Customers:

- Creation of a project implementation plan
- On site attendance for the project initiation meeting
- Set up and configuration of the Software for the specific Advanced Customer
- Advanced Customer branding of the Software interface
- Integration of the Software and maintenance of the integration with the Advanced System in use by the Advanced Customer
- Training of key Advanced Customer personnel in use of the Software (up to 1 day on site)
- Enablement of e-Catalogue suppliers selected by the Advanced Customer including initial catalogue upload and ongoing maintenance of product and pricing information. SWL will contract directly with suppliers to provide the necessary enablement services.

2. Ongoing Support

SCIENCE WAREHOUSE will provide ongoing support directly to Advanced Customer suppliers.

SCIENCE WAREHOUSE will provide ongoing hosting of the Software for Advanced Customers.

The following Service Level Agreement will be made available to the Advanced help desk (but not to individual Advanced Customers)

1. Definitions

In this Schedule the following definitions apply:

"Fault" means a material defect, fault or impairment in the Site not amounting to cessation of provision of access to and use of the Site.

"Outage" means:

- a. a total cessation or provision of access to and use of the Site by You; or
- b. occurrence of a Fault which prevents or hinders You (and, if appropriate, Your Suppliers) from viewing or ordering from the Catalogue.

An Outage shall begin to be measured upon the earlier of:

- a. You reporting unavailability of the Site to SWL that is verified by SWL; or
- b. SWL detecting that the Site is unavailable;

provided that in either case the unavailability is solely due to a failure of the Site.

No event of Force Majeure shall comprise or give rise to an Outage.

“Site Availability” means the time that the Site is available to be used and accessed by You and is calculated as follows:

Site Availability = $\frac{\text{time Site is available in period}}{\text{Total time in period}} \times 100$

Total time in period*

*Excludes scheduled downtime, emergency maintenance or suspension of the Site for breach or security reasons.

2. Service Levels

Service support is 24 hour/ 365 day cover.

Site availability target is > 99%.

Planned downtime for periodic systems upgrade and maintenance is scheduled outside normal working hours and SWL endeavours to provide a minimum of 48 hours notice of such outages.

3. Service Credits

You may claim Service Credits where Site Availability falls below the thresholds shown in the following table:

Site availability due to Outages taken over relevant quarter	Service Credit (% of quarterly recurring charge for e-Catalogue for that quarter)
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99%+	0%
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97.5 - 99%	5%
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95% - 97.5%	10%
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<95%	20%
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A Service Credit in the amount shown in the table above may be claimed in respect of any or each Outage (as confirmed by SWL) occurring during each calendar quarter, up to a limit of £1,000 per quarter per Advanced Customer (provided full subscription fees are being paid).

4. SWL Response Times and Fault Correction

SWL provides a telephone and email helpdesk service to its clients. All helpdesk calls received are logged and allocated to one of four categories:

Fault classification	Impact on service	SWL time to acknowledge	SWL time to respond	Time for escalation within SWL
High	Service is not available multiple users affected	Within 1 hour	Within 2 hours	Within 4 hours
Medium	Intermittent fault causing great difficulty in using the service, one or more users affected	Within 2 hours	Within 4 hours	Within 8 hours
Low	Intermittent fault but service is still fully usable, one or more users affected	Within 4 hours	Within 8 hours	Within 16 hours
Change	Change to existing functionality or request for new functionality	Within 1 day	Within 2 working days	Within 4 working days

In all instances the helpdesk will acknowledge and endeavour to respond to the issue during the call (for telephone helpdesk calls) and all calls whether telephone or email will be acknowledged and responded to within the periods identified above. Acknowledgement will carry confirmation that the call has been received and logged, and if possible information regarding its status. At this time further information may be requested to assist in the resolution of the issue. An estimate will be given on the likely timescale for the issue to be resolved.

If a High priority issue remains unresolved for more than an hour, then regular email or telephone updates will be provided as appropriate.

There is no obligation on SWL to implement a Change request which shall be prioritised and scheduled as part of SWL's ongoing development roadmap. Should urgent implementation be required and where SWL is required to spend over 2 hours on implementing the changes SWL shall be entitled to charge You for all additional time incurred on a time and materials basis.

You shall have the right to escalate an issue via the SWL helpdesk to the next layer of management where, in Your opinion, acting reasonably, SWL is not dealing with the issue adequately. Such escalation will not change the classification of the fault.