

Serviceweb Ltd – Terms and Conditions of Sale

In this document and all related correspondence and documentation, Serviceweb Ltd, Serviceweb Limited or Serviceweb shall signify any contracting subsidiary, affiliate or associate company. The customer signifies any purchaser or prospective purchaser of goods from Serviceweb Ltd, and includes any third party involved in the funding of purchase of goods, such as a leasing or finance organisation. Payment includes payment direct from the Customer or via any third party.

- Terms & Conditions:** Unless otherwise expressly agreed in writing by Serviceweb Ltd, these Conditions of Sale and Terms of Business supersede any other conditions and terms, including without prejudice to the foregoing, any such conditions or terms contained in either the Customer's order, or in any correspondence entered into by Serviceweb Ltd and the Customer.
- Payment & Credit:** Save where credit terms are extended to the Customer, payment for goods is due prior to delivery, or on delivery where expressly agreed in writing by Serviceweb Ltd. Credit will only be extended to those Customers who have applied for, and received written approval for a Serviceweb Ltd Credit Account. Payment of invoices relating to goods sold shall be paid and received by Serviceweb Ltd within 7 days from the date of invoice. Serviceweb Ltd reserves the right to withdraw credit facilities if the Customer does not fulfill these terms. In these circumstances Serviceweb Ltd may, at its sole discretion, demand payment of all invoices whether due or not. Any discount applied at time of order is available only where payment is received in full within 7 days from the date of invoice. All discounts, special offers and special terms are valid for a maximum period of 14 days from the date of quotation unless otherwise expressly stated in writing by Serviceweb Ltd. All accounts are payable at Serviceweb Ltd's head office in the UK at St Augustine's Business Park, Estuary Close, Swalecliffe, Whitstable, Kent CT5 2QJ.
- Interest & Collection Charges:** Serviceweb Ltd reserves the right to charge interest on overdue invoices at the rate of 4% over and above the Midland Bank's base rate. This interest will be calculated on a daily basis from the day the invoice becomes due. The Customer shall also be liable for any additional expenses incurred by Serviceweb Ltd in the collection of sums overdue.
- Quotations:** Quotations are given and orders are accepted by Serviceweb Ltd on the understanding that the prices charged will be those prevailing at the time of despatch, unless specifically agreed in writing to the contrary by Serviceweb Ltd. Errors and Omissions are expected from all quotations, and prices may be altered without notice subsequent to the issue of a quotation, written or verbal. In any case, and without prejudice to the foregoing, all quotations are valid for a maximum period of 14 days. Neither the issue of price lists, nor the submission of a quotation constitutes an offer to sell. Orders given direct to Serviceweb Ltd or to its representatives either verbally or in writing do not constitute a contract unless either accepted by us in writing or by despatch of the goods involved. Orders for items not available at the time of order will be despatched immediately stocks are available unless prior cancellation in writing is given by Serviceweb Ltd. All work carried out additional to that specified in the relevant quotation or order, whether experimentally or otherwise, shall be charged to the Customer.
- Prices:** Unless otherwise specified, prices are for delivery to Serviceweb Ltd's offices, and are subject to Serviceweb Ltd's right to increase any price to take account of delivery charges, insurance costs, special handling charges (if any) and/or packaging charges (if any), agreed charges in the specifications or changes in any taxes, duties, levies, or additional work required to install, deliver or support the equipment. Any extra costs of expenses incurred by Serviceweb Ltd as a result of site conditions, delays, interruptions, lack of information, changes in exchange rates and/or without limitation any other factors beyond Serviceweb Ltd's control may also be reflected in a price increase or additional charges made to the Customer. Serviceweb Ltd also reserves the right to make a small order surcharge on all orders below £50.00 in value. Unless expressly stated in writing by Serviceweb Ltd, all prices exclude value-added tax and any other impositions whatsoever, which if applicable, shall be payable by the Customer in addition
- Limitation on supply to restricted areas and for restricted purposes:** No products may be purchased for the purposes excluded from Serviceweb Ltd's contracts with its suppliers or in contravention of international regulations. Supply to certain countries cannot be permitted, including but not limited to countries in Eastern Europe where the supply of certain goods, technological or otherwise is restricted, and any liability arising therefore is wholly the responsibility of the Customer. Export permits, import duties and all documentation relating to the export and use of products abroad are the responsibility of the Customer. In the case of products manufactured in the United States of America, the Customer must obtain all such written consents or authorisations as may be required by any applicable regulations of the United States Department of Commerce. Serviceweb Ltd cannot supply goods produced by certain manufacturers, including but not necessarily limited to Apple Computer, for resale. Such goods supplied there under are for the Customer's sole use. Any intention to supply goods supplied by Serviceweb Ltd to the Customer to a third party must be declared by the Customer to Serviceweb Ltd in writing. Orders found to concern products which cannot be supplied to restricted areas for restricted purposes will not be fulfilled by Serviceweb Ltd in such cases. Serviceweb Ltd shall in any event not be liable for any direct or indirect loss or damage, and (without prejudice to any of its other rights): (a) Be entitled to cancel or rescind the contract (b) Be entitled to repossess any goods delivered pursuant thereto, and to this end shall be entitled by its servants or agents to enter upon the Customer's premises so to do (c) Claim damages from the Customer to the full value of any goods purchased to fulfil the order, should such goods not be returned to the manufacturer, and (d) Be entitled to claim damages from the Customer for any loss of profits or damages resulting from actions taken against Serviceweb Ltd for the supply of goods to restricted areas for restricted purposes.
- Delivery:** Any time or date for delivery stated by Serviceweb Ltd is an estimate, and Serviceweb Ltd shall not be liable for any direct or indirect loss or damage arising from any delay in the delivery of the goods. Serviceweb Ltd may deliver in instalments.
- Risk:** The risk of loss or damage to goods supplied by Serviceweb Ltd shall pass to the Customer when they are delivered to the Customer or other person to whom the company has been authorised by the Customer to deliver the goods, and Serviceweb Ltd shall not be liable for the safety of the goods thereafter.
- Title:** Notwithstanding the provisions of paragraph 8 above, the property in and full title to the goods shall remain with Serviceweb Ltd (which reserves the right to dispose of them) until payment in full for all goods supplied (both under the instance and any other contract) has been received in full. The Customer agrees that prior to payment in full of the goods, Serviceweb Ltd by its servants or agents may at any time enter upon the Customer's premises and remove the goods there from. If payment is over due in whole or in part on any goods supplied, then upon the commencement of any proceedings in respect of the Customer's insolvency, liquidation, inability/ reluctance to meet financial claims, appointment of an Administrative Receiver over any or all of the Customer's assets, or if the Customer makes an arrangement with its creditors, the Customer's power of sale or right to use goods supplied by Serviceweb Ltd shall immediately cease, and Serviceweb Ltd may (without prejudice to any of its other rights) recover or resell the goods or any of them, and may either enter upon the Customers premises by its servants or agents for that purpose. The Customer must store the goods in a manner so that they can be clearly identified as the property of Serviceweb Ltd.
- Complaints:** The Customer must notify Serviceweb Ltd in writing as soon as is reasonably possible, but no later than 7 days from the date of delivery in the event of either: (a) The goods delivered do not correspond to the delivery note, or (b) There is a justifiable complaint concerning the quality of goods. Such notification shall be followed by a complete claim in writing to Serviceweb Ltd, and to any carrier concerned, within a further 7 days. If Serviceweb Ltd shall so request, the Customer shall return any allegedly defective parts or parts of the goods to Serviceweb Ltd or as Serviceweb Ltd shall direct at the Customer's expense, and pay to Serviceweb Ltd the costs of any tests carried out to such part or parts together with the cost of return thereof to the Customer in the event that no liability attaches to Serviceweb Ltd in respect of defects. Serviceweb Ltd accepts no liability for loss or damage caused by the carrier. Claims will not be accepted unless these conditions have been fulfilled, and, falling the receipt of such written notice or notices by Serviceweb Ltd, the goods shall be deemed to be accepted. In the event of a complaint over quality, Serviceweb Ltd will replace their goods, or appropriate elements thereof, with goods of improved quality. An addition charge may be levied by Serviceweb Ltd in cases where the Customer prior to ordering did not specify the level of quality. Serviceweb Ltd will endeavour, but does not guarantee to lend other goods should there be a delay in receipt of replacements from Serviceweb Ltd or Serviceweb Ltd's suppliers. The maximum period of such loans is one week, unless otherwise specially agreed in writing by Serviceweb Ltd. Serviceweb Ltd reimburse the Customer in cases where no suitable alternative can be found. Complaints concerning changes in specification, the introduction of new models or any other factors concerning product changes made by manufacturers or suppliers outside the reasonable control of Serviceweb Ltd do not qualify for replacement of reimbursement.
- Warranty:** Goods under manufacture warranty are covered only by that warranty, and Serviceweb Ltd makes no additional warranty, either express or implied. No warranty is made, either express or implied, that goods supplied by Serviceweb Ltd are suitable for a specific task, nor that the products supplied, or the features or operation thereof will match the Customer's personal tastes or preferences, merely that the goods are supplied in working order. Similarly, matters of compatibility between products are not the responsibility of Serviceweb Ltd, including but not limited to networks, software and separate peripheral devices, whether or not such goods are supplied by Serviceweb Ltd, unless an undertaking has been given in writing by Serviceweb Ltd that the goods supplied were specifically intended to work in conjunction with each other, rather than independently of each other, and that Serviceweb Ltd will assume responsibility to ensure that they will operate together.
- Induction and Mode of Operation:** The customer should be aware that a certain amount of learning time is inevitable with a computer system, that there may be problems associated with the introduction and operation of a system, and that time may need to be expended by the Customer in order to overcome such problems. Serviceweb Ltd cannot be held liable for damages, claims for loss of income, or be expected to resolve problems without investment of time. Serviceweb Ltd does not guarantee to solve all such problems, and reserves the right to charge for work carried out in the pursuit of their resolution. Speed and manner of operation, speed of networks, processing and output (on a printer or any other form of output device) are all subject to the constraints of technology and personal opinion. Each individual configurations dependent on memory, CPU, network and software type, and numerous other factors. Serviceweb Ltd can make no warranty that any facet will operate at a certain speed or in a certain way. It is Serviceweb Ltd's recommendation that, where speed is important, the fastest possible configuration is purchased. If speed is at any time considered insufficient, Serviceweb Ltd will recommend a suitable upgrade, where available.
- Returns:** Goods may be returned to Serviceweb Ltd with prior written approval from Serviceweb Ltd. These goods must be undamaged, in their original packaging, in a resalable condition and are subject to a 30% restock fee. Any damaged equipment must be paid for at its full retail value. Serviceweb Ltd reserves the right to charge rental on any goods for the period after delivery from Serviceweb Ltd and before return from the Customer according to the provisions of paragraph 14 below. Serviceweb Ltd also reserves the right to levy a charge for installation and for deinstallation of equipment, at Serviceweb Ltd prevailing hourly rate, in addition to a callout charge for each visit made by Serviceweb Ltd's servants or agents, and the Customer shall forfeit any deposit paid, or any payment or part-payment made. Without prejudice to the foregoing, unless there is a legitimate reason for return, concerning the merchantable quality of the goods supplied by Serviceweb Ltd. Serviceweb Ltd reserves the right to charge the Customer the full retail value of any orders cancelled or goods returned.
- Rental:** Rental of computer equipment is charged at a monthly rate not exceeding 20% of the full retail value of the goods supplied by Serviceweb Ltd at the time the order was placed by the Customer. A callout charge will be levied for each visit made by Serviceweb Ltd's servants or agents, and work required for installation of the equipment may be charged at the prevailing hourly rate. It is the Customers responsibility to inform Serviceweb Ltd at all times of the whereabouts of the equipment on rental from Serviceweb Ltd. Unless specifically agreed in writing by Serviceweb Ltd, equipment should not be moved from the site where it was originally installed, unless transport and reinstallation are carried out by Serviceweb Ltd's servants or agents. Such work is chargeable at the prevailing hourly rate, plus a callout fee for each visit made. All equipment supplied by Serviceweb Ltd remains the property of Serviceweb Ltd or its agent, and must be returned on demand. Should the Customer not return the goods within the specified rental period, or should Serviceweb Ltd request return of the goods and the customer not comply within 3 days of such request, Serviceweb Ltd reserves the right to charge a premium rate not exceeding 30% of the full retail value of the goods supplied by Serviceweb Ltd at the time the order was placed, for each day the equipment is overdue, unless an extension to the rental period is agreed in writing by Serviceweb Ltd. The Customer is responsible at all times for the care of Serviceweb Ltd's equipment whilst in its custody, and will be charged for any damage or loss by theft or howsoever caused, during the period of that custody. The Customer may not loan equipment on rental to any other party, or assign rental of the equipment to another party, unless such charge is agreed in writing by Serviceweb Ltd.
- Software Copyright:** The Customer hereby acknowledges that it is its sole responsibility to comply with any terms and conditions of licence attached to software purchased from Serviceweb Ltd, or third party software (including, if so required, the execution and return of a Serviceweb Ltd or third party software licence). The Customer is hereby notified that failure to comply with such terms and conditions could result in the Customer being refused a software licence, or having the same revoked by the proprietary owner. The Customer further agrees to indemnify Serviceweb Ltd in respect of any costs, charges, or expenses incurred by Serviceweb Ltd at the suit of a third party software owner as a result of any breach by the Customer of such conditions.
- Telecommunications Equipment:** When such goods supplied by Serviceweb Ltd are to be used in conjunction with a telecommunications network, such as that operated by British Telecommunications, then the following conditions apply: (a) The network provider shall have the right to require modifications to be carried out the equipment which is already installed and in use. Any modifications required will be carried out at the Customers expense. (b) In no event shall Serviceweb Ltd be liable for damage, loss or injury to the Customer's or the network provider's equipment or personnel in connection with or arising out of the Customer's act of neglect.
- Courses, Product Briefings & Seminars:** Serviceweb Ltd's Course Directory contains specifications of each course. Delegates are advised to ensure that the course level selected is suitable to their requirements. Serviceweb Ltd reserves the right to amend its published course or seminar schedule at any time and to postpone or cancel any course or seminar. In the event that Serviceweb Ltd has to take such action delegates will be offered an alternative placement. If no alternative date can be offered, any fee paid will be refunded in full. Cancellations by the Customer can only be accepted if confirmed in writing one month prior to the course or seminar date. Substitutions are acceptable at any stage, and delegates may opt to postpone, as long as they give the course secretary due warning at least one month in advance of the course or seminar date. If cancellation or postponement by the Customer is received within the specified one month Serviceweb Ltd reserves the right to make an administration charge of 50% of the full fee.
- Maintenance:** Callout to the Customer's premises at the Customers request will be charged at the prevailing hourly rate for time on site, and travelling time. A callout fee may also be charged, whether or not a fault is found or rectified, unless the Customer informs Serviceweb Ltd at least 24 hours in advance that he wishes to cancel the visit, or the provisions of a Serviceweb Ltd Service contract cover such cost. All service contract maintenance work is subject to the special terms laid down in the service contract. Without prejudice to the conditions of those contracts, all service contracts are automatically renewed, and may only be terminated after the contract expires with three months' notice from either party.
- Force Majeure:** If the performance of its obligation under this contract is in any way adversely affected by any cause whatsoever beyond Serviceweb Ltd's control, including, but not limited to the delays, contractual conditions or defaults by suppliers or the default of any subcontractor, agent, war, trade dispute, strike, lock-out, government restriction, breakdown, flood, accident, act of God, shortage of materials or labour. Serviceweb Ltd shall: (a) In any event not be liable for any direct or indirect loss or damage, and (b) Be entitled to cancel or rescind the contract, or to suspend delivery there under for such a period as is thought fit by Serviceweb Ltd.
- Cancellation:** Without prejudice to any of the other conditions contained herein, no contract or order may be cancelled or rescheduled without Serviceweb Ltd's written consent, and in the event that cancellation or rescheduling is agreed for whatever reason, the Customer shall indemnify Serviceweb Ltd against all costs, loss and expenses occasioned thereby including any consequential loss and loss of profits. The Customer shall forfeit any deposit paid, and Serviceweb Ltd reserves the right to levy a rental fee (in accordance with the provisions of paragraph 14 above) if any goods have been delivered to the Customer.
- Waiver:** No forbearance, delay, or indulgence by either party in enforcing its respective rights shall prejudice or restrict the right to that party, and no waiver of any such rights or any breach of any contractual terms shall be deemed to be a waiver of that term, of any other right or any later breach. These conditions cannot be waived by any employee of Serviceweb Ltd, unless in a subsequent edition of the Serviceweb Ltd Conditions of Sale published by the Owner.
- Limitation of Damages:** Serviceweb Ltd cannot be held liable for problems caused by computer virus, Adware, Spyware or similar or any other factor whose provenance is outside Serviceweb Ltd's direct cause. Under not circumstances, and without prejudice to the forgoing, (save in respect of death or injury to a person resulting from Serviceweb Ltd's employees, agents subcontractors negligence) shall Serviceweb Ltd's liability for damage of any kind, including consequential losses exceed the invoiced value of the goods supplied by Serviceweb Ltd.
- Legal Construction:** These conditions and contract to which this document relates shall in all respects be construed and operate in accordance with English Law. The legitimacy of any individual clause or element thereof shall not prejudice that of any other clause or element thereof in this contract. These conditions do not seek to prejudice in any either party's statutory rights.
- Data/Information:** Data or Information is the sole responsibility of the Customer. Backups or archiving should be completed at regular intervals to ensure minimum loss of data in the event of hardware or consumable failure. If data transfer is required, no responsibility by Serviceweb Ltd can be taken for the loss of data during transfer or storage of data/information.
- Advice and Information:** Serviceweb Ltd cannot be held responsible in any way whatsoever for any advice or information given by any member of staff to customers or third parties.