

Terms and Conditions

These terms and conditions of trade apply to all our Sale of Service Contracts. Any order placed with England & Oppert Business Associates Limited (“Our”, “Us”, “We”, or “England & Oppert”) by you (“You” or “Customer”) constitutes your agreement to be bound by these terms. Any additional or different terms you stipulate or state in any communication with England & Oppert (including an order) are hereby objected to and will not bind England & Oppert unless England & Oppert agrees in writing. No sales person, representative or agent is authorised by England & Oppert to give any guarantee, warranty or representation in addition to, or contrary to these terms. In any event, receipt of service by you (or another as you direct) upon delivery constitutes your agreement to be bound by these terms.

1. Sales and Purchase

1.1 Your placement of an order with us (“Order”) constitutes an offer by you to purchase services from us on these terms. The Order is placed when a signed engagement letter submitted to us.

1.2 The Order is accepted unless we notify that we do not accept your Order. For example, we might notify you that we accept your Order by sending you an e-mail stating this or displaying a confirmation on our website. Delivery of service constitutes notice of our acceptance of the order.

1.3 Unless otherwise agreed in writing with England & Oppert, you must not purchase subscriptions from us for the purpose of resale.

1.4 If we accept the Order, a binding contract between you and us will arise on these terms (the Contract). The Contract may be amended only by written agreement between us and you.

2. Price and price variation

2.1 Prices quoted are excluding GST unless otherwise stated. Unless otherwise agreed in writing, the price of the service will be the current price on the day of order. We may change our prices from time to time without notice. Prices do not include any delivery fees. We are entitled to charge a delivery fee, which will be calculated by reference to the service purchased and the post code of the address stated in the Order.

2.2 England & Oppert shall be entitled to adjust any price quoted from time to time and the Customer agrees to pay any such adjusted price to take account of variations in the cost to England & Oppert of carrying out the whole or any part of the contract arising from any of the following:

(a) delays in delivery of the service as a result of instructions or lack of instructions from the Customer, the Customer's failure or inability to fulfil the obligations under the contract or any action or inaction by the Customer or other circumstances beyond England & Oppert's control;

(b) variation in the cost of England & Oppert acquiring a subscription or Customers documents directly or indirectly, on account of changes in rates of freight and transport costs, insurance, customs duties, taxes, existing tariff classifications or any variation in currency exchange rates;

(c) variations in the cost of rates of all statutory, government or local government or governmental authority charges and obligations; or

(d) any correction of errors or omissions on the part of England & Oppert or any of its representatives.

3. Payment

3.1 England & Oppert reserves the right to suspend delivery of further service if the terms of payment are not strictly adhered to by the Customer.

3.2 Interest may be charged on overdue accounts at a rate of 2.5% per month.

3.3 Any expenses, costs or disbursements incurred by England & Oppert in recovering any outstanding monies including debt collection agency fees or solicitor's costs shall be paid by the Customer.

3.4 You must pay us any fees or costs imposed on us if any payment you make to us is dishonoured or reversed.

3.5 Unless otherwise agreed, the purchase price shall be paid to England & Oppert at its address by the 20th of the month following the month in which the invoice was dated. Payment will not be accepted by any means other than cash, bank transfer or direct debit

3.6 If any account is in dispute, the undisputed portion of the account shall be payable in accordance with the normal terms of payment as provided in 3.5. Payment of the disputed portion may be withheld provided the matter is brought to England & Oppert's attention immediately it is discovered and a written notification setting out the particulars of the dispute is sent to England & Oppert within seven days of the dispute arising.

3.7 The Customer shall not be liable for any indebtedness arising from the fraudulent use of the account provided that the Customer must on discovering the fraudulent use of the account immediately notify England & Oppert of such fraudulent use. The burden of proving such use was fraudulent shall lie with the Customer.

4. Delivery

4.1 England & Oppert shall deliver the service to the address stated on the order or as agreed by England & Oppert in writing.

4.2 England & Oppert shall deliver the service by such service provider and such method England & Oppert consider to be appropriate.

4.3 The Customer agrees to inform England & Oppert within 14 days of the date of invoice if further information is required. After this period, no liability will lie with England & Oppert.

4.4 England & Oppert will not be responsible for any part delivery or delay in delivery of the service as a result of events occurring beyond England & Oppert's control. England & Oppert shall not be in any way responsible for any consequences (direct or indirect) arising from such delay or non-delivery.

5. Privacy Act 1993

5.1 The Customer authorises England & Oppert to collect, retain, and use personal information about the Customer (including the information collected in this document) for the following purposes only:

(a) assessing the Customer's creditworthiness.

(b) disclosing to a third party details of this application and any subsequent dealings it may have with England & Oppert for the purpose of recovering amounts payable by the Customer and providing credit references.

(c) marketing service and services provided by England & Oppert to the Customer.

5.2 The Customer, if an individual, has a right of access to information about the Customer held by England & Oppert. The Customer may request correction of that information and may require that the request be stored with that information. England & Oppert may charge reasonable costs for providing access to that information.

6. Intellectual Property

6.1 Where England & Oppert has followed a design or instruction furnished by or given by the Customer, the Customer shall indemnify England & Oppert against all damages, penalties, costs and expenses of England & Oppert or in respect of which England & Oppert may become liable through any work required to be done in accordance with these instructions involving an infringement of a patent, trademark, registered design or common law right.

6.5 All information prepared by England & Oppert including, without limitation, customised pricing, proposals, reporting, electronic catalogues, website content, and details of improvements and cost reductions, is the property of the Customer provided all accounts are paid up to date. England & Oppert will not be liable for any alterations made by you.

8. Risk

8.1 Risk in the service shall pass to you at the time when our obligations under the contract are deemed under clause 4 to be completed.

9. PPSA Security Interest

9.1 The Customer grants to England & Oppert a Security Interest in the service and their Proceeds to secure the obligation of the Customer to pay the purchase price of the service and any other obligations of the Customer to England & Oppert under this contract (together "the Indebtedness") and, where the service and/or Proceeds are not readily identifiable and/or traceable or their recoverable value is insufficient to pay the indebtedness, the security interest shall also extend to all the Customers present and after acquired property and future income to the extent required to secure the Indebtedness.

9.2 As and when required by England & Oppert the Customer shall, at its own expense, provide all reasonable assistance and relevant information to enable England & Oppert to register a Financing Statement or Financing Change Statement and generally to obtain, maintain, register and enforce England & Oppert's Security Interest in respect of the service supplied, in accordance with the Personal Property Securities Act 1999 ("PPSA"). Customer hereby waives its right under section 148 of the PPSA to receive a copy of any Verification Statement.

9.3 The Customer shall not change its name without first notifying England & Oppert of the new name not less than 7 days before the change takes effect.

9.4 Notwithstanding any reference to a particular invoice/order, where any sum remains outstanding by the Customer on more than one invoice/order, any payments received from the Customer shall be deemed to be made by the Customer and applied by England & Oppert in respect of each unpaid invoice/order on a pro rata basis PROVIDED THAT where England & Oppert applies payments in this manner it shall not charge interest on overdue balances that would have been cleared if the payments were not allocated pro rata.

9.8 The parties agree to contract-out of the PPSA in accordance with Section 107 of the PPSA to the extent that Section 107 applies for the benefit of, and does not impose a burden on, England & Oppert. The Customer waives its right to receive a Verification Statement in respect of any Financing Statement or Financing Change Statement registered by or on behalf of England & Oppert in respect of the Security Interest created by these terms and conditions of trade.

9.9 For the purpose of this clause words and phrases starting with a capital letter shall have the respective meanings given to them under, or in the context of, the PPSA.

10. Customer's Liability & Default

10.1 If the Customer shall:

- (a) fail to make any payment due under the contract or commit any other breach of any of the Customer's obligations under the contract; or
- (b) suffer execution under any judgment; or
- (c) commit an act of bankruptcy; or
- (d) make any composition or arrangement with any creditor; or
- (e) being a company, pass a resolution for winding up or have a receiver appointed over any of its property or have a winding up petition presented against it,

England & Oppert (in addition to any other remedies hereby or by statute conferred) may treat the contract as terminated and any part of the purchase price then unpaid, together with any other monies owing hereunder, whether or not due under the terms of the contract shall forthwith become due and payable. Any such termination shall be without prejudice to any claim or right England & Oppert may otherwise possess.

11. Variations to Terms and Conditions of Trade

11.1 England & Oppert may from time to time and in its sole discretion amend, add to or delete any of the terms of these terms and conditions of trade with immediate effect by giving notice to the Customer PROVIDED THAT England & Oppert shall not make any variation to the nature or extent of the Security Interest granted by the Customer in clause 9.1 without the written agreement of the Customer.

12. Governing Law

12.1 These terms of trade are governed by the laws of New Zealand.

12.2 England & Oppert and the Customer shall submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of these terms and conditions of trade.