

Engage

Version 3

By logging into and/or by using Engage, our customer portal, whether via express web page login or by any API Service, You accept, and agree to be bound by, these Terms of Use. If you do not wish to be bound by them, You must navigate away from the login page and You must not log into and must not use any Engage Service.

1. Definitions and Interpretation

1.1 In these Terms of Use the following expressions shall unless the context otherwise requires have the following meanings:

Access Information means any secure and secret alphanumeric character string or token information provided to You by Us to authenticate and allow Your use of any API Service;

Agreement means (i) an agreement between You and Us pursuant to Your Order which We have accepted in accordance with its terms; or (ii) a framework agreement in place between You and Us under which You may submit and We may accept Orders;

API Service means any application programming interface (API) based machine-to-machine access to Engage made available to you by us from time to time, including but not limited to the Quote API, the Order API or such other APIs that We may develop or make available from time to time;

BPT Web Service means the serviceability and pricing tool part of Engage commonly referred to by that name which uses the Quote API access into Engage;

Business Day means Monday to Friday 9am to 6pm excluding bank and public holidays in England;

Engage means Our online customer portal at <https://portal.virginmediabusiness.co.uk> of that name;

Engage Service means Engage and/or any API Service made available to You from time to time;

Order means an order for Our goods and/or services which You have

submitted or may submit to Us, whether via Engage or by other means;

Order API means the API based machine-to-machine access to Engage to enable a User to place an Order with us through Engage;

Password means the secret alphanumeric character string used to authenticate Your User's entitlement to log in for using any Engage Service;

Privacy Policy means Our privacy policy from time to time which may be found at <http://www.virginmediabusiness.co.uk/General/Legal/Privacy-policy/>;

Quote API means the API based machine-to-machine access to Engage to enable a User to access Engage to check site serviceability and to obtain quotes for Our goods and/or services;

Super User means a User appointed by You and confirmed by You to Us as the individual who is the controller of all Your interactions with Us in respect of any Engage Service and who is authorised by You to appoint Users;

Terms of Use means these terms of use including any terms expressly referenced herein as forming part hereof;

User means, in addition to the Super User, an individual You have authorised and We have approved to log into and use any Engage Service;

We, Us, Our means (as applicable) Virgin Media Business Limited, Virgin Media Wholesale Limited or any one of their group undertakings as a party to Orders submitted by You; and

You, Your means the person that has been provided with access to any Engage Service for use by its Users and, if the context requires, the party to an Order submitted using any Engage Service.

1.2 References to You or Us shall include (as applicable) Your or Our respective successors and permitted assigns.

2. Acceptable Use - General

- 2.1 You may view, report and transact any data available in Engage which relates to the relationship between You and Us as customer and supplier whether actual under any relevant Order or Agreement or contemplated by You genuinely and in good faith. You must not use Engage for any other purpose.
- 2.2 You must not bypass, or attempt to bypass, any controls, restrictions or other limitations imposed by Engage and You must not access, or attempt to access, any data in Engage in respect of any service, system or device not related to the subject matter described in clause 2.1.
- 2.3 You must ensure that any device used to access Engage is secure and protected against viruses, trojan horses and similar destructive, disruptive or nuisance programs.

3. Acceptable Use – API Services

- 3.1 This clause 3 applies if We have provided You with access to Engage through an API Service to enable You to check site serviceability, get quotes or place Orders (as applicable).
- 3.2 You must not:
 - 3.2.1 use any API Service functionality other than for the use for which such API Service is made available to You. This includes:
 - (a) in respect of the Quote API, checking site serviceability and obtaining quotes for services to such sites; and
 - (b) in respect of the Order API, placing Orders with Us for the provision of Our services to sites;
 - 3.2.2 stress test or otherwise attempt to assess strengths and/or weaknesses of Engage;

- 3.2.3 obtain, or attempt to obtain, serviceability, quotes and/or Order information in respect of sites unless as preparation for the submission of Your genuinely contemplated Order in respect of a specific and identifiable customer opportunity or requirement; or
- 3.2.4 in respect of the Quote API only, exceed the number of serviceability checks and quotes as We have notified You from time to time as being the maximum number constituting acceptable use.
- 3.3 If You do not comply with this clause 3 We may deny You access to any or all API Service functionality either temporarily or permanently immediately without notice to You and/or take such steps as are reasonable in all the circumstances.

4. Intellectual Property

- 4.1 Material and information We make available to You by or in connection with Your use of any Engage Service may contain valuable information that belongs to Us or others. You must not use such material or information other than in connection with Your permitted use of any Engage Service and must not take copies (other than for such permitted use), sell, assign, lease, sub-license or otherwise transfer such materials or information to any person.
- 4.2 By entering any material or information into any Engage Service, You grant to Us a worldwide, non- exclusive, irrevocable, royalty-free licence to use and distribute (in whole or in part) such content for Our reasonable business purposes and You hereby waive all so-called moral rights You may have in the such any material or information. This licence includes the right to grant sub-licences.
- 4.3 You warrant that You have the appropriate rights in any material or information You enter into any Engage Service.

5. Passwords

- 5.1 You agree to treat any Password(s) and/or Access Information We have provided to You for logging in to any Engage Service (as the case may be) as confidential information. You

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- are responsible for ensuring each User complies with all security procedures as notified to You by Us from time to time (whether by email, telephone or other means).
- 5.2 You must take all reasonable steps to keep the Password and/or Access Information secret and You should only disclose it to the User for whose use it is issued by Us.
- 5.3 You must ensure Users take all reasonable steps to keep their Passwords secret and that Users do not disclose Password details to anyone else, including other Users or other members of Your staff or to members of Our staff.
- 5.4 You must ensure that Users, on receipt of any Password from Us, change such Password received to a new Password on initial login to Engage. Any such Password must not be easy to guess, and must be alphanumeric containing both upper and lower case letters and numbers and be at least 8 characters long.
- 5.5 If You or a User thinks a Password is lost, compromised or known to someone else, You must ensure that (where relevant using the Engage functionality provided for such purpose):
- 5.5.1 the affected User changes his Password immediately; or
 - 5.5.2 the Super User disables the affected User's access to the relevant Engage Service immediately; or
 - 5.5.3 You notify Us immediately by contacting Us as directed for this purpose from time to time so that we may suspend that User's use of any Engage Service until a new Password has been set up for that User.
- 5.6 You must not let anyone other than Users operate any Engage Service for You.
- 5.7 You must notify Us of a change in Users (including when a User will no longer be part of Your organisation or when a User's role in Your organisation changes so that access to any Engage Service is no longer required in such new role) as soon as reasonably possible so that We may disable the Password.

6. Users

- 6.1 You must appoint a Super User and notify Us of that Super User's details so that We may communicate with that Super User in connection with the set up and management of Users or Passwords.
- 6.2 The Super User that You appoint must have sufficient knowledge of You and sufficient authority in You to make all decisions in relation to any Engage Service and to exercise the Super User privileges We may, acting reasonably, grant super users generally from time to time.
- 6.3 In relation to granting Users access to any Engage Service, if We do so We shall be entitled to rely upon the instructions of the Super User. You must ensure the Super User instructs Us in writing (including email) in respect of the granting of access to new Users and the User privileges to be granted to (or withdrawn from) such Users.
- 6.4 In relation to any Engage Service (other than the appointment of Users), We shall be entitled to rely upon the instructions of the Users.
Without limitation such instructions may include the submission of Orders on Your behalf.
- 6.5 You agree to provide Us with accurate information of any User details and to promptly notify Us of any changes to such details.
- 6.6 Your use of any API Service shall be treated as use of Engage by a User.
- 6.7 You are fully responsible for all use by Users of any Engage Service and for any acts that may take place using Your Users' access to any Engage Service.

7. Orders and Agreements

- 7.1 If We have provided You with such functionality of Engage, You may use Engage to submit Orders to Us which shall be binding upon You. For the purposes of this paragraph, use of Engage includes, where We have provided you with such functionality, use of the Order API to submit Orders to Us and such Orders shall be binding upon You as if they were placed directly through Engage.

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7.2 You expressly acknowledge and agree that You have authorised Users who are granted access to Engage order submission functionality on Your or the Super User's request (including through the Order API), to submit Orders on Your behalf.

7.3 The terms and conditions of the relevant Agreement shall apply to such Orders as You may have submitted to Us. These Terms of Use shall not form part of either Your Order or any Agreement formed pursuant to it.

7.4 Nothing in any Engage Service shall be deemed to be an offer by Us to provide any goods or services to You. An Agreement for the provision of such goods or services shall be formed only when You have placed an Order subject to the relevant terms and conditions for the provision of such goods or services and Our confirmation of Our acceptance of Your Order in writing.

8. Communications

8.1 If We have provided You with such functionality of Engage, You may use Engage to submit communications to Us under, in respect of or in connection with any relevant Agreement.

8.2 We agree that Your submission of such communications as contemplated in clause 8 above shall be treated as due written notice as may be required by or described in the relevant Agreement.

8.3 If You have submitted such communication to Us which We treat as written notice such notice shall be deemed to have been made on the first Business Day following the day on which You successfully transmitted Your communication.

8.4 You acknowledge that if You use Engage to report service incidents to Us Our response to Your incident report may receive a lesser initial priority than it would have had if it had been submitted by telephone.

9. Data Protection

9.1 Each of You and We warrants that it has the necessary notifications in place under the Data Protection Act 1998 for such

obtaining, storage and use of personal data as may be required in connection with Your and/or Your Users' use of any Engage Service.

9.2 Each of You and We agree to comply with the provisions of the Data Protection Act 1998 and any directions issued by the Information Commissioner as may be applicable to Your use of any Engage Service.

10. Links to Other Websites

10.1 Engage may contain links to third party websites. Such websites are beyond Our control and We accept no responsibility for their content.

10.2 The exclusions and limitations of Our liability set out in clause 12 shall also apply to any loss or damage You incur arising from or in connection with Your use of or the material or information contained in such third party websites.

11. No Warranty

11.1 All warranties, conditions, undertakings or terms, express or implied in respect of Your use of any Engage Service and the information and material contained in any Engage Service are excluded to the fullest extent permitted by law.

11.2 We do not guarantee uninterrupted and/or reliable access to any Engage Service and We make no guarantees as to the operation, availability, functionality or otherwise of any Engage Service.

12. Liability

12.1 Nothing in these Terms of Use shall limit or exclude Our or Your liability for fraud or fraudulent misrepresentation, death or personal injury resulting from its own negligence (as defined in s1 of the Unfair Contract Terms Act 1977), any breach of s12 of the Sale of Goods Act 1979 or s2 of the Supply of Goods and Services Act 1982, or for matters which cannot by law be excluded or restricted.

12.2 Subject to clauses 12.1, 12.3 and 12.4 below We accept liability solely:

12.2.1 for direct physical damage to Your personal property; and

- 12.2.2 where such direct physical damage arises solely and directly from the negligence of Us or Our employees, agents or contractors while acting in the course of their employment.
- 12.3 Subject to clauses 12.1 and 12.4 below Our aggregate liability to You whether based on an action or claim in contract, tort (including negligence), breach of statutory duty or otherwise arising out of or in relation to Your use of any Engage Service and the information and material contained in any Engage Service shall be limited, to an amount not exceeding £25,000 in any continuous twelve (12) month period.
- 12.4 Notwithstanding the above, but subject to clause 12.1 We shall have no liability in contract, tort (including liability for negligence), breach of statutory duty or otherwise arising out of or in connection with Your use of any Engage Service and the information and material contained in any Engage Service for:
- 12.4.1 any loss or damage, whether direct or indirect:
- (a) of business, production, operation time, data or anticipated savings;
 - (b) of goodwill, opportunity, contracts, revenue or profits; or
 - (c) from destruction or corruption of data, business interruption, expenditure of time by officers, managers or employees, wasted expenditure or liability to third parties; or
- 12.4.2 any indirect, special or consequential loss or damage whatsoever,
- whether such loss or damage was foreseeable or not.
- 12.5 The provisions in this clause 12 shall not affect either Our or Your liability arising under any Order or Agreement, or vice versa.

13. Changes

- 13.1 We have the right to change these Terms of Use at any time without notice.

14. Information in Engage

- 14.1 You acknowledge that (notwithstanding that We have used reasonable endeavours to ensure that information contained in any Engage Service is correct) it is possible that information in any Engage Service may be incomplete, contain errors or be out of date.
- 14.2 You agree that, subject to the terms and conditions applicable to any Order or Agreement, We shall have no liability in respect of any of the matters set out in Clause 14.1.

15. Cancelling and Suspending Access to Engage and any API Service

- 15.1 You may cancel Your access to any Engage Service at any time by giving Us notice in writing.
- 15.2 In addition to Our exercise of Our rights under clause 3.3 We may cancel or suspend Your use of or access to any Engage Service or suspend the availability of any Engage Service for any reason. We will usually give You reasonable notice of such cancellation or suspension. However, this may not always be possible; for example, if there is a security concern or a technical issue.
- 15.3 We shall be entitled to cancel or suspend Your use of or access to any API Service without notice to You immediately on the cancellation or suspension (whether by You or Us) of Your use of or access to Engage in accordance with these Terms of Use.
- 15.4 Cancellation or suspension of Your access to any Engage Service will not affect instructions (including submitted Orders) that Users have already given prior to the start of such cancellation or suspension.

16. Validity and Waiver

- 16.1 We believe these Terms of Use are fair. If any part proves not to be legally valid because it is unfair, it will not affect the rest and We are entitled to treat that part as changed in a way that makes it fair and valid.
- 16.2 No waiver by Us of any failure by You to comply with these Terms of Use shall operate or be construed as a waiver by Us of any future failures, whether of a like or different character.

17. Privacy

- 17.1 Our Privacy Policy applies to Your use of any Engage Service.
- 17.2 Without prejudice to the generality of Our Privacy Policy, You acknowledge that subject to the terms and conditions applicable to any relevant Order or Agreement We may disclose Your information and material and Your identity to third parties where by law We are required to do so.

18. Law

- 18.1 These Terms of Use are governed by the laws of England and Wales. Any disputes shall be subject to the exclusive jurisdiction of the English courts.
- 18.2 Notwithstanding clause 18.1, should You access any Engage Service from outside of the United Kingdom, it shall be Your responsibility to ensure You comply with any local laws to the extent that they do or may apply.

Thank you

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