

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

Business Day means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Commencement Date has the meaning given in clause 2.2.

Conditions means these terms and conditions as amended from time to time in accordance with clause 0.

Contract means the contract between Hotset UK and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Control has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

Customer means the person or firm who purchases the Goods and/or Services from Hotset UK.

Deliverables means the deliverables set out in the Order produced by Hotset UK for the Customer.

Delivery Location has the meaning given in clause 4.2.

Force Majeure Event has the meaning given to it in clause 0.

Goods means the goods (or any part of them) set out in the Order.

Goods Specification means any specification for the Goods, including any relevant plans or drawings, that is agreed in writing by the Customer and Hotset UK.

Hotset UK Materials has the meaning given in clause 8.1.7.

Intellectual Property Rights means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order means the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form, or the Customer's written acceptance of Hotset UK's quotation, or overleaf, as the case may be.

Services means the services, including the Deliverables, supplied by Hotset UK to the Customer as set out in the Service Specification.

Service Specification means the description or specification for the Services provided by Hotset UK to the Customer.

2. Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when Hotset UK confirms written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 Any samples, drawings, descriptive matter or advertising issued by Hotset UK and any descriptions of the Goods or illustrations or descriptions of the Services contained in Hotset UK's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by Hotset UK shall not constitute an offer, and is only valid for a period of 30 (thirty) Business Days from its date of issue.

2.6 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. Goods

3.1 The Goods are described in Hotset UK's catalogue as modified by any applicable Goods Specification.

3.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by the Customer, the Customer shall indemnify Hotset UK against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Hotset UK arising out of or in connection with any claim made against Hotset UK for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Hotset UK's use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.

3.3 Hotset UK reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and Hotset UK shall notify the Customer in any such event.

4. Delivery of Goods

4.1 Where required each delivery of the Goods will be accompanied by a delivery note which shows the date of the Order, all relevant Customer and Hotset UK reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 Unless it is agreed in writing that the Customer will collect the Goods from Hotset UK's premises, then Hotset UK shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after Hotset UK notifies the Customer that the Goods are ready.

4.3 Delivery of the Goods shall be completed upon either:
4.3.1 the unloading of the Goods at the Delivery Location; or
4.3.2 if the Customer is collecting the Goods from Hotset UK's premises, upon the loading of Goods.

4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Hotset UK shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Hotset UK with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 If Hotset UK fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Hotset UK shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Hotset UK with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

4.6 If the Customer fails to take or accept delivery of the Goods within 3 (three) Business Days of Hotset UK notifying the Customer that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Hotset UK's failure to comply with its obligations under the Contract in respect of the Goods:

4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which Hotset UK notified the Customer that the Goods were ready; and

4.6.2 Hotset UK shall charge the Customer any additional costs or charges incurred by Hotset UK resulting from any attempted re-delivery of the Goods to the Customer.

4.7 If 10 (ten) Business Days after the day on which Hotset UK notified the Customer that the Goods were ready for delivery the Customer has not taken or accepted delivery of them, Hotset UK may dispose of part or all of the Goods and will charge to the Customer any costs that relate to this action.

4.8 If Hotset UK delivers up to and including 5% more or less than the quantity of Goods ordered the Customer may not reject them, but on receipt of notice from the Customer that the wrong quantity of Goods was delivered, Hotset UK shall make a pro rata adjustment to the invoice for the Goods.

4.9 Hotset UK may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality of Goods

5.1 Hotset UK warrants that on delivery, the Goods shall:
5.1.1 conform in all material respects with their description and any applicable Goods Specification;

5.1.2 be free from material defects in design, material and workmanship; and

5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

5.2 Subject to clause 5.3, Hotset UK shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full if:

5.2.1 the Customer gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 0;

5.2.2 Hotset UK is given a reasonable opportunity of examining such Goods; and

5.2.3 the Customer (if asked to do so by Hotset UK) returns such Goods to Hotset UK's place of business at the Customer's cost.

5.3 Hotset UK shall not be liable for the Goods' failure to comply with the warranty in clause 0 if:
5.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;

5.3.2 the defect arises because the Customer failed to follow Hotset UK's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;

5.3.3 the defect arises as a result of Hotset UK following any drawing, design or Goods Specification supplied by the Customer;

5.3.4 the Customer alters or repairs such Goods without the written consent of Hotset UK;

5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or

5.3.6 the Goods differ from the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

5.4 Except as provided in this clause 0, Hotset UK shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 0.

5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by Hotset UK.

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until the earlier of:

6.2.1 Hotset UK receives payment in full (in cash or cleared funds) for the Goods and any other goods that Hotset UK has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; and

6.2.2 the Customer resells the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 6.4.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Hotset UK's property;

6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Hotset UK's behalf from the date of delivery;

6.3.4 notify Hotset UK immediately if it becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.4; and

6.3.5 give Hotset UK such information relating to the Goods as Hotset UK may require from time to time.

6.4 Subject to clause 6.5, the Customer may resell or use the Goods in the ordinary course of its business (but not otherwise) before Hotset UK receives payment for the Goods. However, if the Customer resells the Goods before that time:

6.4.1 it does so as principal and not as Hotset UK's agent; and

6.4.2 title to the Goods shall pass from Hotset UK to the Customer immediately before the time at which resale by the Customer occurs.

6.5 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.4, then, without limiting any other right or remedy Hotset UK may have:

6.5.1 the Customer's right to resell Goods or use them in the ordinary course of its business ceases immediately; and

6.5.2 Hotset UK may at any time:
6.5.2.1 require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and

6.5.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

7. Supply of Services

7.1 Hotset UK shall supply the Services to the Customer in accordance with the Service Specification in all material respects.

7.2 Hotset UK shall use all reasonable endeavours to meet any performance dates for the Services specified by the Customer in writing, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 Hotset UK reserves the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and Hotset UK shall notify the Customer in any such event.

7.4 Hotset UK warrants to the Customer that the Services will be provided using reasonable care and skill.

8. Customer's obligations

8.1 The Customer shall:

8.1.1 ensure that the terms of the Order and any information it provides in the Service Specification and the Goods Specification are complete and accurate;

8.1.2 co-operate with Hotset UK in all matters relating to the Services;

8.1.3 provide Hotset UK, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Hotset UK to provide the Services;

8.1.4 provide Hotset UK with such information and materials as Hotset UK may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

8.1.5 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

8.1.6 comply with all applicable laws, including health and safety laws;

8.1.7 keep all materials, equipment, documents and other property of Hotset UK (**Hotset UK Materials**) at the Customer's premises in safe custody at its own risk, maintain Hotset UK Materials in good condition until returned to Hotset UK, and not dispose of or use Hotset UK Materials other than in accordance with Hotset UK's written instructions or authorisation; and

8.1.8 comply with any additional obligations as set out in the Service Specification and the Goods Specification.

8.2 If Hotset UK's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

8.2.1 without limiting or affecting any other right or remedy available to it, Hotset UK shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Hotset UK's performance of any of its obligations;

8.2.2 Hotset UK shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Hotset UK's failure or delay to perform any of its obligations as set out in this clause 8.2; and

8.2.3 the Customer shall reimburse Hotset UK on written demand for any costs or losses sustained or incurred by Hotset UK arising directly or indirectly from the Customer Default.

9. **Charges and payment**
- 9.1 The price for Goods:
- 9.1.1 shall be the price set out in the Order or, as otherwise agreed in writing between the parties; and
- 9.1.2 shall be exclusive of all costs and charges of packaging, insurance, transport of the Goods, which shall be invoiced to the Customer.
- 9.2 Unless a fixed fee is agreed, then the charges for Services shall be calculated on a time and materials basis:
- 9.2.1 the charges shall be calculated in accordance with Hotset UK's daily fee rates, as set out in the Order;
- 9.2.2 Hotset UK's daily fee rates for each individual person are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days;
- 9.2.3 should the Customer request that Hotset UK provide any Services outside of the Business Hours, then the Customer shall be liable for additional charges, as notified by Hotset UK; and
- 9.2.4 Hotset UK shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Hotset UK engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Hotset UK for the performance of the Services, and for the cost of any materials.
- 9.3 Hotset UK reserves the right to:
- 9.3.1 increase the charges for the Services on an annual basis with effect from each anniversary of the Commencement Date;
- 9.3.2 increase the price of the Goods, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Goods to Hotset UK that is due to:
- 9.3.2.1 any factor beyond the control of Hotset UK (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- 9.3.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or
- 9.3.2.3 any delay caused by any instructions of the Customer in respect of the Goods or failure of the Customer to give Hotset UK adequate or accurate information or instructions in respect of the Goods.
- 9.4 In respect of Goods, Hotset UK shall invoice the Customer on or at any time after completion of delivery. In respect of Services, Hotset UK shall invoice the Customer on completion of the Services.
- 9.5 The Customer shall pay each invoice submitted by Hotset UK:
- 9.5.1 within 30 (thirty) days from the end of the month in which the invoice was issued; and
- 9.5.2 in full and in cleared funds to a bank account nominated in writing by Hotset UK, and
- 9.5.3 time for payment shall be of the essence of the Contract.
- 9.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by Hotset UK to the Customer, the Customer shall, on receipt of a valid VAT invoice from Hotset UK, pay to Hotset UK such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- 9.7 If the Customer fails to make a payment due to Hotset UK under the Contract by the due date, then, without limiting Hotset UK's remedies under clause 0 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 9.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
10. **Intellectual property rights**
- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by Hotset UK.
- 10.2 Hotset UK grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 10.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 10.2.
- 10.4 The Customer grants Hotset UK a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to Hotset UK for the term of the Contract for the purpose of providing the Services to the Customer.
11. **Confidentiality**
- 11.1 Each party undertakes that it shall not at any time during the Contract, and for a period of 5 (five) years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 11.2.
- 11.2 Each party may disclose the other party's confidential information:
- 11.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 0; and
- 11.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 11.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
12. **Limitation of liability:**
- 12.1 The restrictions on liability in this clause 0 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 12.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 12.2.1 death or personal injury caused by negligence;
- 12.2.2 fraud or fraudulent misrepresentation; and
- 12.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 12.3 Subject to clause 12.2, Hotset UK's total liability to the Customer shall not exceed 1.5 x the value of the Order under which the applicable liability arose.
- 12.4 This clause 12.4 sets out specific heads of excluded loss:
- 12.4.1 Subject to clause 12.2, the types of loss listed in clause 12.4.2 are wholly excluded by the parties.
- 12.4.2 The following types of loss are wholly excluded:
- 12.4.2.1 loss of profits;
- 12.4.2.2 loss of sales or business;
- 12.4.2.3 loss of agreements or contracts;
- 12.4.2.4 loss of anticipated savings;
- 12.4.2.5 loss of use or corruption of software, data or information;
- 12.4.2.6 loss of or damage to goodwill; and
- 12.4.2.7 indirect or consequential loss.
- 12.5 Hotset UK has given commitments as to compliance of the Goods and Services with relevant specifications in clause 0 and clause 0. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 12.6 Unless the Customer notifies Hotset UK that it intends to make a claim in respect of an event within the notice period, Hotset UK shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 (twelve) months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 12.7 This clause 0 shall survive termination of the Contract.
13. **Termination**
- 13.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 13.1.1 the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 14 (fourteen) days after receipt of notice in writing to do so;
- 13.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 13.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 13.1.4 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 13.2 Without affecting any other right or remedy available to it, Hotset UK may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 13.2.1 the Customer fails to pay any amount due under the Contract on the due date for payment; or
- 13.2.2 there is a change of control of the Customer.
- 13.3 Without affecting any other right or remedy available to it, Hotset UK may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and Hotset UK if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.4, or Hotset UK reasonably believes that the Customer is about to become subject to any of them.
14. **Consequences of termination**
- 14.1 On termination of the Contract:
- 14.1.1 the Customer shall immediately pay to Hotset UK all of Hotset UK's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, Hotset UK shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 14.1.2 the Customer shall return all of Hotset UK Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then Hotset UK may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 14.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 14.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.
15. **Force majeure**
- Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control (a **Force Majeure Event**).
16. **General**
- 16.1 **Assignment and other dealings**
- 16.1.1 Hotset UK may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 16.1.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Hotset UK.
- 16.2 **Notices.**
- 16.2.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 16.2.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 16.2.1.2 sent by fax to its main fax number or sent by email to sales@hotsetuk.com.
- 16.2.2 Any notice shall be deemed to have been received:
- 16.2.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- 16.2.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
- 16.2.2.3 if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 16.2.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 16.2.3 This clause 0 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 16.2.4 A notice given under the Contract is not valid if sent by email.
- 16.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 0 shall not affect the validity and enforceability of the rest of the Contract.
- 16.4 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 16.6 **Entire agreement.**
- 16.6.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 16.6.2 Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any statement in the Contract.
- 16.7 **Third party rights.**
- 16.7.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 16.8 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
- 16.9 **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 16.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.