

Procurement Terms and Conditions (Goods and Services) These Terms and Conditions shall apply to all purchases of Goods and/or Services made by SimRush Ltd. unless SimRush Ltd. have expressly indicated different Conditions, Terms and Conditions or Contract shall apply to govern the purchase.



designs, pictures, computer programs, data, specifications and reports (including drafts).

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

Definitions:

1.1 **Background IPR:** means any Intellectual Property Rights which a Party makes available for the performance of this Agreement, including (but not limited to) SimRush Ltd. Materials but excluding Foreground IPR.

SimRush Ltd. Materials: has the meaning set out in clause 5.3(j).

SimRush Ltd.: means the company specified in the Order - company number 10237486; SimRush Ltd. which has its registered address at **Quartermaster House, Dewing Road, Rackheath, NR13 4PS. UK**

Business Day: a day other than a Saturday, Sunday or public holiday in England.

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 17.8. and any other Conditions that SimRush Ltd. will expressly advise the Supplier (in writing) will be included in the Contract.

Contract: the contract between SimRush Ltd. and the Supplier for the supply of Goods and/or Services including Conditions, the Order and any Goods Specification or Service Specification.

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

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams,

Data Protection Legislation: up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

Foreground IPR: means any Intellectual Property Rights which are created during the delivery of the Services.

GDPR: General Data Protection Regulation (EU) 2016/679.

Goods Specification: any specification for the Goods, including but not limited to any related plans and drawings, pictures and certification descriptions that is agreed in writing by SimRush Ltd. and the Supplier.

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

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, 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: SimRush Ltd's order for the supply of Goods and/or Services, as set out in SimRush Ltd's 'purchase order form' or letter of appointment.

Service Specification: the description or specification for Services agreed in writing by SimRush Ltd. and the Supplier.

Services: the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Supplier: the person or firm from whom SimRush Ltd. purchases the Goods and/or Services and as specified in the Order.

- 1.2 Interpretation:
- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
 - (b) A reference to a party includes its successors and permitted assigns.
 - (c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted from time to time. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
 - (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
 - (e) A reference to **writing** or **written** includes email but not fax.

2. Basis of contract

- 2.1 The Order constitutes an offer by SimRush Ltd. to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
- (a) the Supplier issuing written acceptance of the Order; or
 - (b) any act by the Supplier consistent with fulfilling the Order; or
 - (c) when the Supplier issues an invoice to SimRush Ltd. against SimRush Ltd's Order number.
- at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3. Supply of Goods

- 3.1 The Supplier shall ensure that the Goods shall:
- (a) correspond with their description and any applicable Goods Specification;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by SimRush Ltd., expressly

or by implication, and in this respect SimRush Ltd. relies on the Supplier's skill and judgement;

- (c) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery; and comply with all applicable statutory and regulatory requirements relating to the type of Goods.
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents, certifications and permits that it needs to carry out its obligations under the Contract in respect of the Goods or as agreed between the parties.
- 3.3 SimRush Ltd. may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.4 If following such inspection or testing SimRush Ltd. considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, SimRush Ltd. shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 SimRush Ltd. may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. Delivery of Goods

- 4.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good and undamaged condition;
 - (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if one is assigned), the type and quantity of the Goods (including the code number of the Goods (where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (c) it states clearly on the delivery note any requirement for SimRush Ltd. to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
- (a) on the date specified in the Order or, if no such date is specified time shall be of the essence and the Supplier must deliver the goods as soon as possible;
 - (b) to SimRush Ltd's premises at Quartermaster House, Dewing Road, Rackheath, NR13 4PS. UK or such other location as is set out in the Order or as instructed by SimRush Ltd. before delivery (**Delivery Location**); and
 - (c) during SimRush Ltd's normal hours of delivery (09:30 - 17:00) on a Business Day, or as instructed by SimRush Ltd.

- 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 4.4 If the Supplier fails to deliver the full and complete order SimRush Ltd. may reject the Goods and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and SimRush Ltd. accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.
- 4.5 The Supplier shall not deliver the Goods in instalments without SimRush Ltd's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle SimRush Ltd. to the remedies set out in clause 6.1.
- 4.6 Title and risk in the Goods shall pass to SimRush Ltd. on completion of delivery.

5. Supply of Services

- 5.1 The Supplier shall from the Commencement Date and for the duration of the Contract supply the Services to SimRush Ltd. in accordance with the terms of the Contract.
- 5.2 The Supplier shall meet any performance dates for the Services that SimRush Ltd. notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 5.3 In providing the Services, the Supplier shall:
- (a) co-operate with SimRush Ltd. in all matters relating to the Services, and comply with all instructions of SimRush Ltd.;
 - (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
 - (d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that SimRush Ltd. expressly or impliedly makes known to the Supplier;
 - (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to SimRush Ltd., will be free from defects in workmanship, installation and design;
 - (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

- (h) comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply to the provision of the Services, and with the Mandatory Policies (where designated);
- (i) observe all health and safety rules and regulations and any other security requirements that apply at any of SimRush Ltd's premises;
- (j) hold all materials, equipment and tools, drawings, specifications and data supplied by SimRush Ltd. to the Supplier (**SimRush Ltd. Materials**) in safe custody at its own risk, maintain SimRush Ltd. Materials in good condition until returned to SimRush Ltd., and not dispose or use SimRush Ltd. Materials other than in accordance with SimRush Ltd's written instructions or authorisation;
- (k) not do or omit to do anything which may cause SimRush Ltd. to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that SimRush Ltd. may rely or act on the Services; and
- (l) comply with any additional obligations as set out in the Service Specification;

6. SimRush Ltd. remedies

- 6.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, SimRush Ltd. shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
 - (c) to recover from the Supplier any costs incurred by SimRush Ltd. in obtaining substitute goods and/or services from a third party;
 - (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
 - (e) to claim damages for any additional costs, loss or expenses incurred by SimRush Ltd. which are in any way attributable to the Supplier's failure to meet such dates.
- 6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, SimRush Ltd. shall have one or more of the following rights, whether or not it has accepted the Goods:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by SimRush Ltd. in obtaining substitute goods from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by SimRush Ltd. arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

6.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

6.4 SimRush Ltd.'s rights under the Contract are in addition to its rights and remedies implied by statute and common law.

7. SimRush Ltd's obligations

7.1 SimRush Ltd. shall:

- (a) provide the Supplier with reasonable access at reasonable times to SimRush Ltd's premises for the purpose of providing the Services or delivering the Goods;
- (b) provide such necessary information for the provision of the Services as the Supplier may reasonably request; and

8. Charges and payment

8.1 The price for the Goods:

- (a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
- (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by SimRush Ltd..

8.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by SimRush Ltd., the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

8.3 In respect of the Goods, the Supplier shall invoice SimRush Ltd. on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice SimRush Ltd. on completion of the Services. Each invoice shall include such supporting information required by SimRush Ltd. to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

8.4 In consideration of the supply of Goods and/or Services by the Supplier, SimRush Ltd. shall pay the invoiced amounts within 45

days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

8.5 All amounts payable by SimRush Ltd. under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to SimRush Ltd. shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

8.6 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow SimRush Ltd. to inspect such records at all reasonable times on request.

8.7 SimRush Ltd. may at any time, without notice to the Supplier, set off any liability of the Supplier to SimRush Ltd. against any liability of SimRush Ltd. to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by SimRush Ltd. of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

9. Services

9.1 All Background IPR is and shall remain the exclusive property of the Party owning it or, where applicable, the third party from which Party's right to use the Background IPR has derived, to allow for the delivery of the Services and provide any Deliverables.

9.2 The Supplier grants to SimRush Ltd. a worldwide, non-exclusive, irrevocable, royalty free and non-transferrable licence to use its Background IPR.

9.3 SimRush Ltd. shall own all Foreground IPR in the results and all materials embodying such rights to the fullest extent permitted by law.

9.4 The Supplier undertakes to SimRush Ltd.:

- (a) to do all acts necessary to confirm that absolute title and all Intellectual Property Rights in all Foreground IP and Deliverables has passed, or will pass, to SimRush Ltd.;
- (b) not to register nor attempt to register any of the Foreground IPR in the Deliverables, unless requested to do so by SimRush Ltd.; and
- (c) not to give permission to any third party to use any of the Deliverables, nor any of the Foreground IPR in the same.

9.5 Nothing in this Contract shall grant, assign or confer any right, including any Intellectual Property Right in the SimRush Ltd. Materials to the Supplier.

10. Indemnity

- 10.1 The Supplier shall indemnify SimRush Ltd. against all liabilities, costs, expenses, damages and losses (including but not limited to 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 SimRush Ltd. arising out of or in connection with:
- (a) any claim made against SimRush Ltd. for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding SimRush Ltd. Materials), or use of the Deliverables or publication of the Deliverables;
 - (b) any claim made against SimRush Ltd. by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
 - (c) any claim made against SimRush Ltd. by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.
- 10.2 This clause 10 shall survive termination of the Contract.

11. Data protection and data processing

- 11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 11.2 The parties acknowledge that for the purposes of the Data Protection Legislation, SimRush Ltd. is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
- 11.3 Without prejudice to the generality of clause 11.1, SimRush Ltd. will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to the Supplier for the duration and purposes of the Contract.
- 11.4 Without prejudice to the generality of clause 11.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- (a) process that Personal Data only on the written instructions of SimRush Ltd. unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (**Applicable Data Processing Laws**). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify SimRush Ltd. of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit the Supplier from so notifying SimRush Ltd.;

- (b) ensure that it has in place appropriate technical and organisational measures, which may be reviewed and approved by SimRush Ltd., to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
- (d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of SimRush Ltd. has been obtained and the following conditions are fulfilled:
 - (i) SimRush Ltd. or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by SimRush Ltd. with respect to the processing of the Personal Data;
- (e) assist SimRush Ltd. in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify SimRush Ltd. without undue delay on becoming aware of a Personal Data breach;
- (g) at the written direction of SimRush Ltd., delete or return Personal Data and copies thereof to SimRush Ltd. on termination of the agreement unless required by Applicable Data Processing Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 11.

12. Insurance – Services

During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability

insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on SimRush Ltd's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

13. Confidentiality

- 13.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, SimRush's, clients or suppliers of the other party, except as permitted by clause 13.2.
- 13.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives 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, or advisers to whom it discloses the other party's confidential information must comply with this clause 13; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
- 13.4 The Supplier shall not share any confidential information with any third party (including subcontractors) without SimRush Ltd's express written consent.

14. Termination

- 14.1 Without affecting any other right or remedy available to it, SimRush Ltd. may terminate the Contract:
- (a) with immediate effect by giving written notice to the Supplier if:
 - (i) there is a change of control of the Supplier; or
 - (ii) the Supplier's financial position deteriorates to such an extent that in SimRush Ltd's opinion the Supplier's capability to adequately fulfill its obligations under the Contract has been placed in jeopardy; or
 - (iii) the Supplier commits a breach of clause 5.3
 - (iv) It is found that the Supplier has provided false or inaccurate information to SimRush Ltd. in a supplier selection questionnaire, RFI or similar.
 - (b) for convenience by giving the Supplier 1 month's written notice.
- 14.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract given no less than 8 weeks' written notice to SimRush Ltd. (unless otherwise agreed between the Supplier and SimRush Ltd. in signed writing).

- 14.3 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:

- (a) the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (b) 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
- (c) 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.

15. Consequences of termination

- 15.1 In the event the Contract is terminated early, the Supplier shall immediately deliver to SimRush Ltd. all Deliverables whether or not then complete, and return all SimRush Ltd. Materials. If the Supplier fails to do so, then SimRush Ltd. may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 15.2 Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at 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.

- 15.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

16. 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 it if such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 2 weeks, the party not affected may terminate this agreement by giving 14 days' written notice to the affected party.

17. General

17.1 Assignment and other dealings.

- (a) SimRush Ltd. may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.

- (b) The Supplier 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 SimRush Ltd..

17.2

Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be 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 sent by email to the address specified in the Order.
- (b) A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; 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; if sent by 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 17.2(b) 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.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

17.3 **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 shall not affect the validity and enforceability of the rest of the Contract.

17.4 **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.

17.5 **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.

17.6 **Entire agreement.** 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

17.7 **Third party rights.** 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.

17.8 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.

17.9 **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.

17.10 **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.