

# Terms & Conditions

Protirus UK Limited

## 1 Interpretation

**1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions.**

**Applicable Laws:** means any and all laws, legislation, statutes, regulations, bye-laws, decisions, notices, orders, rules (including any rules or decisions of court), local government rules, statutory instruments or other delegated or subordinate legislation and any directions, codes of practice issued pursuant to any legislation, and voluntary codes, including for the avoidance of doubt Data Protection Legislation, that are applicable to the supply and acquisition of the Services on these terms and conditions from time to time.

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

**Contract:** the SOW or Simplified Ordering Form, the PO and Protirus' acceptance of it under condition 3 of these terms and conditions.

**Customer:** the person, firm or company who purchases Services from Protirus.

**Customer's Project Manager:** the Customer's manager for the Project appointed in accordance with condition 5.1(a).

**Data Protection Legislation:** (a) the UK GDPR or the EU GDPR; (b) the EC Directive on Privacy and Electronic Communications (Directive 2002/58/EC); (c) the Data Protection Act 2018; (d) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (e) all other applicable national implementing laws and regulations in any jurisdiction relating to or impacting on the processing of personal data, all as may be amended and supplemented from time to time. "EU GDPR" means the General Data Protection Regulation (Regulation (EU) 2016/679)). "UK GDPR" means the EU GDPR as implemented by the European Union (Withdrawal) Act 2018 and as amended from time to time including by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2020);

**Deliverables:** all products and materials developed by Protirus while performing the Services in any media, including, without limitation, computer programs, data, diagrams, reports and specifications (including drafts).

**End User:** the end user identified in the SOW or Simplified Ordering Form.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Insolvency Event:** any of the following: a) any action (corporate or otherwise), legal proceedings or other procedure or step is taken by any person in any jurisdiction in relation to or with a view to: (i) the

winding up, dissolution, administration, moratorium or reorganisation (by way of voluntary arrangement, scheme of arrangement, an arrangement under Part 26A of the Companies Act 2006 or otherwise) of the Customer (except that no right to terminate will arise in respect of any procedure commenced for the purpose of a solvent amalgamation or reconstruction); (ii) the appointment of a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator, nominee, supervisor or similar officer in respect of the Customer or any of its assets; (iii) the enforcement of any security over any assets of the Customer; or (iv) a debt relief order being made in respect of the Customer; or (v) the expropriation, attachment, sequestration, distraining upon or execution over or affecting any material asset of the Customer; (b) the Customer is unable to pay its debts as they fall due or is insolvent; (c) the Customer enters into a composition or arrangement with its creditors or any class of them; (d) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on business or substantially all of its business, or is struck off; (e) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy or (f) the commencement of an analogous procedure / step in relation to the Customer in a jurisdiction other than England and Wales.

**Partner Company:** the partner company identified in the SOW or Simplified Ordering Form.

**Pre-existing Materials:** materials which existed before the commencement of the Services.

**Project:** any project described in a SOW.

**PO:** means purchase order.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

**1.2** Headings do not affect the interpretation of these terms and conditions.

**1.3** A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

**1.4** 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.

**1.5** A reference to writing or written includes email but not fax.

## 2. Order of Precedence

**2.1** In the case of any conflict of interest, the order of precedence shall be:

- (a) these terms and conditions;
- (b) any applicable SOW or Simplified Ordering Form; and
- (c) any applicable PO.

**2.2** Any variation of the Contract shall be in writing and signed by both parties.

## 3. Consideration

The Customer's PO constitutes an offer by the Customer to purchase the Services specified in it on the terms of this Contract. Accordingly Protirus' acknowledgement of receipt of the PO shall establish a contract for the supply and purchase of those Services on the terms of this Contract. No contract will come into being until Protirus has acknowledged receipt of the PO, and the Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the PO shall not govern the Contract.

## 4. Protirus' obligations

4.1 Protirus shall provide the Services with reasonable care and skill.

4.2 If the Services are to be provided for a fixed price, Protirus shall use reasonable endeavours to manage and complete its agreed activities, and to deliver any Deliverables to the Customer, in accordance in all material respects with the SOW or the Simplified Ordering Form.

4.3 Protirus shall use reasonable endeavours to meet any performance dates specified in the SOW or Simplified Ordering Form but any such dates shall be estimates only and time shall not be of the essence of the Contract.

4.4 Protirus reserves the right to amend the SOW or Simplified Ordering Form and these terms and conditions if necessary to comply with any Applicable Laws or if the amendment will not materially affect the nature or quality of the Services and Protirus shall notify the Customer in any such event.

## 5. Customer's obligations

**The Customer shall:**

(a) procure that any Partner Company and any End User complies with these terms and conditions as if they were the Customer;

(b) enter into a written agreement with any Partner Company or End User incorporating terms which are substantially the same as these terms and conditions;

(c) co-operate with Protirus in all matters relating to the Services and appoint the Customer's Project Manager, who shall have the authority to contractually bind the Customer on matters relating to the Services;

(d) provide in a timely manner such access to the Customer's premises and data, and such office accommodation and other facilities, as is requested by Protirus;

(e) provide in a timely manner such information as Protirus may request, and ensure that such information is accurate in all material respects;

(f) be responsible (at its own cost) for preparing the relevant premises for the supply of the Services; and

(g) fulfil any other obligations and satisfy any other requirements identified by Protirus, subject to Protirus confirming said obligations and requirements to the Customer in writing.

5.2 If Protirus' performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, the Customer's agents, subcontractors or employees, or any Partner Company or End User, the Customer shall be liable to pay to Protirus on demand all reasonable costs, charges or losses sustained or incurred by it (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere), subject to Protirus confirming such costs, charges and losses to the Customer in writing.

5.3 The Customer shall not, without the prior written consent of Protirus, at any time from the date of the Contract to the expiry of six (6) months after the completion of the Services, solicit or entice away from Protirus or employ or attempt to employ any person who is, or has been, engaged as an employee or Subcontractor of Protirus.

**5.4** Any consent given by Protirus in accordance with condition 5.3 shall be subject to the Customer paying to Protirus a sum equivalent to 20% of the then current annual remuneration of Protirus' employee or Subcontractor or, if higher, 20% of the annual remuneration to be paid by the Customer to such employee or Subcontractor.

**5.5** Within five (5) days of Protirus' delivery to the Customer of any Deliverable, the Customer shall review the Deliverable to confirm that it functions in material conformance with the applicable specification. If the Deliverable fails in any material respect to conform with the applicable specification, the Customer shall give Protirus a detailed description of any such non-conformance (Error), in writing, within the aforementioned five-day review period.

**5.6** With respect to any Errors contained in any Deliverables delivered to the Customer, Protirus shall use reasonable endeavours to correct any such Error within a reasonable time and, on completion, submit the corrected Deliverable to the Customer. The provisions of condition 5.5 shall then apply again, up to three (3) additional times. If Protirus is unable to correct such Error after three (3) attempts, either party may terminate the relevant section of the relevant SOW.

**5.7** If the Customer does not provide any written comments in the five (5) day period outlined in condition 5.5 or if Protirus can demonstrate that a Deliverable conforms to the specification the Deliverable shall be deemed accepted.

**5.8** If the Customer or the Contract becomes the subject of financial, economic or trade sanctions, Protirus may (without liability) suspend the supply of Services and/or terminate the Contract immediately by notice.

**5.9** If in the reasonable opinion of Protirus the Customer is associated with unethical behaviour (including war) and in the opinion of Protirus, association with the Customer would bring the reputation of Protirus into disrepute, Protirus may (without liability) suspend the supply of Services and/or terminate the Contract immediately by notice.

**5.10** The Customer shall indemnify Protirus against any losses, damages, costs (including legal fees) and expenses incurred by or awarded against Protirus as a result of:

- (a) the Customer's breach of these terms and conditions howsoever arising;
- (b) the acts or omissions of any Partner Company or End User; or
- (c) any negligent or wrongful act of the Customer, its officers, employees, contractors, agents or sub-licensees.

## **6. Change control**

**6.1** Subject to condition 4.4, if either party wishes to change the scope of the Services, it shall submit details of the requested change to the other in writing.

**6.2** If either party requests a change to the scope or execution of the Services, Protirus shall, within a reasonable time, provide a written estimate to the Customer of:

- (a) the likely time required to implement the change;
- (b) any variations to Protirus' charges arising from the change; and
- (c) any other impact of the change on the terms of the Contract.

**6.3** Subject to condition 4.4, if Protirus requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it.

**6.4** If the Customer wishes Protirus to proceed with the change, Protirus has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges and any other relevant terms of the Contract to take account of the change.

## 7. Charges and payment

7.1 Without prejudice to any other right or remedy that Protirus may have, if the Customer fails to pay Protirus on the due date Protirus may:

- (a) charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment. Protirus may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
- (b) suspend all Services until payment has been made in full, to the extent permitted by law.

7.2 Time for payment shall be of the essence of the Contract.

7.3 All outstanding unpaid invoices, interest and payments payable to Protirus under the Contract shall become due immediately on termination of the Contract, despite any other provision. In respect of Services supplied but for which there is no invoice, Protirus shall submit an invoice, which shall be payable by the Customer immediately on receipt. This Condition is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

7.4 Protirus may, without prejudice to any other rights it may have, set off any liability of the Customer to Protirus against any liability of Protirus to the Customer.

## 8. Intellectual Property Rights

8.1 All Intellectual Property Rights and all other rights in the Deliverables, shall be owned by Protirus. Protirus hereby licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of any Deliverables and the Services as is envisaged by the parties. If Protirus terminates the Contract under any of the circumstances set out in conditions 12.1(a) and 12.1(b), this licence will automatically terminate.

8.2 The Customer may sub-licence the rights in condition 8.1 to any Partner Company or End User, but shall not otherwise sub-licence, assign or otherwise transfer the rights in condition 8.1.

8.3 The Customer acknowledges that the Customer's use of rights in Pre-existing Materials is conditional on Protirus obtaining a written end-user licence (or sub-licence) of such rights from the relevant licensor or licensors on such terms as will entitle Protirus to license such rights to the Customer.

## 9. Confidentiality and Protirus' property

9.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by Protirus or its employees or agents, and any other confidential information concerning Protirus' business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors on a need-to-know basis for the purpose of discharging the Customer's obligations to Protirus, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.

9.2 All materials, equipment and tools, drawings, specifications and data (including any Pre-existing Materials) supplied by Protirus to the Customer shall at all times be and remain the exclusive property of Protirus, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to Protirus, and shall not be disposed of or used other than in accordance with Protirus' written instructions or authorisation.

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**9.3** This condition 9 shall survive termination of the Contract, however arising.

## 10. Data Protection

**data processor, data controller, personal data** and **processing** shall have the meanings as defined in the Data Protection Legislation.

**10.1** Both parties will comply with all applicable requirements under the Data Protection Legislation and this Contract. This Contract is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

**10.2** The parties acknowledge that, to the extent that Protirus processes personal data on behalf of the Customer, Protirus will act as a processor for and on behalf of the Customer (as controller).

**10.3** The data processing activities, contemplated under the Contract are as follows:

- (a) Protirus will process names, business contact information and job role details in relation to data subjects employed or engaged by the Customer in connection with the work described in the SoW;
- (b) any processing activities, such as data collection and data transfer, which Protirus is required to undertake in order to perform its obligations under the SoW; and
- (c) subject to condition 10.5(f), any processing of personal data by Protirus will be carried out for the duration of the Contract.

**10.4** Without prejudice to the generality of condition 0, the Customer:

- (a) warrants and represents that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Protirus for the duration and purposes of this Contract;
- (b) warrants and represents that all instructions given to Protirus for the processing of personal data are lawful and as a minimum include the nature and purpose of the processing, type of personal data and categories of data subjects to whom the personal data related; and
- (c) acknowledges that as data controller it is solely responsible for determining the lawful processing condition upon which it shall rely in providing instructions to Protirus for the purpose of carrying out the relevant services under this Contract.

**10.5** Without prejudice to the generality of condition 10.1, to the extent that Protirus acts as a processor for the Customer with respect to the personal data, Protirus shall:

- (a) only process that personal data for the performance of its obligations under the Contract and in accordance with the written instructions of the Customer from time to time, unless Protirus is subject to an obligation under Applicable Laws (including for the avoidance of doubt Data Protection Legislation) in which case Protirus shall (unless prohibited by law on important grounds of public interest) notify the Customer in advance of that legal obligation;
- (b) immediately inform the Customer if, in Protirus' opinion, an instruction from the Customer breaches a requirement of Data Protection Legislation, provided that the foregoing obligation shall not be construed as an obligation on Protirus to provide legal or professional advice to the Customer;

**10.5** Without prejudice to the generality of condition 10.1, to the extent that Protirus acts as a processor for the Customer with respect to the personal data, Protirus shall:

- (c) promptly without undue delay notify the Customer in writing of each personal data breach of which it becomes aware. Protirus shall (to the extent feasible) ensure that the initial notification comprises the information required under Article 33(3) of the UK GDPR. In the event that Protirus is unable to provide all of the information required under this condition 10.5 in accordance with the time limits set out above, Protirus shall provide as much information as it is able to within those time limits and shall provide all further information as soon as reasonably practicable thereafter;

**(d)** taking into account the state of the art and measures at its disposal, ensure that it has in place appropriate technical and organisational measures to safeguard against the unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data and such measures shall, at a minimum, meet the requirements of Article 32 of the UK GDPR;

**(e)** ensure that all personnel who are authorised to process personal data are bound by a duty of confidence to maintain the confidentiality of the personal data;

**(f)** upon conclusion of the personal data processing activities contemplated by the Contract and to the extent technically possible, Protirus will (as directed by the Customer or, in the absence of any direction, as elected by Protirus) securely return or securely destroy the personal data and all copies in Protirus' power, possession or control, unless Protirus is required to keep such personal data for its compliance with Applicable Laws;

**10.5** Without prejudice to the generality of condition 10.1, to the extent that Protirus acts as a processor for the Customer with respect to the personal data, Protirus shall:

**(g)** provide the Customer with all information reasonably requested by the Customer to enable the Customer to verify Protirus' compliance with this condition 10.4. Without prejudice to the foregoing and upon reasonable prior written notice from the Customer, Protirus shall assist the Customer in undertaking an audit of Protirus' compliance with the requirements of this condition 10.5 with respect to the personal data, provided that the scope of the audit and manner in which it is conducted will be agreed between the parties in advance. The Customer agrees to act reasonably and in good faith in exercising its audit rights under this condition 10.5. Protirus' costs and expenses incurred in assisting the Customer with each audit shall be borne by the Customer; and assist the Customer, at the Customer's cost, 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.

**10.6** The Customer provides their consent for Protirus to use Sub-processors in the delivery of the Services. Protirus shall enter into a written agreement with such Sub-processors incorporating terms which are substantially the same as those set out in this condition 10. As between the Customer and Protirus, Protirus shall remain fully liable for all acts and omissions of any Sub-processor appointed by it pursuant to this condition 10.6. Where required by law, Protirus shall inform the Customer of any intended changes concerning the addition or replacement of a Sub-processor with access to personal data and give the Customer a reasonable opportunity to object to such changes.

**10.7** The Customer acknowledges and agrees that Protirus (and its Subcontractors) may process the Personal Data outside the UK and EEA and in such circumstances Protirus will ensure that the following conditions are met:

**(a)** Protirus is processing the Personal Data in a territory which is subject to adequacy regulations under the Data Protection Legislation that the territory provides adequate protection for the privacy rights of individuals; or

**(b)** Protirus participates in a valid cross-border transfer mechanism under the Data Protection Legislation, so that Protirus (and, where appropriate, the Customer)

**10.7** The Customer acknowledges and agrees that Protirus (and its Subcontractors) may process the Personal Data outside the UK and EEA and in such circumstances Protirus will ensure that the following conditions are met:

**(b)** Protirus participates in a valid cross-border transfer mechanism under the Data Protection Legislation, so that Protirus (and, where appropriate, the Customer) can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of individuals as required by Article 46 of the UK GDPR and EU GDPR; or

**(c)** the transfer otherwise complies with the Data Protection Legislation.

**10.8** This condition 10 shall remain in full force and effect at all times, notwithstanding the termination or expiry of the Contract.

## **11. Limitation of Liability**

**11.1** The following provisions set out the entire financial liability of Protirus (including any liability for the acts or omissions of its employees, agents and Subcontractors) to the Customer in respect of:

- (a)** any breach of the Contract;
- (b)** any use made by the Customer of the Services, the Deliverables or any part of them; and
- (c)** any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

**11.2** All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

**11.3** Nothing in these conditions excludes the liability of Protirus:

- (a)** for death or personal injury caused by Protirus' negligence; or
- (b)** for fraud or fraudulent misrepresentation; or
- (c)** anything else excluded by law.

**11.4** Subject to condition 11.2 and condition 11.3:

**(a)** Protirus shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for:

**(i)** loss (whether direct or indirect) of profits; or

**(ii)** loss (whether direct or indirect) of business; or

**(iii)** depletion of goodwill or similar losses (whether direct or indirect); or

**(iv)** loss (whether direct or indirect) of anticipated savings; or

**(v)** loss (whether direct or indirect) of goods; or

**(vi)** loss (whether direct or indirect) of contract; or

**(vii)** loss (whether direct or indirect) of use; or

**(viii)** loss (whether direct or indirect) or corruption of data or information;

**or**

**(ix)** any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

**(b)** Protirus' total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price payable for the Services in the twelve (12) calendar months prior to the date the claim was made.

## **12. Termination**

Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Contract with immediate effect without liability to the other if:

(a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

(b) the other party suffers an Insolvency Event.

Without affecting any other right or remedy available to it, Protirus may at its discretion, suspend or terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

## 13. Consequences of Termination

**13.1** On termination of the Contract, the Customer shall deal with the Pre-Existing Materials and any Deliverables which have not been fully paid for in accordance with Protirus' instructions, which may require the return or deletion of said materials. If the Customer fails to do so, then Protirus may enter the Customer's premises and take possession of said materials. Until said materials have been dealt with in accordance with Protirus' instructions, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

**13.2** Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

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

## 14. Force Majeure

Protirus shall have no liability to the Customer under the Contract if it is prevented from, hindered or delayed in, performing its obligations under the Contract or from carrying on its business by acts,

events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Protirus or any other party), reductions in or unavailability of a utility service or transport network, act of God, war or threat of war, riot, civil commotion, acts of terrorism, cyberattacks, national emergency, malicious damage, actions of governments, any law or action taken by a public authority including restrictions or the imposition of sanctions or embargos, actions of governments, regulation or direction, accident, partial or complete destruction or breakdown of plant or machinery, sabotage, fire, explosion, flood, earthquake, storm, epidemic or pandemic or default of suppliers or Subcontractors.

## 15. Waiver

**15.1** A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

**15.2** 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. Entire Agreement

**16.1** 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.

**16.2** 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 expressly set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

## **17. Assignment**

**17.1** Subject to condition 5.1(b) and condition 8.2, the Customer shall not, without the prior written consent of Protirus, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

**17.2** Protirus may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

**17.3** As between the Customer and Protirus, Protirus shall remain fully liable for all acts and omissions of any Subcontractor appointed by it pursuant to condition 17.2.

## **18. No partnership or agency**

Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## **19. Third party rights**

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else. For the avoidance of doubt, neither a Partner Company nor an End User has any right to enforce this Contract against Protirus.

## **20. 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 condition shall not affect the validity and enforceability of the rest of the Contract.

## **21. Notices**

**21.1** Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:

**21.1** Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at the address specified in the Contract; or

(b) sent by email to the email address specified in the Contract.

**21.2** Any notice or communication shall be deemed to have been received:

(a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and

**(b)** if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and  
**(c)** 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 condition 21.2(c), 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.

**21.3** This condition 21 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.

## **22. Governing Law and Jurisdiction**

**22.1** The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England.

**22.2** The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).