

Terms and Conditions

General Terms and Conditions of Software, Hardware, IT Support and Consultancy

1. Definitions and interpretations

- 1.1. Definitions;
- 1.1.1. **Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 15.
- 1.1.2. **Customer's Premises:** your place of business where our Goods, Software and Services are to be installed and used in relation to.
- 1.1.3. **Customer Default:** has the meaning set out in clause 9.2.
- 1.1.4. **Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.
- 1.1.5. **Goods, Software & Services:** all produces, services, data, programmes, hardware, knowhow, training, guidance and support provided directly by Transparency.
- 1.1.6. **Supplier Materials:** has the meaning set out in clause 9.1.8.
- 1.1.7. **VAT:** Value added tax.
- 1.2. Interpretations;
- 1.2.1. "We" and "Us" means Transparency Solutions Limited (trading as Transparency), Registered Office: 9 Nimrod Way, Ferndown, Dorset BH21 7UH. Registered in England No. 09420434
- 1.2.2. "You" means you the customer contracting to obtain goods or services from Us.
- 1.2.3. Where "You" means more than one person, each one of You is jointly and severally liable for each of the obligations under this agreement.
- 1.2.4. A "licence" in the case of hardware means that title to hardware does not pass to You unless explicitly stated in, and subject to the terms of, the order.
- 1.2.5. A "licence" in the case of software, the licence is a periodic licence and periodic fees are payable under the provisions of the licence agreement.
- 1.2.6. "Practical completion" means that software or installation has been completed to the extent that it is reasonably possible to use it for normal contemplated use.
- 1.2.7. We agree to supply You with the goods, software licences and/or services set out in the quotation for the price set out on the quotation and subject to the Terms set out in it, in this agreement and in the other documents referred to in this agreement and the quotation.
- 1.2.8. Where we supply hardware and licenses (including Cloud Services), we provide these on a resell basis only with the vendor warranty provisions being passed onto You. The vendors usage terms apply at all times.

2. This agreement

- 2.1. These Terms and Conditions, including all documents specifically referred to, are the whole of the Terms and Conditions governing the agreement between You and Us.
- 2.2. You confirm that You have given Us all necessary and relevant information that You hold and any further information that You suspect may make the supply of goods or services significantly more difficult for Us to make or carry out.
- 2.3. Any samples, drawings, descriptive matter or advertising issued by Us, and any descriptions or illustrations contained in our catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the agreement or have any contractual force.

3. Definitions

- 3.1. Any rule of interpretation that is contrary to common sense does not apply to this contract.
- 3.2. The paragraph headings are merely a guide and are not intended to be a part of this agreement.

4. Quotation

Any quotation given by Us shall not constitute an offer, and in any event is only valid for a period of 30 Days from the date of issue or until supplier pricing changes.

5. Conflict

If there is an inconsistency between any of the provisions of this agreement and the provisions of the quotation document, the provisions of this agreement shall prevail.

6. VAT

- 6.1. The price specified in the quotation or elsewhere are exclusive of VAT or other applicable taxes or duties unless specifically stated. You will be liable to pay all applicable VAT and taxes incurred in relation to the Goods and Services supplied under this agreement.
- 6.2. Where We have undercharged You the VAT that should have been due on an order, You will be liable to pay Us the outstanding VAT immediately.
- 6.3. Where We have overcharged You VAT, We shall refund You the amount that You have overpaid within a reasonable period of time from when we are made aware of the overpayment.

7. Amendments to specifications

- 7.1. We or our associated Service Providers may alter the specifications of the Goods, Software or Services from time to time so long as the alteration does not render the Goods, Software or Services unfit for purpose or incompatible with the purpose for which they were purchased by You.
- 7.2. If You request Us to alter the specifications after Your order has been placed, We may consider doing so at our discretion, and any such alteration may be subject to an increase of the quotation price.

7.3. A variation to the specification (including the price) (as opposed to a variation to the contract) is only valid where signed by one of our authorised sales staff.

8. Cancellations

- 8.1. If You wish to cancel your order:
 - 8.1.1. You must provide Us with written confirmation of your intention to cancel the order within 14 days of placing it. If We agree to allow You to cancel your order with Us, at our discretion You may be required to pay our anticipated loss resulting from the cancellation including loss of reasonable profit.
 - 8.1.2. If circumstances arise which are largely beyond our control and which make it no longer commercially sensible for Us to continue your order, We may cancel it.
 - 8.2.3. If you book engineering resources either through placing a new order or calling off from an existing pre-paid arrangement and these are cancelled at short notice, we reserve the right to charge the following cancellation fees based upon the amount of notice given – 15-20 working days 25%, 11-14 working days 50%, 6-10 working days £75%, 1-5 working days 100%.
- 8.3. If We decide to cancel your order:
 - 8.3.1. We shall give You notice, and We shall not be responsible for any loss You suffer as a result of cancellation of your order (although any other rights which You may have arising before We made that decision will remain enforceable); and
 - 8.3.2. You will pay Us a reasonable sum in relation to the proportion of your order which We have fulfilled at the date of cancellation.
- 8.4. If we are providing you with ongoing IT support services or entering into a maintenance agreement with You or supplying you with a CSP Contract the following further conditions will apply:
 - 8.4.1 the minimum term for Our IT support services and maintenance agreements will be 1 (one) year from the date of commencement (the Contractual Term);
 - 8.4.2 the Contractual Term will automatically renew on the same terms as Our original contract with You at the end of the 12 month term unless and until terminated by You; and
 - 8.4.3 You may cancel the renewal of Your agreement with us by providing written notice to terminate at least 90 days prior to the end of the Contractual Term.

9. Your obligations

- 9.1. You shall:
 - 9.1.1. ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
 - 9.1.2. co-operate with Us in all matters relating to the Goods and Services;
 - 9.1.3. provide Us, our employees, agents, consultants and subcontractors, with access to your premises, office accommodation and other facilities as reasonably required;
 - 9.1.4. provide Us with such information and materials as We may reasonably require in order to supply the Goods and Services, and ensure that such information is complete and accurate in all material respects;
 - 9.1.5. prepare the Customer's Premises for the supply of the Services as previously specified by Us in the quotation or other documents forming any part of this agreement;
 - 9.1.6. obtain and maintain all necessary licences, permissions and consents which may be required for the Goods and Services before the date on which the Services are to start;
 - 9.1.7. comply with all applicable laws, including health and safety laws;
 - 9.1.8. keep all materials, equipment, documents and other property of ours (Supplier Materials) at your premises in safe custody at your own risk, maintain Supplier Materials in good condition until returned to Us, and not dispose of or use Supplier Materials other than in accordance with our written instructions or authorisation;
 - 9.1.9. comply with any additional obligations as set out in the quotation;
 - 9.1.10. agree not to approach or engage any of our staff directly or indirectly within six months of the termination of this agreement; and
 - 9.1.11. agree not to introduce any member of our staff to any other person with a view to them engaging that person in employment within the time scale set out above.
 - 9.1.12. pay us a fee of 30% of the total annual employment cost should we consent to your employment of a member of our staff either during or within six months of the termination of this agreement, either directly or indirectly.
- 9.2. If our performance of any of our obligations under this agreement is prevented or delayed by any act or omission by You or failure by You to perform any relevant obligation (Customer Default):
 - 9.2.1. without limiting or affecting any other right or remedy available to it, We shall have the right to suspend performance of the Services until You remedy the act of default, and to rely on the act of default to relieve Us from the performance of any of our obligations in each case to the extent the act of default prevents or delays our performance of any of our obligations;
 - 9.2.2. We shall not be liable for any costs or losses sustained or incurred by You arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this Clause; and
 - 9.2.3. You shall reimburse Us on written demand for any costs or losses sustained or incurred by Us arising directly or indirectly from the act of default.
10. Rights of others and permissions
 - 10.1. Where the order is dependant upon Us to do anything under this agreement on your instructions, and We breach any rights of anyone else or anyone else threatens Us with proceedings for breach of their rights, You agree to indemnify Us against any loss We may incur, including legal costs in defending or resisting the proceedings or claim or settling the proceedings or claim.
 - 10.2. Your obligations under this clause will remain in effect and enforceable after the rest of this agreement has terminated.
 - 10.3. If You come across any circumstances which may lead to a claim under clause 10.1 above, You agree to tell Us about them as soon as possible.
 - 10.4. as a result of such a claim or threat of proceedings, We may decide that it is no longer commercially sensible to proceed with your

order and We may cancel the order in accordance with the provisions set out in these Terms and Conditions.

12. Sub-contracting

- 12.1. We may sub-contract any of the services We have agreed to provide You with under this contract to a third party at our discretion.
- 12.2. Where We sub-contract any services to a third party at Your request, We shall not be liable for any non-performance of that third party of any of its obligations, and for the purposes of this agreement, any delay or hindrance to our performance of our obligations under this contract that is caused by or attributable to that third party shall be considered to have been caused by You.

13. Third party recommendations

As part of carrying out our obligations under this agreement We may recommend or suggest that another person or company carries out some work. By making this recommendation or suggestion We do not guarantee that work or the performance of any third party. You will need to carry out your own investigations to ensure that any party recommended by us satisfy your requirements. You are free to instruct any other party that you may decide is suitable to complete the task.

14. Consequential loss and our liability

- 14.1. Unless explicitly stated in the quotation in writing, We do not accept liability for consequential loss of any kind. We have priced this contract on the basis that consequential loss has been excluded. If You wish Us to bear liability for consequential loss We may consider doing so but on the basis that the contract price will have to be increased to cover the increased risk, whether or not We choose to bear it through our insurance.
- 14.2. We do not accept liability for any loss or damage of any kind relating to the loss of data in any format however it is stored. You assume all responsibility for the correct storage of data and for ensuring that the data is sufficiently protected and backed up. We are not liable for any failure of data backups, storage devices or cloud storage services.
- 14.3. We do not accept liability for any loss, damage or incompatibility of third-party software. All third-party software must be installed at your sole discretion.
- 14.4. We do not accept liability for any loss arising from hardware faults or hardware related issues.
- 14.5. If We have not provided You with confirmation in writing of our acceptance of a different level of liability, our entire liability under this contract shall be limited to the value of the goods or services provided under it as identified on the quotation.
- 14.6. Nothing in this agreement is designed or intended to reduce or restrict our liability for the death or personal injury of anyone that is caused by our negligence or the negligence of anyone for whom We are responsible.

15. Payment of price

- 15.1. You must pay Us the price specified in the quotation, including any VAT which may apply in accordance with the terms of this agreement on the dates contained in the quotation (if no terms or dates are referred to, the price is payable immediately).
- 15.2. If You fail to pay the whole or part of any sum You owe to Us on or before the date that it comes due for payment, all sums due under the agreement which You owe to Us will become due for payment immediately.
- 15.3. We reserve the right to issue court proceedings against You to recover them without giving You any further warning or notice.
- 15.4. You must pay Us the whole of the amount due.
- 15.5. You must not set off or deduct anything from this amount without our prior written permission.
- 15.6. If You fail to make a payment due to Us under this agreement by the due date, without limiting our other remedies under this agreement, You shall pay interest on the overdue sums. Interest will accrue from the due date until payment of the overdue sum is made to Us. Interest under this Clause 14.6 will accrue at 4% a year above the Bank of England's base rate from time to time.
- 15.7. All amounts due under this agreement 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).
- 15.8. We may assign the benefit of any debt owed to Us by You to any third party at any time.

16. Intellectual property rights

- 16.1. All Intellectual Property Rights in or arising out of or in connection with the Goods and Services (other than Intellectual Property Rights in any materials provided by You) shall be owned by Us or the licensor of the software.
- 16.2. We grant to You, or shall procure the direct grant to You of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of this agreement to copy the deliverables (excluding materials provided by You) for the purpose of receiving and using the Goods and Services and the deliverables in your business.
- 16.3. You shall not sub-license, assign or otherwise transfer the rights granted in Clause 15.2.
- 16.4. You will grant Us a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by You for the term of this agreement for the purpose of providing the Goods and Services to You.

17. Time for performance

We shall make reasonable endeavours to meet any performance dates specified in the quotation, but any such dates shall be estimates only and time shall not be of the essence for performance of any of our obligations under this agreement.

18. Indemnity

Where We carry out any work for You on your premises or premises under your control, You agree to indemnify Us and keep Us indemnified against any loss, damage, claim or expense arising out of the physical injury of or death of any of our staff arising in any way from our performance of this agreement and arising by reason of the provision of defective equipment, your failure to provide a safe

system of work or otherwise by reason of any negligent act or default on your part or on the part of your servants or agents or other person on your premises.

19. Assignment

Except as is specifically referred to in this agreement, neither You or Us may assign the benefit or the obligations of any part of this agreement without the written consent of the other.

20. Data protection and data processing under the GDPR

20.1. Both parties will comply with all applicable requirements of the data Protection Legislation and the General Data Protection Regulation (GDPR). This Clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

20.2. The parties acknowledge that for the purposes of the Data Protection Legislation, You are the data controller and We are the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

20.3. You will ensure that You have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to Us for the duration and purposes of this agreement.

20.4. We shall, in relation to any Personal Data processed in connection with the performance by Us of our obligations under this agreement:

20.4.1. process that Personal Data only on the written instructions of You unless We are required by the laws of any member of the European Union or by the laws of the European Union applicable to Us to process Personal Data (Applicable Data Processing Laws). Where We are relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, We shall promptly notify You of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit Us from so notifying the Customer;

20.4.2. ensure that We have in place appropriate technical and organisational measures, reviewed and approved by You, 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 our 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 Us);

20.4.3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

20.4.4. not transfer any Personal Data outside of the European Economic Area unless your prior written consent has been obtained and the following conditions are fulfilled:

(i) You or Us 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) We comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(iv) We comply with reasonable instructions notified to it in advance by You with respect to the processing of the Personal Data;

20.4.5. notify You without undue delay on becoming aware of a Personal Data breach;

20.4.6. at the written direction of You, delete or return Personal Data and copies thereof to You on termination of this agreement unless required by Applicable Data Processing Law to store the Personal Data.

20.5. You consent to Us appointing third-party processors of Personal Data under this agreement. We confirm that We have entered or (as the case may be) will enter with any third-party processors into a written agreement incorporating terms which are substantially similar to those set out in this Clause. As between You and Us, We shall remain fully liable for all acts or omissions of any third-party processor appointed by Us pursuant to this Clause 20.

20.6. Either party may, at any time on not less than 30 days' notice, revise this Clause 20 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

21. Notices

21.1. Any notice 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 or its principal place of business; or sent by fax to its main fax number or sent by email to the address specified in the quotation documents.

21.2. Any notice shall be deemed to have been received:

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

(ii) 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

(iii) 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.

21.3 In this clause 21, 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.

22. Confidentiality

22.1. Each party undertakes that it shall not at any time during the Contract, and for a period of 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 22.2.

22.2. Each party may disclose the other party's confidential information:

22.2.1 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 22.2.1; and

22.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

22.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

23. Termination

23.1. This agreement may be terminated by Us in the following circumstances:

23.1.1. Should any sums due to Us under this agreement remain unpaid for a period of 14 days or more;

23.1.2. In the event that You fail to provide the staff that We supply to You under this agreement or any staff that are working at your premises or at premises specified by You, with a safe system of work or if You request that a member of staff works in conditions or with equipment which are in any way unsafe or hazardous;

23.1.3. You act unreasonably either intentionally or recklessly so as to cause a delay of any period of time which interferes with or delays completion under this agreement;

23.1.4. Where You fail to carry out any prerequisite work that needs to be completed at your premises or other premises as specified by You before We are able to implement and/or install any goods or services, where We have specified to You and agreed a timeframe for the prerequisite works to be completed, and You fail to have such works completed by the agreed date without giving Us at least 14 days' notice of the delays;

23.1.5. If, in our reasonable opinion, it appears that You will be unable to meet the payment Terms We have agreed with You, We may terminate this agreement without notice immediately. Where we terminate We shall no longer be under any obligation to do any work for You under it, and You shall immediately become liable to pay Us all sums which You owe Us (whether or not under this agreement and whether or not they have become due). In addition, You will be liable to pay Us a reasonable sum representing the work We have done up to the date of termination, which shall be calculated to include the loss of anticipated profit for the whole of the contract;

23.1.6. the presentation of a bankruptcy or winding-up petition against You;

23.1.7. the appointment of a manager, receiver or administrator over all or any part of your assets;

23.1.8. the commencement of any winding-up process (other than for the purposes of reconstruction or amalgamation);

23.1.9. the entry into or proposal of any form of arrangement or composition with your creditors; and

23.1.10. anything analogous to the above clauses in any jurisdiction.

23.2. This agreement may be terminated by You in the following circumstances:

23.2.1. In the event of non-attendance by our staff for a period of not less than four (4) consecutive working days unless such absence is authorised in advance by You or is due to sickness or injury;

23.2.2. in the event of any of our staff committing any act of gross misconduct as defined in your reasonable site rules;

23.2.3. if any staff that We supply pursuant to this agreement prove in your reasonable opinion to be unsuitable to carry out the work required under this agreement and We have been unable to provide a suitable replacement within 10 working days after You have notified Us of their lack of suitability; or

23.2.4. in each of the cases referred to in clauses 23.2 above You may not terminate this Agreement unless and until the matter has been referred to the Grievance Procedure referred to in clause 33 and You have not found the outcome satisfactory.

23.3 If, in our reasonable opinion, it appears that You will be unable to meet the payment Terms We have agreed with You, We may terminate this agreement without notice immediately. Where We terminate We shall no longer be under any obligation to do any work for You under it, and You shall immediately become liable to pay Us all sums which You owe Us (whether or not under this agreement and whether or not they have become due). In addition, You will be liable to pay Us a reasonable sum representing the work We have done up to the date of termination, which shall be calculated to include the loss of anticipated profit for the whole of the contract.

24. 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.

25. Entire agreement.

25.1 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.

25.2 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 based on any statement in the Contract.

25.3 Nothing in this clause shall limit or exclude any liability for fraud.

26. Third party rights

Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

27. 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.

28. 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.

29. Variation

Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties.

30. 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.

31. 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.

32. No partnership or agency

32.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

32.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

33. Disputes

33.1. Any dispute which may arise between the parties concerning this agreement shall be determined as provided in this Clause 33.

33.2. For the purpose of this Clause 33, a dispute shall be deemed to have arisen when one party serves on the other a notice in writing stating the nature of the dispute.

33.3. Unless this agreement has already been terminated by the date of the notice of dispute, We shall, in every case, continue with the Work with all due diligence regardless of the nature of the dispute and You shall continue to make payments (excluding any disputed sums).

33.4. After service of the notice of dispute, the following procedure shall be followed by the parties (all periods specified in this Clause 32.4. shall be extendable by mutual agreement):

33.4.1. within two days, the project manager and your representative shall meet to attempt to settle the dispute;

33.4.2. if the project manager and your representative are unable to reach a settlement within seven days from the date of service of the notice, the managing directors of each of the parties shall meet within the following seven days to attempt to settle the dispute; and

33.4.3. if no settlement results from the meeting specified in Clause 33.4.2, for the following 28 days the parties shall attempt to settle the dispute by mediation by an independent mediator, with costs to be shared equally between the parties.

32.5. f no settlement is reached under Clause 33.4:

32.5.1. if the dispute is of a technical nature concerning the interpretation of the business requirements specification or technical specification or any similar or related matter then such dispute shall be referred for arbitration. The arbitrator's decision shall (in the absence of clerical or manifest error) be final and binding on the parties and his or her fees for so acting shall be borne by the parties in equal shares unless he determines that the conduct of either party is such that such party should bear all of such fees;

32.5.2. in the case of a dispute over purely legal issues, or where disposition of the legal issues would dispose of all other issues in dispute, the matter shall be brought before the English Courts in the most expeditious manner possible, and the parties agree to co-operate in the speedy conduct of such legal proceedings; and

32.5.3. in any other case, the dispute shall be determined by the English Courts and the parties submit to the exclusive jurisdiction of such court for such purposes.