

THE DEPARTMENT FOR CONSTITUTIONAL AFFAIRS
CROWN COURT ELECTRONIC LIST DISTRIBUTION
TERMS OF THE CONTRACT

CROWN COURT ELECTRONIC LIST DISTRIBUTION

TERMS OF AGREEMENT

CONTENTS

1. Interpretations
2. Service Description
3. Acceptance
4. Service Disruption
5. Changes to the Schedules
6. Commencement of Services
7. Duration of Agreement and Prior Determination
8. Performance
9. Official Secrets and Confidentiality
10. Force Majeure
11. Assignment and Subcontracting
12. Publicity
13. Corrupt Gifts and Payments of Commission
14. Amendments to the Agreement
15. Communications
16. Severability
17. Waiver
18. Law and Jurisdiction
19. Entire Agreement

List of Schedules

1. Participating Crown Courts and Lists
2. Lists Format
3. List Transmission Times
4. Fallback Procedures
5. Court Service Contacts
6. CONTRACTOR's Recipients and Method of notification of CONTRACTOR's Recipients
7. Details of CONTRACTOR's system

1. Interpretations

1.1. As used in this Agreement the following terms and expressions shall have the following meanings;

- The Department for Constitutional Affairs includes HM Court Service, which is an Executive Agency.
 - Agreement means this Agreement, including the Services Order and the Schedules;
 - Commencement Date means the date of the commencement of the Services;
 - Confidential Information means all information designated as such by either party in writing together with all such other information which relates to the business, affairs, software, developments, trade secrets, know how, personnel, customers and CONTRACTORS of either party or information which may reasonably be regarded as the confidential information of the disclosing party;
 - Data means the information content of the transmitted list such as case number, defendant's name, defending solicitor, courtroom, time, etc. Specifically it is the data items which comprise the list examples detailed in Schedule 2 of this Agreement including any standard text which appears on a list and the relationships between these data items;
 - List means a Crown Court list as specified in Schedule 1 of this Agreement;
 - "Manual List" means a list as specified in Schedule 1 which is sent by means other than via the CONTRACTOR's, service; i.e. by Post, by facsimile transmission, by messenger, by document exchange or by telephone.
 - Recipient means any end-user of the list information as provided by the CONTRACTOR, such as a Solicitor Firm or a Barristers' Chambers;
 - Request For Change means any written request for modification to the information content, format or scope of the services provided by either party;
 - "Services" means the services provided hereunder by the CONTRACTOR;
 - Services Order means the order for Services set out on page 2;
- 1.2. A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.
- 1.3. Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.
- 1.4. References to Clauses are, unless otherwise provided, references to Clauses of this Agreement.

1.5. In this Agreement the masculine includes the feminine and the neuter and the singular includes the plural and vice-versa.

2 Service Description

2.1. The AUTHORITY's Obligations.

2.1.1. The AUTHORITY shall provide the CONTRACTOR electronic copies of those Court Lists for those Crown Courts as specified in Schedule 1 of this Agreement.

2.1.2. The Court Lists provided by the AUTHORITY shall conform to the formats and layouts as specified in Schedule 2.

2.1.3. The AUTHORITY shall use their best endeavours to meet the timescales for Provision of lists to the CONTRACTOR specified in Schedule 3 to this Agreement.

2.1.4. The AUTHORITY shall use their best endeavours to provide the lists free from any error or mistake.

2.2. The CONTRACTOR's Obligations

2.2.1. The CONTRACTOR shall be responsible, at their own expense, for providing all facilities including software (e.g. value added components such as sorting, aggregation), hardware and communications to enable the lists to be made available to the recipients once they have been received by the CONTRACTOR from the AUTHORITY.

2.2.2. The CONTRACTOR shall be free to make the lists available to recipients in any format or by whatever means of communication, which they judge to be suitable, providing the obligations set out in this section of the Agreement are met.

2.2.3. The CONTRACTOR shall take all necessary steps to ensure that any restriction imposed by the AUTHORITY on the distribution or content of the Lists, as detailed in Schedule 2 or as subsequently negotiated with the AUTHORITY, are complied with. Implementation of data restrictions by the CONTRACTOR is subject to receipt of accurate data delivered in the format agreed between the parties from time to time. The CONTRACTOR shall not be liable for data restrictions which fail where this is attributable to the receipt of data provided by the AUTHORITY in a format other than that agreed between the parties or which otherwise causes the failure of the data restrictions.

2.2.4. The CONTRACTOR shall be responsible, at their own expense, for publicising and marketing any service to the recipients.

2.2.5. Subject to clause 2.2.3 or as subsequently negotiated with the AUTHORITY, the CONTRACTOR shall ensure that the integrity of the Data received from the AUTHORITY remains unchanged when translated from the AUTHORITY'S format into the format presented to the recipient.

2.2.6. The CONTRACTOR shall ensure that a communication channel into their system is available to any transmission from the AUTHORITY within 5 minutes of a call being initiated by that CREST system.

- 2.2.7. When requested by the AUTHORITY, the CONTRACTOR shall provide the AUTHORITY with details of their recipients of all lists in accordance with Schedule 6 of this Agreement within 14 days of receipt of the request. The AUTHORITY shall treat any such information as Commercial in Confidence.
- 2.2.8. The CONTRACTOR shall provide the AUTHORITY with such details as required to enable information to be transmitted to the CONTRACTOR; this is detailed in Schedule 7.
- 2.2.9. The CONTRACTOR shall make their systems available to receive transmissions from the AUTHORITY between 08:30 and 18:30 each working day. Weekends, Bank Holidays and other occasional holidays when the Crown Court is closed are not counted as working days.
- 2.2.10. The CONTRACTOR shall ensure that they comply with the legislation with regard to security, including, but not restricted to, the Data Protection Acts, 1984 & 1988 and the Computer Misuse Act (1990).

2.3. **Copyright**

- 2.3.1 The lists and the Court Service logo remain Crown Copyright. The CONTRACTOR cannot assign copyright to any recipient and must ensure within the terms and conditions of their service to the recipient, that the lists shall not be further distributed, copied or otherwise transmitted without the prior approval of the AUTHORITY.
- 2.3.2 The CONTRACTOR shall acknowledge the AUTHORITY as the source of the Crown Court lists in any publicity material.

3. **Acceptance**

- 3.1. The AUTHORITY may ensure the Contractor is meeting the obligations set out in clauses 2.2.3, 2.2.5, 2.2.6, 2.2.9 and 2.2.10 of this Agreement at any time during the term of the Agreement. The CONTRACTOR shall provide such information or access, as required, to the AUTHORITY for the assessment to take place.
- 3.2. If at any time the CONTRACTOR is found to be in breach of the obligations set out in clauses 2.2.3, 2.2.5, 2.2.6, 2.2.9 and 2.2.10, the CONTRACTOR and the AUTHORITY shall, if necessary and appropriate, activate the fallback measures as defined in Schedule 4 for the duration of the problem. The CONTRACTOR shall investigate and remedy all such breaches, whereupon the AUTHORITY shall carry out acceptance tests in accordance with the obligations set out in clauses 2.2.3, 2.2.5, 2.2.6, 2.2.9 and 2.2.10
- 3.3. If it is determined pursuant to any acceptance tests that the AUTHORITY is satisfied with the results of the acceptance testing, the AUTHORITY shall forthwith notify the CONTRACTOR in writing of its acceptance thereof.
- 3.4. If it is determined pursuant to any acceptance tests that the AUTHORITY is not satisfied that the CONTRACTOR is meeting the obligations set out in clauses 2.2.3, 2.2.5, 2.2.6, 2.2.9 and 2.2.10, the AUTHORITY shall forthwith notify the CONTRACTOR in writing and have the option, in addition to any other remedies

that may be available to it under the Agreement or otherwise, to elect one or more of the following remedies:

- 3.4.1. Without prejudice to its other rights and remedies to extend the acceptance testing period for a further period or periods agreed with the CONTRACTOR by the AUTHORITY during which the CONTRACTOR shall correct the fault which caused the acceptance tests to be recorded as unsuccessful; or
- 3.4.2. to withdraw the transmission of lists to the CONTRACTOR.

4. **Service Disruption**

4.1. The AUTHORITY fails to deliver to the CONTRACTOR

- 4.1.1. The AUTHORITY shall inform the CONTRACTOR as soon as possible of any planned work or of any failure or problem with a Crown Court system which could prevent the normal transmission of lists to the CONTRACTOR as defined in Schedules 1 and 3. The CONTRACTOR and the AUTHORITY shall, if necessary, activate the fallback measures as defined in Schedule 4 for the duration of the problem. The AUTHORITY shall inform the CONTRACTOR when the particular Crown Court system is expected to be fully operational again and when list transmission can resume.
- 4.1.2. If the AUTHORITY fails to deliver any list as detailed in Schedule 1 and no prior notice has been given, the CONTRACTOR shall, if necessary, contact the Crown Court centre concerned and/or the EDS/DCA Help Desk. If the problem can be solved by re-transmission, the Crown Court centre or the EDS/DCA Help Desk as required shall re-transmit the relevant list to the CONTRACTOR.
- 4.1.3. If non-delivery is caused by a problem which cannot be resolved by the Court and if the problem is such that the lists cannot be made available to the CONTRACTOR within an agreed time, the CONTRACTOR and the AUTHORITY shall, if necessary, activate the fallback measures as defined in Schedule 4 for the duration of the problem.
- 4.1.4. In the event of repeated failures or problems with a Crown Court system, or failures to deliver any list detailed in Schedule 1 and the CONTRACTOR is dissatisfied with the steps being taken to resolve the matter, the CONTRACTOR may bring this to the attention of the appropriate Court Service Contact. Where the AUTHORITY is so notified it will use its best endeavours to resolve the matter as quickly as possible.
- 4.1.5. Under certain circumstances specified in Schedule 3, the communication line from the court to the CONTRACTOR may not be available and this may give rise to late delivery of lists. If this is the case, or is likely to be the case, the AUTHORITY shall endeavour to inform the CONTRACTOR and, if necessary and with the agreement of the CONTRACTOR, activate the fallback measures as defined in Schedule 4 for the duration of the problem. The AUTHORITY shall endeavour to inform the CONTRACTOR of when list transmission can resume.

4.2. CONTRACTOR fails to deliver to the recipient.

- 4.2.1. The CONTRACTOR shall inform the AUTHORITY as soon as is possible of any failure or problem with their system which could prevent, the lists being made available to the recipients. The AUTHORITY contacts in such an eventuality are given in Schedule 5. The CONTRACTOR and the AUTHORITY shall, if necessary, activate the fallback measures as defined in Schedule 4 for the duration of the problem. The CONTRACTOR shall inform the AUTHORITY as soon as is possible of when the CONTRACTOR's system is expected to be operational again.
- 4.2.2. The CONTRACTOR shall use best endeavours to ensure that in the case of problems experienced by the recipient with any part of the CONTRACTOR's service, the recipient shall at all times notify the CONTRACTOR and not the AUTHORITY.

5. Changes to the Schedules

5.1. Changes initiated by the AUTHORITY

- 5.1.1. The AUTHORITY shall inform the CONTRACTOR in writing of any impending change affecting the information transmitted to the CONTRACTOR at least 90 days before the introduction of such a change, unless a shorter period is agreed with the CONTRACTOR. The AUTHORITY shall provide such technical details as required by the CONTRACTOR to enable them to accommodate any changes.
- 5.1.2. The AUTHORITY and the CONTRACTOR shall agree a timetable to ensure that any changes to the AUTHORITY's and the CONTRACTOR's systems arising from any change are introduced in a co-ordinated fashion, subject to the provisions of clause 5.1.3 below.
- 5.1.3. Notwithstanding 5.1.1, the AUTHORITY reserves the right to introduce changes at short notice if urgent procedural, policy or legislative demands arise. In this instance, the AUTHORITY shall inform the CONTRACTOR as early as is possible and commence good faith negotiations to attempt to introduce changes in co-ordinated fashion and, if necessary, to activate the fallback measures as defined in Schedule 4 for the duration of the problem.
- 5.1.4. In the event of changes occurring as a result of the circumstances outlined in 5.1.3 and the CONTRACTOR not being able amend their system in time, the AUTHORITY and the CONTRACTOR shall review the applicability of the Contractor's Obligations as set out in section 2.2 until such a time as the changes can be made and accepted by the AUTHORITY.
- 5.1.5. The AUTHORITY shall use reasonable endeavours to keep the CONTRACTOR informed of any maintenance, development plans and new software initiatives relating to the Court Lists.

5.2. Changes Requested by the CONTRACTOR

- 5.2.1. The CONTRACTOR shall provide Requests for Change to the AUTHORITY for any changes required to the Schedules at least 60 days before the change is required to be introduced.

5.2.2. The AUTHORITY shall endeavour to respond in writing to any Request For Change within 30 days of receipt. If a Request for Change is authorised by the AUTHORITY, the AUTHORITY and the CONTRACTOR shall agree a timetable to ensure that any changes to the AUTHORITY's and the CONTRACTOR's systems arising from the RFC are introduced in a co-ordinated fashion.

6. Commencement of Services

6.1 The Services shall commence as of 23 January 2006.

6.2 At any time within the period of this Agreement, the AUTHORITY shall reserve the right to review its strategy regarding Court List Distribution. Without prejudice to the conclusions of any review, the AUTHORITY shall consult with the CONTRACTOR on matters including, but not limited to, any changes to this Agreement.

7. Duration of Agreement and Prior Determination

7.1 Subject to clause 7.3 and the parties' specific rights of termination, the Agreement shall continue for two years from the Commencement Date of the Services. Subject to satisfactory performance by the Contractor during the Contract Period, the Department shall have the option to extend the Contract for a further period of one year. If the Department wishes to exercise this option, it shall give written notice to the Contractor no later than three months prior to the date upon which the Contract would otherwise expire.

7.2 The Agreement may be terminated at any time prior to the Contract expiry date by either party giving the other party six months notice to that effect.

7.3 The CONTRACTOR shall notify the AUTHORITY in writing immediately upon the occurrence of any of the following events:

- a) where the CONTRACTOR is an individual, if a petition is presented for the Contractor's bankruptcy or a criminal bankruptcy order is made against the Contractor, or the Contractor makes any composition or arrangement with or for the benefit of the creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage the affairs of the CONTRACTOR
- b) where the CONTRACTOR is a company, if the company passes a winding up resolution (otherwise than for the purpose of amalgamation or reconstruction) or the court makes an administration order or a winding-up order or the company makes a composition or arrangement with the creditors, or an administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge; or
- c) where the Contractor is not an individual but is a firm (or a number of persons acting together in any capacity), if any event in a) or b) above occurs in respect of any partner in the firm (or in respect of any of those persons) or a petition is presented for the Contractor to be wound up as an unregistered company;

- 7.4 The AUTHORITY shall be entitled without prejudice to any other remedy for breach of contract, to terminate this Contract, whether wholly or to the extent of each breach, by notice with immediate effect upon the occurrence of any of the following:
- a) any of the events described in clause 7.3 above
 - b) if the CONTRACTOR shall have committed a material breach of the Agreement and (if such breach is considered by the AUTHORITY capable of remedy) shall have failed to remedy such breach after being required by the AUTHORITY in writing to do so.
 - c) the breach is not capable of remedy.
- 7.5 Termination in accordance with this Clause 7 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party.
- 7.6 The provisions of Clauses 1, 9 and 13 shall survive the termination of this Agreement.

8. Performance

- 8.1. The CONTRACTOR shall be responsible for ensuring that the provision of Services is carried out with reasonable skill, care and diligence in accordance with the Agreement.

9. Official Secrets Act and Confidentiality

- 9.1. The CONTRACTOR'S attention is drawn to the provisions of the Official Secrets Act 1911 to 1989. The CONTRACTOR shall take all reasonable steps to ensure that all persons employed on any work in connection with the Agreement have notice that these statutory provisions apply to them and will continue to do so after the completion or earlier determination of the Agreement howsoever arising.
- 9.2. The CONTRACTOR shall keep secret and not disclose and shall ensure that all Workpersons keep secret and do not disclose any information of a confidential nature obtained by the CONTRACTOR by reason of this Agreement, except information which is in the public domain otherwise than by reason of a breach of this provision.
- 9.3 Subject to clause 4 and 5 of this Condition, the CONTRACTOR shall not, without the prior written approval of the AUTHORITY disclose to any third party the existence of this Agreement or any matters relating to it.
- 9.4 The CONTRACTOR shall comply with the provisions of the Government Security Regulations affecting any official information to which they may have access during the performance of the Agreement. In addition, no communication with the press, including legal journals or other outside body, save for the Bar Council, or disclosure or publication of any matter arising from this Agreement, whether by photograph or otherwise, may be made without prior consultation with, and approval by the AUTHORITY. The AUTHORITY shall not withhold such approval unreasonably.

- 9.5 The CONTRACTOR shall ensure that all Workpersons employed in providing the Services under this Agreement are made aware of this Condition.
- 9.6 The provisions of this Condition shall apply during the continuance of this Agreement and after its termination howsoever arising.
- 9.7 The AUTHORITY and the CONTRACTOR each agrees to keep confidential information confidential and shall not use any such information other than for the purposes of this agreement.
- 9.8 The duties of confidentiality as proposed in this agreement shall not extend to any information, documents or materials which:
- a) was, at the date of this agreement in the public domain in the United Kingdom;
 - b) falls within the public domain in the United Kingdom after today's date other than as a result of the default of the relevant party; or
 - c) is required to be disclosed by law or by the regulations of any stock exchange.

10. Force Majeure

- 10.1 For the purposes of this Agreement the expression "Force Majeure" shall mean any cause affecting the performance by a party of its obligations arising from act, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting) the generality thereof governmental regulations, fire, flood, or any disaster or an industrial dispute affecting a third party for which a substitute third party is not reasonably available. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected party, its agents or employees.
- 10.2 Neither party shall in any circumstances be liable to the other for any loss of any kind whatsoever including but not limited to any damages or abatement of Charges whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations hereunder which is due to Force Majeure. Notwithstanding the foregoing, each party shall use all reasonable endeavours to continue to perform, or resume performance of, such obligations hereunder for the duration of such Force Majeure event.
- 10.3 If either of the parties become aware of circumstances of Force Majeure which give rise to, or which are likely to, give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.
- 10.4 It is expressly agreed that any failure by the CONTRACTOR to perform or any delay by the CONTRACTOR in performing its obligations under this Agreement which results from any failure or delay in the performance of its obligations by any person, firm or company with which the CONTRACTOR shall have entered into

any contract, supply arrangement or subcontract or otherwise shall be regarded as a failure or delay due to Force Majeure only in the event that such person, firm or company shall itself be prevented from or delayed in complying with its obligations under such contract, supply arrangement, subcontract or otherwise as a result of circumstances of Force Majeure.

- 10.5 For avoidance of doubt it is hereby expressly declared that the only events which shall afford relief from liability for failure or delay shall be any event qualifying for Force Majeure hereunder.

11. Assignment and Subcontracting

- 11.1 The CONTRACTOR shall not assign or sub-contract the Agreement without the prior written consent of the AUTHORITY. The AUTHORITY shall not withhold such consent unreasonably. Sub- contracting any part of the Agreement shall not relieve the CONTRACTOR of any obligation or duty attributable to the CONTRACTOR under this Agreement.

12. Publicity

- 12.1. Except with the written consent of the other party neither party shall make any press announcements or publicise this Agreement in any way.
- 12.2. Both parties shall take all reasonable steps to ensure the observance of the provisions of Clause 12.1 by all their servants, employees, agents and consultants. The CONTRACTOR shall take all reasonable steps to ensure the observance of the provisions of Clause 12.1 by its subcontractors.
- 12.3. Notwithstanding the provisions of Clause 12.1, the AUTHORITY shall be entitled to publicise this Agreement in accordance with any legal or quasi legal obligation upon the AUTHORITY, including, but without limitation, obligations under the General Agreement on Tariffs and Trade, Agreement on Government Procurement.

13 Corrupt Gifts and Payments of Commission

- 13.1 The CONTRACTOR shall neither:

- 13.1.1. offer or give or agree to give any person on Her Majesty's Service any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of this or any other Agreement with Her Majesty's Services or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement; nor
- 13.1.2. enter into this Agreement if in connection with it commission has been paid or agreed to be paid to any person on Her Majesty's Service by the CONTRACTOR or on the CONTRACTOR's behalf, or to the CONTRACTOR's knowledge, unless before this Agreement is made particulars of any such commission and of the terms and conditions of any Agreement for the payment thereof have been disclosed in writing to the AUTHORITY.

- 13.2. In the event of any breach of this Clause 13 by the CONTRACTOR or by anyone employed by the CONTRACTOR or acting on the CONTRACTOR's behalf (whether with or without the knowledge of the CONTRACTOR) or the commission of any offence by the CONTRACTOR or by anyone employed by the CONTRACTOR or acting on behalf of the CONTRACTOR under the Prevention of Corruption Act, 1889 to 1916 in relation to this or any other contract for Her Majesty's Service, the AUTHORITY may summarily terminate this Agreement by notice in writing to the CONTRACTOR. Provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the AUTHORITY and provided always that the AUTHORITY may recover from the CONTRACTOR the amount or value of any such gift, consideration or commission.
- 13.3. The decision of the AUTHORITY shall be final and conclusive in any dispute, difference or question arising in respect of:
- 13.3.1. the interpretation of this Clause (except so far as the same may relate to the amount recoverable from the CONTRACTOR under Clause 13.2 in respect of any loss resulting from such termination of the Agreement); or
- 13.3.2. the right of the AUTHORITY under this Clause 13 to terminate this Agreement; or
- 13.3.3. the amount or value of any such gift, consideration or commission.

14. Amendments to the Agreement

- 14.1 This Agreement may not be varied or amended unless such variation or amendment is agreed in writing by or on behalf of a duly authorised representative on behalf of the AUTHORITY and by a duly authorised representative on behalf of the CONTRACTOR.

15. Communications

Except as otherwise expressly provided no communication from one party to the other shall have any validity under this Agreement unless made in writing by or on behalf of the AUTHORITY or as the case may be by or on behalf of the CONTRACTOR. Such communication shall be marked for the attention of the Technical Director at the Contractor or Liam O'Donnell at the Authority, as the case may be.

16. Severability

- 16.1. If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been executed with the invalid illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, the AUTHORITY and the CONTRACTOR shall immediately commence good faith negotiations to remedy such invalidity.

17. Waiver

- 17.1. The failure of either party to insist upon strict performance of any provision of this Agreement, or the failure of either party to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Agreement.
- 17.2. A waiver of any Default shall not constitute a waiver of any subsequent Default.
- 17.3. No waiver of any of the provisions of this Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing in accordance with the provisions of Clause 17.

18. Law and Jurisdiction

- 18.1 This Agreement shall be considered as a contract made in England and according to English Law and subject to the exclusive jurisdiction of the English Courts to which both parties hereby submit.
- 18.2 This Agreement is binding on the AUTHORITY and its successors and assignees and the CONTRACTOR and the CONTRACTOR's successors and permitted assignees.
- 18.3. Any dispute which may arise between the parties concerning the Agreement shall be determined as follows:
 - 18.3.1. if the dispute shall be of a technical nature then it shall be referred for final settlement to an expert nominated jointly by the parties, or failing such nomination within 14 days after either party's request to the other therefore, nominated at the request of either party by the Chairman of the British Computer Society. Such expert shall be deemed to act as an expert and not as an arbitrator. His decision shall (in the absence of manifest error) be final and binding on the parties and his 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 one party should bear all his fees;
 - 18.3.2. in any other case the dispute shall be determined by the High Court of Justice.

19. Entire Agreement

- 19.1. This Agreement constitutes the entire understanding between the parties relating to the subject matter of this Agreement and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, negotiations or understandings with respect hereto.