

## The Schedule Part 11

### DISPUTE RESOLUTION PROCEDURE

11. In the event of any disagreement between Contractor and The Trust in respect of any matter concerning this Agreement the parties shall continue to perform their obligations under this Agreement and shall undertake to use their reasonable endeavours to resolve such disputes through the respective Project Directors.
- 11.1. In the event that the Project Directors fail to resolve the matter within ten (10) Business Days then either party may, in the first instance, refer the matter by written notice to the next management level specified below for discussion and resolution by a date agreed between the parties (or if none within ten (10) Business Days). If the dispute shall be referred to the second management level, they must meet within seven working days of the reference to attempt to resolve the dispute. If the dispute is not resolved at that level within fourteen (14) Business Days, the escalation shall continue with the same maximum time interval up to the third management level.
- 11.2. If the unresolved dispute is having a material effect on the performance of the Services, the parties shall use their respective reasonable endeavours to reduce the elapsed time in reaching the resolution of the dispute. Subject to Clause 11.7 below, neither party may initiate any legal action until the procedure described in 11.2 above has been completed, unless such party has reasonable cause to do so to avoid damage to its business or to protect or preserve any right of action it may have.
- 11.4. The levels of escalation are:
  - For the Trust:
    - Level 1 – Project Manager
    - Level 2 – Head of IM&T – Robin Wright
    - Level 3 – Executive Sponsor – Iain Crozier
  - For ContractorContractor:
    - Level 1 – Project Director – John Riley
    - Level 2 – Public Sector Regional Manager – Roger Bowden
    - Level 3 – Public Sector Business Director – David Meaden
- 11.5. If any of the above is unable to attend a meeting, a substitute may attend, provided that each substitute has at least the same seniority and is authorised to settle the unresolved dispute. Each party shall use all reasonable endeavours to reach a negotiated resolution through the above dispute procedure. The specific format for such

resolution shall be left to the reasonable discretion of the relevant management level, but may include the preparation and submission of statements of fact or of position.

- 11.6. Failure to resolve the dispute within a reasonable period, which shall not be greater than thirty days from date of the notice in writing set out in Clause 11.2 shall entitle either party to exercise its right to invoke the provisions of Clause 11.8.
- 11.7. Nothing in this Clause 11 shall be taken as preventing at any time while the dispute resolution procedures are in progress or before or after they are invoked either party instituting against the other proceedings before the courts to protect that party's intellectual property rights, trade secrets or confidential information.

### **Alternative Dispute Resolution**

- 11.8. In the event the parties fail to resolve a dispute in accordance with Clause 11, then the parties may seek to resolve disputes between them by an Alternative Dispute Resolution ("ADR") procedure recommended by the Centre for Dispute Resolution ("CEDR"). If the parties fail to settle the dispute within thirty (30) days following their agreement to involve CEDR or either party refuses to submit to ADR, the dispute shall be referred to the Scottish courts as referenced in Clause 51 of the Agreement.