

STANDARD TERMS AND CONDITIONS

FOR THE PURCHASE OF GOODS AND SERVICES

1 DEFINITIONS AND INTERPRETATION

1.1 In this Contract the following definitions apply:

**Applicable Laws:** the laws of England and Wales and any other laws or regulations or regulatory policies, guidelines or industry codes that apply from time to time.

**Business Day(s):** Monday to Friday, excluding days when the clearing banks are closed for business in London.

**Confidential Information:** all information of a confidential nature in the Council's possession or control, whether created before or after the date of the Contract, whatever its format, and whether or not marked "confidential", including the terms of the Contract, and negotiations relating to them, but shall not include any information which is or comes into the public domain through no fault of the Supplier, was already lawfully in the Supplier's possession or comes into the Supplier's possession without breach of any third party's confidentiality obligation to the Council, or is independently developed by or on behalf of the Supplier.

**Conditions:** these terms and conditions.

**Contract:** the agreement between the Council and Supplier for the purchase of Goods and/or Services by the Council, comprising (in this order of hierarchy):

- (a) Conditions;
- (b) Specification;
- (c) Pricing Schedule; and
- (d) Order Form.

**"Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach" and "processing appropriate technical and organisational measures"** have the meaning given under the Data Protection Legislation.

**Council:** Fenland District Council of County Road, March, Cambridgeshire PE15 8NQ.

**Council Materials:** any materials, patterns, templates, drawings, know-how, techniques and information provided by the Council to the Supplier in connection with a Contract.

**Council Policies:** the Council policies specified in the Order Form, as amended from time to time by the Council, and all other Council policies which the Council deems, acting reasonably and from time to time, are applicable to provision of the Goods and/or Services.

**Data Protection Legislation:** all applicable data protection and privacy laws applicable in the UK from time to time, including codes of practice, guidelines and recommendations issued by the Information Commissioner.

**Good Industry Practice:** the exercise of the degree of skill, care and diligence expected from an expert and experienced supplier of goods and/or services the same as or similar to the Goods and/or Services.

**Goods:** the goods (including any instalment of the goods or any parts for them) described in the Order.

**Intellectual Property Rights:** copyright, patents, rights in inventions, rights in confidential information, Know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software, know-how and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing.

**Malpractice:** includes giving or receiving any financial or other advantage that may be construed as a bribe, whether for the purpose of the Bribery Act 2010 or any other Applicable Law.

**Month/Monthly:** a calendar month.

**New Materials:** any materials, patterns, templates, drawings, know-how, techniques and information that the Supplier or its Representatives create for the Council under the Contract.

**Order:** an order for Goods and/or Services placed with the Supplier by the Council.

**Premises:** the premises at which any Services are carried out as specified in an Order.

**Representatives:** the Supplier or a member of the Supplier's group or any of their directors, officers, employees, agents, professional advisers, suppliers or contractors.

**Services:** the services described in the Order.

**Service Levels** if set out in the Order means the required standards with which the Goods and Services are to be supplied.]

**Supplier:** the supplier named in the Order.

**Supplier Materials:** any materials, patterns, templates, drawings, know-how, techniques and information of the Supplier that the Supplier or its Representatives do not create for the Council under the Contract.

**Supplier Personnel:** the employees, agents or, subcontractors of the Supplier from time to time.

1.2 In any Contract:

- (a) the interpretation of general words shall not be restricted by words indicating a particular class or particular examples;
- (b) any reference to a statute or statutory provision includes a reference to any statutory amendment, consolidation or re-enactment of it to the extent in force from time to time; and
- (c) unless otherwise stated, time shall be of the essence for the performance of any obligation.

2 FORMING THE CONTRACT

2.1 An Order is an offer by the Council to purchase the Goods and/or Services subject to these Conditions. Acceptance of an Order by the Supplier constitutes unconditional acceptance of the Contract, as does the Supplier's performance of any Order.

2.2 These Conditions replace all previous agreements and any course of dealing between the Council and the Supplier and the Contract is the entire agreement between the Council and the Supplier in relation to the Goods and/or Services.

2.3 No terms other than those in the Contract will apply.

3 CANCELLATION

The Council may cancel any Order without any liability by giving written notice to the Supplier at any time before delivery of the Goods or the start of the provision of the Services.

4 PRICE AND PAYMENT

4.1 Unless otherwise stated in the Order:

- (a) The Charges are invoiced in £ sterling after delivery of the Goods/Services;
- (b) the Charges (plus any applicable VAT, payable following receipt of a valid VAT invoice) are the only amounts payable by the Council under a Contract; and
- (c) the Charges are inclusive of all costs for packaging, packing, shipping, carriage, insurance and delivery of the Goods or Services to the delivery address specified by the Council, all other costs relating to the supply of the Goods and/or Services and any duties, taxes, or levies, other than VAT.

4.2 No increase in the Charges for the Goods and/or Services may be made for any reason without the prior written consent of the Council.

4.3 The Council shall only be required to make payments following an invoice setting out the price payable by the Council with details of any VAT element and shall also include such supporting information required by the Council to verify the accuracy of the invoice including, but not limited to, the applicable purchase order number provided by the Council:

4.4 Subject to Clause 4.3, the Council shall pay any undisputed and properly due Charges within 30 days of a valid invoice being received.

4.5 The Council may set off, deduct or withhold from any liability owed to the Supplier under or in connection with any Contract any current liability of the Supplier to the Council in connection with any Contract.

**Clauses 5 to 7 apply to Contracts for the supply of Goods only.**

**5 DELIVERY**

- 5.1 The Supplier shall deliver (including unloading) the Goods, properly packed and secured at its own risk, on the date(s) and to the location specified in the Order.
- 5.2 Time of delivery is of the essence. If the Supplier fails to deliver the Goods or make them available for collection at the time specified in the Order, the Council may:
- (a) refuse to accept any subsequent attempts to deliver the Goods and terminate this Contract immediately and at no cost to the Council by serving notice in writing on the Supplier;
  - (b) procure similar goods from an alternative supplier; and
  - (c) recover from the Supplier all losses, damages, costs and expenses incurred by the Council arising from the Supplier's default.
- 5.3 If the Council fails to take delivery of any one or more instalments of Goods delivered in accordance with a Contract, the Supplier shall store the Goods at its own premises or at another suitable location at its own expense for a reasonable period and arrange with the Council an alternative delivery time.
- 5.4 If the Goods are to be delivered by instalments, the Contract will be treated as a single contract and is not severable.
- 5.5 The Goods must:
- (a) be free from defects in materials and workmanship, be of satisfactory quality and conform to and in all respects with the specifications set out in the Order and any other specifications, standards, procedures and requirements agreed in writing;
  - (b) comply with all Applicable Laws; and
  - (c) not be the subject of any security interest, lien, encumbrance, charge or adverse title.
- 5.6 The Council may reject any Goods which do not comply with Clause 5.5.
- 5.7 The Council shall not be deemed to have accepted the Goods (in whole or in part) until the Council has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent. Any inspection or testing of the Goods by the Council shall not limit the Council's right to reject defective Goods later and make a claim in respect of them. The Supplier shall at its own cost collect any Goods rejected.

**6 TITLE AND RISK**

- 6.1 Risk in the Goods shall pass to the Council once they are delivered to the Council. Title in the Goods shall pass to the Council on delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Council once payment has been made and received by Supplier.

**7 INSTALLATION AND COMMISSIONING**

- 7.1 If required in the Order, the Supplier shall install and commission the Goods at no additional cost unless agreed, by the date in the Order. Installation and commissioning are Services.

**Clauses 8 to Error! Reference source not found. apply to Contracts in respect of the provision of Services only.**

**8 PERFORMANCE OF THE SERVICES**

- 8.1 The Supplier shall carry out the Services within the time set out in the Order.
- 8.2 The Supplier shall:
- (a) provide any Services with all due skill and diligence and in a good and workmanlike manner and in accordance with Good Industry Practice and all Applicable Laws;
  - (b) leave the Council's premises, if used, as clean, tidy and safe as they were when it entered them.
  - (c) participate in regular reviews of its performance if specified in the Order;
  - (d) provide the Goods and Services in line with any Service Levels set out in the Order;
  - (e) incur poor performance liabilities (calculated as set out in the Order) where it fails to meet the applicable Service Levels;
  - (f) provide the Council with such reporting as is specified in the Order and as the Council reasonably requires; and
  - (g) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract.
- 8.3 Any materials used or supplied by Supplier in the performance of the Services shall be in accordance with the highest requirement of any British Standard specifications and or regulations.
- 8.4 When working on the Council's premises, the Supplier shall ensure that all equipment, working conditions and methods are safe and without risks to health to any person and that the Supplier Personnel shall comply with any and all applicable Council Policies.
- 8.5 The Supplier shall:
- (a) ensure that any Services are carried out in such a way as to prevent so far as reasonably possible damage or pollution to the environment;

- (b) keep any waste, surplus, recyclable materials arising from the Services securely and safely until cleared away in accordance with Applicable Laws and/or the Council's reasonable instructions;
- (c) ensure that any removal of waste is only carried by registered, authorised and licensed carriers and keep a record of the carrier's waste transfer notices, registration, authorisation or licence and of the carrier's written confirmation of the disposal site used.

**9 SUPPLIER EQUIPMENT**

- 9.1 The Supplier shall provide all the equipment necessary for the provision of the Services and maintain it in a safe, serviceable and clean condition.
- 9.2 All equipment provided by the Supplier shall be at the risk of the Supplier and the Council shall have no liability for any loss of or damage unless it is caused by the negligence or wilful default of the Council.

**These Clauses apply to all Contracts.**

**10 VARIATIONS**

- 10.1 No changes to the Contract shall be valid unless a new or revised Order has been issued by the Council.

**11 INTELLECTUAL PROPERTY**

- 11.1 The Council will own the Intellectual Property Rights in any New Materials and the Supplier assigns to the Council by present and future assignment, with full title guarantee, all legal and beneficial rights, title and interest in the New Materials.
- 11.2 The Supplier will continue to own the pre-existing Intellectual Property Rights in any Supplier Materials and where any Supplier Materials are included in any Goods or used in any Services then the Supplier grants the Council a perpetual, irrevocable, worldwide, sub-licensable, assignable, royalty-free, non-exclusive licence to use Supplier Materials to the extent necessary to take the full benefit of the Contract.
- 11.3 The Council will continue to own the Intellectual Property Rights in any Council Materials together with any new Intellectual Property Rights and Know-How howsoever developed.
- 11.4 Where the Council provides the Supplier with Council Materials then it grants the Supplier a limited, revocable, non-assignable, worldwide, royalty-free, non-exclusive licence to use the Council Materials to the extent necessary in accordance with any guidelines the Council notifies it from time to time, solely to the extent needed to fulfil its obligations under the Contract.

**12 DATA PROTECTION**

- 12.1 Where the Supplier, pursuant to the Contract, processes Personal Data on behalf of the Council, the Supplier acknowledges that the Council is the Data Controller and the owner of such Personal Data, and that the Supplier is the Data Processor.
- 12.2 The Supplier warrants, represents and undertakes that it has complied, and shall continue to comply, with the requirements of the applicable Data Protection Legislation and all other data protection legislation in any jurisdiction relevant to the exercise of its rights or the performance of its obligations under the Contract.
- 12.3 In respect of any Personal Data to be processed by the Supplier as Data Processor pursuant to the Contract, and for which the Council is Data Controller, the Supplier shall:

- (a) have in place and maintain appropriate technical and organisational measures in such a manner as is designed to ensure the protection of the rights of the Data Subject and to ensure a level of security appropriate to the risk and shall implement any reasonable security measures as requested by the Council from time to time;
- (b) not engage any sub-processor without the prior specific or general written authorisation of the Council (and in the case of general written authorisation; the Supplier shall inform the Council of any intended changes concerning the addition or replacement of other processors at least 30 days in advance, and the Council shall have the right to object to such changes);
- (c) ensure that each of the Supplier's employees, agents, consultants, subcontractors and sub-processors are made aware of the Supplier's obligations under this Clause 12 and enter into binding obligations with the Supplier to maintain the levels of security and protection required under this Clause 12. The Supplier shall ensure that the terms of this Clause 12 are incorporated into each agreement with any sub-processor, subcontractor, agent or consultant to the effect that the sub-processor, subcontractor, agent or consultant shall be obligated to act in accordance with duties and obligations of the Supplier under this Clause 12. The Supplier shall be and remain liable to the Council for any failure of any employee, agent, consultant, subcontractor or sub-processor to act in accordance with the duties and obligations of the Supplier under this Clause 12;
- (d) process that Personal Data only on behalf of the Council in accordance with the Council's instructions and to perform its obligations under the Contract or other documented instructions and for no other purpose save to the limited extent required by law;
- (e) within 7 days following the end of the Contract term, deliver to the Council (in such format as the Council may require) a full and complete copy of all Personal Data, and, following confirmation of receipt from the Council, permanently remove the Personal Data (and copies) from

the Supplier's systems, and the Supplier shall certify to the Council that it has complied with these requirements, and such Personal Data shall remain confidential in perpetuity;

- (f) ensure that all persons authorised to access the Personal Data are subject to obligations of confidentiality and receive training to ensure compliance with the Contract and the Data Protection Legislation;
- (g) make available to the Council all information necessary to demonstrate compliance with the obligations laid out in Article 28 of GDPR and this Clause 12 and allow for and contribute to audits, including inspections, conducted by the Council or another auditor mandated by the Council, of the Supplier's data processing facilities, procedures and documentation (and the facilities, procedures and documentation of any sub-processors) in order to ascertain compliance with this Clause 12, within 5 Business Days of request by the Council and, following any such audit, without prejudice to any other rights of the Council, the Supplier shall implement such measures which the Council considers reasonably necessary to achieve compliance with the Supplier's obligations under this Clause 12; provided that the Supplier shall immediately inform the Council if, in its opinion, an instruction infringes Data Protection Legislation;
- (h) taking into account the nature of the processing, provide assistance to the Council, within such timescales as the Council may require from time to time, in connection with the fulfilment of the Council's obligation as Data Controller to respond to requests for the exercise of Data Subjects' rights pursuant to Chapter III of the GDPR to the extent applicable;
- (i) provide the Council with assistance in ensuring compliance with articles 32 to 36 (inclusive) of the GDPR (concerning security of processing, data breach notification, communication of a personal data breach to the Data Subject, data protection impact assessments, and prior consultation with supervisory authorities) to the extent applicable to the Council, taking into account the nature of the processing and the information available to the Supplier;
- (j) deal promptly and properly with all enquiries or requests from the Council relating to the Personal Data and the data processing activities, promptly provide to the Council in such form as the Council may request, a copy of any Personal Data requested by the Council;
- (k) in connection with any regulatory or law enforcement authority audit, investigation or enforcement action in respect of the Personal Data, immediately notify the Council in writing about any:
  - (i) Data Breach or any accidental loss, disclosure or unauthorised access of which the Supplier becomes aware in respect of Personal Data that it processes on behalf of the Council;
  - (ii) request for disclosure of the Personal Data by a law enforcement authority (unless otherwise prohibited); or
  - (iii) access request or complaint received directly from a Data Subject (without responding other than to acknowledge receipt).
- (l) maintain a record of its processing activities in accordance with Article 30 of the GDPR; and
- (m) process Personal Data only in accordance with the details set out in the Data Processing Table as amended by the Council by notice in writing (acting reasonably) from time to time to reflect changes to the Services or the way in which they are delivered.

### 13 FREEDOM OF INFORMATION

- 13.1 The Supplier acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and shall promptly assist and cooperate with the Council to enable the Council to comply with its obligations in respect of those requirements.
- 13.2 While the Council may, if practicable and appropriate, consult with the Supplier whether any information relating to Supplier or this Contract should be disclosed as part of a request for information, the Council shall be responsible for determining in its absolute discretion whether any Information will be disclosed.

### 14 CONFIDENTIALITY

- 14.1 The Supplier shall keep confidential the Council's Confidential Information as it would its own confidential information, and shall use, copy and disclose that Confidential Information only in connection with the proper performance of the Contract.
- 14.2 The Supplier may disclose the Council's Confidential Information where required to do so by law.
- 14.3 The obligations in this Clause 14 shall continue without limit in time.

### 15 WARRANTIES

- 15.1 The Supplier represents and warrants that:
  - (a) it has the power and authority to enter into and perform the Contract, which constitute valid and binding obligations on it in accordance with their terms; and
- 15.2 that the Goods and Services delivered by the Supplier shall:
  - (a) conform to the Specification and to any descriptions given in quotations, estimates and sales material;

- (b) be, in the case of Goods, of satisfactory quality within the meaning of the Sale of Goods Act 1979;
- (c) be fit for any purpose specified in the Order;
- (d) not infringe any third party Intellectual Property Rights;

- 15.3 Without limiting any other remedies to which it may be entitled, the Council may at any time after Delivery and at no cost to itself, reject any Goods or Services that do not comply with Clause 15.2 by providing notification to the Supplier. As soon as reasonably practicable but in any event within ten Business Days after receiving the notification, the Supplier shall, at the Council's option:

- (a) repair or replace the Goods; or
- (b) provide the Council with a full refund of the Charges paid by the Council.

- 15.4 The provisions of this Contract shall apply to any Goods that are repaired or replaced.

### 16 INDEMNITIES

The Supplier shall indemnify the Council from and against all claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses) incurred by the Council, its employees, officers, agents and contractors as a result of or in connection with:

- (a) any damage to property or injury to persons resulting from the supply of Goods or provisions of Services;
- (b) any claim by the Council or any third party resulting from the negligence of or breach by or fraud on behalf of the Supplier;
- (c) any breach of Data Protection Legislation; or
- (d) any claim, demand or action alleging that the provision and/or use of the Goods or Services has infringed any Intellectual Property Rights of a third party.

### 17 CAPS ON LIABILITY

- 17.1 The liability of the Supplier under or in connection with the Contract is limited to:
  - (a) for liability arising from loss of or damage to property, £10,000,000 per occurrence; and
  - (b) for all other liabilities, the higher of:
    - (i) £50,000; or
    - (ii) 150% of the total amounts paid and which would be payable under the Contract.
- 17.2 The maximum extent of the Council's liability to Supplier in respect of any and all liabilities shall be limited to the lower of:
  - (a) The outstanding properly due invoiced amount; or
  - (b) £10,000.
- 17.3 The exclusions and limitation of liability set out in Clause 17 do not apply to:
  - (a) liability arising from death or injury to persons;
  - (b) any indemnity; or
  - (c) anything else which cannot be excluded or limited at law,

to which no limit applies.

### 18 INSURANCE

- 18.1 The Supplier shall maintain in force at its own cost with reputable insurance companies:
  - (a) employer's liability insurance for the minimum amount of £5 million;
  - (b) public and product liability insurance for the minimum amount of £5 million per occurrence.
  - (c) professional indemnity, errors or omissions or equivalent insurance for the minimum amount of £1 million per event.
  - (d) any other insurances required by Applicable Law or reasonably required by the Council.
- 18.2 Within 14 days of a request by the Council, the Supplier shall provide evidence of the policies referred to in Clause 18.1.

### 19 TERM AND TERMINATION

- 19.1 The Contract commences on the date of the acceptance of the Order.
- 19.2 A Contract may be terminated immediately by notice in writing:
  - (a) by either party if the other party is in material or continuing breach of any of its obligations under the Contract and fails to remedy the breach (if capable of remedy) for a period of 10 Business Days after written notice by the other party;
  - (b) by either party with immediate effect from the date of service on the other party of written notice if:
    - (i) such other party becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (as amended);
    - (ii) such other party ceases or threatens to cease to carry on the whole or a substantial part of its business;
    - (iii) any distress or execution shall be levied upon such other party's property or assets, or any of its property is subject to the exercise of commercial rent arrears recovery;
    - (iv) such other party shall make or offer to make any voluntary arrangement or composition with its creditors;

- (v) any resolution to wind up such other party (other than for the purpose of a bona fide reconstruction or amalgamation without insolvency) shall be passed, any petition to wind up such other party shall be presented or an order is made for the winding up of such other party;
  - (vi) such other party is the subject of a notice of intention to appoint an administrator, is the subject of a notice of appointment of an administrator, is the subject of an administration application, becomes subject to an administration order, or has an administrator appointed over it;
  - (vii) a receiver or administrative receiver is appointed over all or any of such other party's undertaking property or assets;
  - (viii) any bankruptcy petition is presented or a bankruptcy order is made against such other party; an application is made for a debt relief order, or a debt relief order is made in relation to the Council; or
  - (ix) such other party is dissolved or otherwise ceases to exist.
- 19.3 Termination shall not affect either of the parties' accrued rights or liabilities, or the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.
- 20 FRAUD, BRIBERY AND CORRUPTION**
- 20.1 Each party shall notify the other immediately if it becomes aware of or has
- 20.2 grounds for suspecting any fraud or Malpractice relating to the supply of Goods or Services.
- 20.3 Without limiting any other remedy it may have, if either party has reasonable grounds for believing that any of the other party's personnel has committed a fraud or Malpractice relating to the supply of Goods or Service, that party may, in its absolute discretion:
- (a) suspend the supply of the Goods or Services; and/or
  - (b) withhold payment of any Charges falling due.
- 21 WHISTLEBLOWING POLICY**
- 21.1 The Supplier shall have, and keep operational, a suitable and effective Public Interest Disclosure Act 1998 whistleblowing policy which will include procedures under which Supplier Personnel can raise, in confidence, any serious concerns that they may have and do not feel that they can raise in any other way.
- 21.2 The Supplier will make its whistleblowing policy available to the Council for inspection upon request.
- 22 GENERAL**
- 22.1 The Supplier shall not, without the prior written consent of the Council assign, transfer, grant any security interest over or hold on trust any of its rights or obligations under the Contract.
- 22.2 The Supplier may not subcontract any of its rights or obligations (or both) under these Conditions or under the Contract without the prior written consent of the Council. The Supplier shall remain responsible for all obligations that are performed by the subcontractor as if they were acts or omissions of the Supplier.
- 22.3 Nothing in the Contract is intended to or shall operate to create a partnership or joint venture or other business arrangement of any kind between the parties. No party shall have the authority to bind the other party or to contract in the name of, or create a liability against, the other party in any way or for any purpose.
- 22.4 Any waiver by the Council of any breach by the Supplier shall not constitute a waiver of any subsequent breach.
- 22.5 Any failure of delay by the Council in either enforcing or partially enforcing any provision of this Contract is not a waiver of any of its rights under this Contract. The parties do not intend any third party to have the right to enforce any provision of the Contract under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 22.6 If any provision of this Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Contract shall not be affected
- 22.7 The rights and remedies expressly conferred by the Contract are cumulative and additional to any other rights or remedies a party may have.
- 22.8 Communications under the Contract shall be in writing and delivered by hand, sent by recorded delivery post or by email to the relevant party at its address or email address (as applicable). Without evidence of earlier receipt, communications are deemed received: if delivered by hand, at the time of delivery; if sent by recorded delivery, at 9.00 am on the second Business Day after posting; if sent by email, at the earlier of (i) the time the recipient acknowledges receipt and (ii) 24 hours after transmission, unless the sender receives notification that the email has not been successfully delivered, and provided that a copy is also sent by pre-paid post. In the case of post it shall be sufficient to prove that the communication was properly addressed and posted or transmitted.
- 22.9 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 22.10 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).