

## **Terms & Conditions – Business & Commercial Purchases of Bespoke Services**

These Conditions govern each contract made between the Supplier and the Customer for the supply of the Services.

### **1 Interpretation**

**The following definitions and rules of interpretation apply in these Conditions.**

#### **1.1 Definitions:**

**“Conditions”** means these terms and conditions as amended from time to time in accordance with clause 12.5.

**“Confidential Information”** means all information passing from one party to the other party relating to the business of the disclosing party (whether disclosed before or after the date of this Agreement), including but not limited to trade secrets, drawings, know-how, techniques, technical data, business and marketing plans and projections, arrangements and agreements with third parties, customer information, financial information including about debtors or creditors, formulae, information about staff or suppliers, concepts not reduced to material form, designs, plans, artwork and models.

**“Contract”** means the contract formed between the Supplier and the Customer for the provision of the Deliverables (if any) and the Services on the terms and conditions of, together, the Proposal and/or the Retainer, and the case may be, and these Conditions.

**“Customer”** means the person or firm who engages the Supplier to provide the Services pursuant to the Contract.

**“Customer Default”** has the meaning set out in clause 5.2.

**“Deliverables”** means the [design] deliverables (if any) set out in the Proposal produced by the Supplier for the Customer and any additional deliverables agreed between the parties in writing.

**“Fee”** means the estimated cost of the Services and the Deliverables, as set out in the Proposal and/or the Retainer, as the case may be, including any additional fee quoted during the course of the Contract in respect of any additional work and agreed between the parties in writing.

**“Force Majeure”** means as set out in clause 12.1.

**“Intellectual Property Rights”** means rights to copyright and neighbouring and related rights, moral rights, trade marks [and service marks], business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including modifications and extensions, all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**“Proposal”** means the document which contains an outline of the proposed work (namely, the Services) agreed to be undertaken by the Supplier for the Customer including the Fee for that work;

**“Purpose”** means the purpose stated in the Proposal;

**“Retainer”** means the ongoing agreement between the Customer and the Supplier for the provision of services which contains an outline of the proposed work to be carried out pursuant to the Retainer (namely, the Services) including the Fee for that work

**“Services”** means the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Proposal and/or the Retainer, as the case may be, and any additional services agreed between the parties in writing.

**“Supplier”** means New Dawn Creative Limited, a private company limited by shares, registered in England and Wales with company number 06007760 whose registered office is at 3 & 4 Pegasus House Pegasus Court, Olympus Avenue, Warwick, Warwickshire, England, CV34 6LW.

“**Supplier Materials**” has the meaning set out in clause 5.1.5.

## 1.2 Interpretation:

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

1.2.2 Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.3 A reference to **writing** or **written** includes fax [and email **OR** but not email].

## 2 Commencement and Duration

2.1 This Agreement shall commence on the date upon which the Customer signs the Proposal and/or the Retainer, as the case may be, and the Supplier acknowledges acceptance of the same and shall continue, unless terminated earlier in accordance with clause 10, until such date as is specified in the Proposal or as otherwise agreed in writing between the parties or as a result of any delay by the Customer, which shall be deemed to result in an extension for the provision of the Services for the benefit of the Supplier.

## 3 Basis of contract

3.1 The Customer appoints the Supplier to carry out the Services in accordance with the Proposal and/or the Retainer, as the case may be, and to provide the Services in the manner specified and on the terms and conditions under this Agreement. The Supplier accepts the appointment on the terms and subject to the conditions of this Agreement as at the date upon which it signs the Proposal.

3.2 These Conditions apply to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

#### **4 Supply of Services**

- 4.1 The Supplier shall supply the Services to the Customer in accordance with the Proposal and/or the Retainer, as the case may be, in all material respects and in accordance with any lawful and reasonable requests and directions of the Customer from time to time.
- 4.2 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.3 The Supplier reserves the right to amend the Proposal and/or the Retainer, as the case may be, if necessary, to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 4.4 The parties may agree to extend the scope of the Services set out in the Proposal and/or the Retainer, as the case may be. If the parties do so agree, they will set out the additional services in writing, which may or may not be in the form of a new proposal or retainer.
- 4.5 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

#### **5 Customer's obligations**

- 5.1 The Customer shall:
- 5.1.1 ensure that any information it provides to the Supplier is complete and accurate;
- 5.1.2 co-operate with the Supplier in all matters relating to the Services, including providing the Supplier with all relevant information and access to such Confidential Information that the Supplier may reasonably require in order to provide the Services;

- 5.1.3 provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;
  - 5.1.4 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
  - 5.1.5 keep all materials, equipment, documents and other property of the Supplier (the "**Supplier Materials**") at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;
  - 5.1.6 comply with any additional obligations as set out in the Proposal and/or the Retainer, as the case may be; and
  - 5.1.7 give adequate publicity and recognition to the Supplier as the developer of the Services, having regard to the Customer's requirements.
- 5.2 If the Supplier's performance of any of its obligations in relation to the Services is prevented or delayed by any act or omission by or for the Customer or failure by or for the Customer to perform any relevant obligation (each a "**Customer Default**"):
- 5.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to have an extension of time and to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent and for the period of time that the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - 5.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 5.2; and

5.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

## **6 Fees and payment**

6.1 The Customer shall pay to the Supplier the deposit specified in the Proposal prior to the commencement of the Contract.

6.2 The Supplier may submit interim invoices to the Customer in advance based on staged payments or, in relation to Deliverables, monthly in arrears as specified in the Proposal].

6.3 Where the Supplier is required to incur disbursements and/or other third party costs related to the Services, the Customer shall pay such disbursements and third party costs to the Supplier in advance of such disbursements and third party costs being incurred.

6.4 The Supplier may submit invoices for the following:-

6.4.1 the Fee;

6.4.2 disbursements and third party costs, as set out in clause 6.3 above; and

6.4.3 expenses incurred by the Supplier in relation to the provision of the Services.

6.5 In the event that the parties agree to extend the Services in accordance with clause 4.4, the Supplier will be entitled to issue to the Customer an additional fee quote or estimate for the additional services requested and the Customer will be required to pay for the additional services carried out.

6.6 The Customer shall pay each invoice submitted by the Supplier on or before the due date specified on the invoice in cleared funds to a bank account nominated in writing by the Supplier.

6.7 In the event that the Customer is late in paying any invoice submitted by the Supplier:

- 6.7.1 the Supplier will be entitled to charge an administration fee of £10.00 (ten pounds) plus VAT for each letter sent to the Customer chasing late payment, and such administration fee will be deemed to be added to the outstanding Fees owing; and
- 6.7.2 without limiting any other right or remedy of the Supplier, the Supplier shall have the right to charge contractual interest on the overdue amount at the rate of three per cent per annum above the then current Co-Operative Bank base rate accruing on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly; and
- 6.7.3 in the event that the Customer is late in paying the Supplier's invoices twice or more, future orders will be subject to payment in full, in advance, with order.
- 6.8 All amounts payable by the Customer pursuant to the Contract are exclusive of amounts in respect of value added tax chargeable from time to time ("**VAT**"). Where any taxable supply for VAT purposes is made by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 6.9 All amounts due under the Contract 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).
- 6.10 Prices quoted will be valid for a period of 30 days from the date on which the Supplier provides the Proposal to the Customer. Where the Proposal is not accepted and returned to the Supplier within those 30 days, the Supplier reserves the right to increase its prices. The Supplier will give the Customer written notice of any such increase.
- 6.11 The Supplier will charge the Customer for all third party costs stated in any proposal or as otherwise agreed with the Customer. The Supplier shall be entitled to retain any rebate or discount offered by the relevant third party without passing this on to the Customer, and after the period stated in clause 6.8, or otherwise reserves the right to

charge the Customer (at its absolute discretion) an uplift on the amount charged by such third party.

## **7 Intellectual property rights**

- 7.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier. The Supplier reserves all rights in the Supplier's existing Intellectual Property Rights.
- 7.2 The Customer acknowledges and agrees that the Supplier is the proprietor of the Supplier's IPR and the Customer shall not use any of the Supplier's IPR without prior written licence or written permission from the Supplier.
- 7.3 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a non-exclusive, royalty-free licence during the term of the Contract in the United Kingdom to:
- 7.3.1 use the resources and drafts provided by the Supplier in providing the Services for the duration of this Agreement and for the Purpose only; and
  - 7.3.2 to use the know how, techniques and guidance received from the Supplier as part Services, for the Purpose only.
- 7.4 The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 7.3.
- 7.5 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to the Supplier (a) for the term of the Contract for the purpose of the Supplier and its employees, agents, consultants and subcontractors providing the Services to the Customer, and (b) in perpetuity for the purposes of the Supplier establishing, exercising or defending its legal rights.
- 7.6 In the event that Intellectual Property Rights arise in a piece of work carried out for the purpose of the Contract, including the Deliverables, the Customer hereby assigns to



the Supplier absolutely the Intellectual Property Rights in such work including any renewals, reversions, revivals and extensions.

## **8 Data protection**

8.1 The parties shall comply with their data protection obligations in accordance with the Data Protection Act 2018, as amended from time to time.

8.2 In the event that the Customer appoints the Supplier to process data on its behalf, the appointment will be set out in the Proposal and/or the Retainer, as the case may be, and the following shall apply:

8.2.1 In this clause 8.2:

- (i) "Data Protection Legislation" shall mean the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679 (as applicable) and any other applicable laws relating to the protection of personal data and the privacy of individuals (all as amended, updated or re-enacted from time to time);
- (ii) "Data Subject", "Controller", "International Organisation", "Processor" and "Processing" have the same meaning as in the Data Protection Legislation;
- (iii) "Personal Data" has the meaning set out in the Data Protection Legislation in relation to data Processed under this Agreement;
- (iv) "Regulator" means any independent public authority responsible for monitoring the application of the Data Protection Legislation in the UK; and
- (v) "Third Country" means any country other than the UK.

8.2.2 For the purposes of the Data Protection Legislation, the Supplier is a Processor acting on behalf of the Customer:

- (i) the types of Personal Data and the categories of Data Subjects are as set out in the Proposal and/or Retainer, as the case may be; and

- (ii) the nature/purpose of the Processing is as set out in the Proposal and/or the Retainer, as the case may be and the duration of the Processing shall be the term of this Agreement.

8.2.3 The Supplier shall comply with its obligations under the Data Protection Legislation and shall, in particular:

- (i) process the Personal Data only to the extent necessary for the purpose of providing the Services and in accordance with the Customer's written instructions (including with respect to transfers of Personal Data to a Third Country or to an International Organisation);
- (ii) implement appropriate technical and organisational measures in accordance with the Data Protection Legislation to ensure a level of security appropriate to the risks that are presented by such Processing, in particular, from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data, taking into account the state of the art, the costs of implementation, the nature, scope, context and purposes of Processing and the likelihood and severity of risk in relation to the rights and freedoms of the Data Subjects;
- (iii) ensure that any employees or other persons authorised to Process the Personal Data are subject to appropriate obligations of confidentiality;
- (iv) on request by the Customer and taking into account the nature of the Processing and the information available to the Supplier, assist the Customer in ensuring compliance with its obligations under Articles 32 to 36 of the General Data Protection Regulation (EU) 2016/679 (where applicable) in respect of the Personal Data;
- (v) not engage any third party to carry out its Processing obligations under this Agreement without obtaining the prior written consent of the Customer and, where such consent is given, procuring by way

of a written contract that such third party will, at all times during the engagement, be subject to data processing obligations equivalent to those set out in this clause 8.2;

- (vi) notify the Customer, as soon as reasonably practicable, about any request or complaint received from a Data Subject (without responding to that request, unless authorised to do so by the Customer) and assist the Customer by technical and organisational measures, insofar as possible, for the fulfilment of the Customer's obligations in respect of such requests and complaints;
- (vii) notify the Customer without undue delay on becoming aware of a Personal Data breach;
- (viii) on request by the Customer, make available all information necessary to demonstrate the Supplier's compliance with this clause 8.2 and on reasonable advance notice in writing otherwise permit, and contribute to, audits carried out by the Customer (or its authorised representative) with respect to the Personal Data;
- (ix) on termination or expiry of this Contract, destroy, delete or return (as the Customer directs) all Personal Data and delete all existing copies of such data unless required by law to keep or store such Personal Data.

8.2.4 The Customer acknowledges that clause 8.2.3 shall not apply to the extent that the Contractor is required by law to Process the Personal Data other than in accordance with the Customer's instructions and the Contractor acknowledges that, in such a case, it must promptly inform the Customer of the relevant legal requirement prior to Processing (unless the law prohibits the provision of such information on important grounds of public interest).

## **9 Limitation of liability**

- 9.1 Nothing in this clause 9 shall limit the Customer's payment obligations under the Contract.
- 9.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 9.2.1 death or personal injury caused by negligence;
  - 9.2.2 fraud or fraudulent misrepresentation; and
  - 9.2.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession), provided that it is acknowledged that, as a matter of fact, the Deliverables shall not, in any [electronic] form or format, constitute goods.
- 9.3 Subject to clause 9.2, the Supplier's total liability to the Customer shall not exceed the Fee.
- 9.4 The Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, contract or business, or any loss of or damage to goodwill, or any indirect or consequential loss arising under or in connection with the Services.
- 9.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 9.6 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire six (6) months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 9.7 This clause 9 shall survive termination.

## **10 Termination**

- 10.1 Without affecting any other right or remedy available to it, either party may terminate the Services with immediate effect by giving written notice to the other party if:
- 10.1.1 the other party commits a repudiatory breach of any term of the Contract or infringes the Intellectual Property Rights of the other party or commits a breach of clause 12.3;
  - 10.1.2 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
  - 10.1.3 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or
  - 10.1.4 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
- 10.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Services with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due on the due date for payment or is unable to pay any of its debts when they fall due.
- 10.2.1 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services if the Customer fails to pay any amount due to the Supplier on the due date for payment, the Customer becomes subject to any of the events listed in clause 10.1.3 to clause 10.2, or the Supplier reasonably believes that the Customer is about to become subject to any of them or the Customer commits a repudiatory breach of any term of the Contract or infringes the Intellectual Property Rights of the Supplier or commits a breach of clause 12.3.

## **11 Consequences of termination**

### 11.1 On termination or expiry of the Contract:

11.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall be entitled to submit an invoice for its Fees (and any [disbursements and expenses] which the Supplier is committed to incurring but have not previously been invoiced), which shall be payable by the Customer immediately on receipt;

11.1.2 the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and

11.1.3 licences granted in clause 7 of these Conditions for the [duration of the Services or the Contract] shall expire and the Customer shall immediately cease its use of the item(s) that were subject to such licences.

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

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

## **12 General**

12.1 **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.

In the event that the Supplier is delayed in performing its obligations pursuant to the Contract due to a force majeure event, the timeframe for performing such obligations shall be extended accordingly.

## **12.2 Assignment and other dealings.**

12.2.1 The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

12.2.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract [without the prior written consent of the Supplier].

## **12.3 Confidentiality.**

12.3.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry of the Contract, disclose to any person any Confidential Information of the other party, except as permitted by clause 12.3.2.

12.3.2 Each party may disclose the other party's confidential information:

- (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations, or establishing, exercising or defending such party's rights, under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12.3; and
- (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3.3 Neither party shall use the other party's confidential information for any purpose other than (a) in accordance with the licence (if and to the extent a licence is granted) d in clause 7, or (b) to perform its obligations under the Contract.

12.4 **Entire agreement.**

12.4.1 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.

12.4.2 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.

12.5 **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 (or their authorised representatives).

12.6 **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.

12.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Contract deleted under this clause 12.7 the parties shall negotiate in good faith to



agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## 12.8 Notices.

12.8.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by both email to the address specified by each party from time to time and sent by hard copy post on the same day or, if outside of business hours (specified below), the next working day. Hard copy post shall include hand or pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

12.8.2 Any notice or communication shall be deemed to have been received by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 12.8.3, 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. Where, for whatever reason, the email is not delivered, such notice or correspondence shall be deemed to have been received:

- (i) if delivered by hand, at the time the notice is left at the proper address; or
- (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.

12.8.3 This clause 12.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

## 12.9 Third party rights.

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



12.10 **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.

12.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have non-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.