

ELUXI LTD

TERMS AND CONDITIONS

The Customer's attention is drawn in particular to the provisions of clause 11

1 INTERPRETATION

1.1 In these Conditions, the following definitions and rules of interpretation apply:

"**Business Day**" means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

"**Conditions**" means the terms and conditions set out in this document as amended from time to time in accordance with clause 20.

"**Consumer**" has the definition given in section 12 of the Unfair Contract Terms Act 1977.

"**Contract**" means the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

"**Customer**" means the person, firm or company who purchases the Goods from the Supplier.

"**Force Majeure Event**" has the meaning given in clause 14.

"**Goods**" means the goods (or any part of them) set out in the Quotation.

"**Order**" means the order by the Customer for the Goods, as set out in the purchase order form of the Customer.

"**Returned Material Authorisation**" means the process to be undertaken by the Customer to return the Goods in order for the Supplier to carry out any necessary services on the Goods and a reference to "**RMA**" shall mean the same thing.

"**Quotation**" means the quotation for the Goods provided by the Supplier which may include plans, drawings and specifications for the Goods which must be agreed to in writing by the Customer and the Supplier.

"**Supplier**" means ELUXI LIMITED (registered in England and Wales with company number 07771335).

"**Warranty Period**" means (unless specified otherwise in the Quotation) a period of 12 months commencing on the date of the Supplier's invoice for the Goods in question. Where the Supplier raises interim invoices, the warranty period shall commence on the date of the first invoice raised for the Goods.

1.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2 A reference to a party includes its personal representatives, successors or permitted assigns.

1.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.4 Any phrase introduced by the terms "**including**", "**include**", "**in particular**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.5 A reference to "**writing**" or "**written**" includes faxes but not e-mails (unless otherwise specified).

2 BASIS OF CONTRACT

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

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer shall ensure that the terms of the Order and any applicable Quotation submitted to the Customer are complete and accurate before placing the Order.

2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract. The Customer acknowledges that any statement, representation, recommendation, assurance, warranty or advice (whether made in writing or orally, negligently or innocently) other than expressly set out in this Contract do not form part of the Contract between the Customer and the Supplier.

2.5 Any samples, drawings, descriptive matter, or advertising issued by the Supplier and any descriptions or illustrations contained in the catalogues or brochures of the Supplier are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

2.6 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue.

2.7 Goods supplied pursuant to the Contract are subject to United Kingdom export control and may also be subject to export and/or import restrictions in other countries. The Customer shall not and shall procure that its buyers do not, sell or re-export the Goods outside of the European Community to buyers in any countries to which the export of the Goods is controlled under English or other applicable law unless the Customer has obtained all relevant licences and has complied with all such applicable laws and regulations. The Supplier accepts no liability for the Customer's failure to comply with the above.

3 GOODS

3.1 The Goods are described in the Quotation.

3.2 The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential

losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the use of the specification regarding the Goods by the Supplier where the cause of such infringement is from or connected to the Customer's contribution to the said specification. This clause 3.1 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

3.4 No amendment or reconfiguration to the Goods (as described in the Quotation) will be permitted unless the Supplier agrees in writing to such amendment or reconfiguration in its absolute discretion. In the event of an amendment or reconfiguration to the Goods, the Supplier shall be entitled to increase the price of the Goods.

4 DELIVERY

4.1 The Supplier shall ensure that:

4.1.1 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant reference numbers of the Customer and the Supplier, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.1.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the expense of the Supplier.

4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree ("**Delivery Location**") at any time after the Supplier notifies the Customer that the Goods are ready.

4.3 Delivery of the Goods shall be completed on the arrival of the Goods at the Delivery Location. The Customer shall at its own expense be responsible for the unloading of the Goods at the Delivery Location (including but not limited to the necessary machinery and labour for unloading).

4.4 The Customer shall be notified by email or fax of the proposed delivery dispatch date. The Customer cannot reschedule the delivery date without the prior written consent of the Supplier which may be provided in its absolute discretion.

4.5 The Customer shall have 5 Business Days from the completion of delivery at the Delivery Location (as per clause 4.3) to inspect the Goods after which time the Customer shall be deemed to have accepted the Goods.

4.6 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay or failure to deliver the Goods that is caused by a Force Majeure Event or the failure of the Customer to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.7 If delivery of the Goods is late or the Supplier fails to deliver the Goods the Supplier shall at its absolute discretion either:

4.7.1 attempt to re-deliver the Goods to the Customer; or

4.7.2 refund the purchase price of the Goods to the Customer.

4.8 If the Customer fails to take delivery of the Goods within 3 Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the failure of the Supplier to comply with its obligations under the Contract:

4.8.1 delivery of the Goods shall be deemed to have been completed at 5:00 pm on the tenth Business Day following the day on which the Supplier notified the Customer that the Goods were ready; and

4.8.2 the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.9 If 15 Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods.

4.10 Any claim by the Customer for non-delivery of the Goods by the Supplier must be made in writing within 28 days from the date of dispatch.

4.11 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

4.12 The Customer cannot cancel any Order without the prior written permission of the Supplier which may be provided in the Supplier's absolute discretion. If such consent is provided by the Supplier, the Customer shall pay the sums set out in clause 12 below.

5 QUALITY

5.1 The Supplier warrants that the Goods shall throughout the Warranty Period conform in all material respects with the manufacturer's description and specification.

5.2 Subject to clause 5.3, the Supplier shall, at its option, repair or replace defective Goods, or refund the price of defective Goods in full, if:

- 5.2.1 the Customer has completed the Supplier's RMA process during the Warranty Period and within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1; and
- 5.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and
- 5.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the place of business of the Supplier at the cost of the Customer (including import and export duties) and in accordance with the Supplier's RMA process.
- 5.3 The Supplier shall not be liable for failure of the Goods to comply with the warranty set out in clause 5.1 in any of the following events:
- 5.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2; or
- 5.3.2 the defect arises because the Customer failed to follow the oral or written instructions of the manufacturer of the Goods or the Supplier as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same; or
- 5.3.3 the Customer has used spare parts or other consumable items which have not been approved by the Supplier or the manufacturer; or
- 5.3.4 the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Customer; or
- 5.3.5 the Customer alters or repairs such Goods without the written consent of the Supplier; or
- 5.3.6 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 5.3.7 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or
- 5.3.8 the Customer has not paid for the Goods in full or has any other outstanding debts with the Supplier.
- 5.4 Where the Goods are provided with, contain, use or require any firmware or software, the Supplier gives no warranties whatsoever in relation to that firmware or software. The Supplier has no responsibility to provide corrections to code, patches or version updates for the said firmware or software and, should a defect arise in the firmware or software, the Supplier will endeavour to obtain technical support from the manufacturer (or its nominated representative) but gives no warranty regarding the provision of those services.
- 5.5 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the failure of the Goods to comply with the warranty set out in clause 5.1.
- 5.6 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.
- 5.7 The Supplier shall (if possible) pass on to the Customer the benefit of any warranty provided by a third party manufacturer of the Goods.
- 5.8 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 6 CUSTOMER WARRANTY**
- 6.1 The Customer warrants that the Goods supplied by the Supplier under this contract will not be sold to or passed on to Consumers.
- 7 TITLE AND RISK**
- 7.1 The risk in the Goods shall pass to the Customer on completion of delivery.
- 7.2 Title to the Goods shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for:
- 7.2.1 the Goods; and
- 7.2.2 any other goods or services that the Supplier has supplied to the Customer in respect of which payment has become due.
- 7.3 Until title to the Goods has passed to the Customer, the Customer shall:
- 7.3.1 hold the Goods on a fiduciary basis as the bailee of the Supplier;
- 7.3.2 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the property of the Supplier;
- 7.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 7.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 7.3.5 notify the Supplier immediately if it becomes subject to any of the events listed in clause 10.2; and
- 7.3.6 give the Supplier such information relating to the Goods as the Supplier may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business.
- 7.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 10.2, or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- 7.5 The Supplier shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Supplier.
- 7.6 The Customer grants the Supplier, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.
- 8 PRICE AND PAYMENT**
- 8.1 The price of the Goods shall be the price set out in the Quotation or, if no price is quoted, the price set out in the published price list of the Supplier in force as at the date of delivery.
- 8.2 The Supplier may increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:
- 8.2.1 any factor beyond the control of the Supplier (including increases in taxes and duties, and increases in labour, materials and other manufacturing costs); or
- 8.2.2 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 8.3 The Supplier may in its absolute discretion increase or decrease the price of the Goods to take account for foreign exchange fluctuations of 2% or more of the currency rate as set out in the Quotation.
- 8.4 Unless otherwise stated in the Quotation, the price of the Goods shall include the costs of delivery in accordance with CIP (Incoterms 2010) and the costs and charges of packaging.
- 8.5 The price of the Goods is exclusive of amounts in respect of value added tax ("VAT"). 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 Goods.
- 8.6 The Supplier may invoice the Customer for the Goods at any time after the Order has been placed and may (at its option) raise interim invoices for payment of all or part of the price. The Supplier shall endeavour to dispatch its final invoice with the delivery of the Goods.
- 8.7 The Customer shall pay the Supplier's invoice in the time frame specified on each invoice. If no time frame is specified then an invoice must be paid in full within 30 days from the invoice date. Payment shall be made to the bank account nominated in writing by the Supplier in the currency set out in the Quotation.
- 8.8 Time of payment for each invoice is of the essence.
- 8.9 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**due date**), then the Customer shall pay interest on the overdue amount at the rate of 8% per annum above the base rate of the Bank of England as applying from time to time and any debt collection charges incurred. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount and the debt collection charges.
- 8.10 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 9 LAWS, REGULATIONS & SAFETY**
- 9.1 The Customer shall be responsible for complying with all applicable import and export laws and regulations regarding the Goods and obtaining all any necessary import and export licences or permits necessary for the delivery of the Goods.
- 9.2 The Customer warrants to the Supplier that it has informed the Supplier of all laws and regulations affecting the sale, importing and exporting, packaging and labelling of the Goods which are in force in the country in which the Delivery Location is situated ("**Local Regulations**") at the date of the Contract.
- 9.3 The Customer shall give the Supplier as much advance notice as reasonably possible of any prospective changes in the Local Regulations.
- 9.4 The Customer warrants that it will not use or sell the Goods for use in connection with life support, life sustaining or other medical industries or nuclear industries, or other applications in which failure of the Goods could reasonably be expected to result in personal injury, loss of life or catastrophic property damage.
- 9.5 If Customer uses or sells the Goods for use pursuant to clause 9.4 the Customer:
- 9.5.1 acknowledges that such use or sale is at Customer's sole risk;
- 9.5.2 agrees that Supplier and the manufacturer of the Goods are not liable, in whole or in part, for any claim or damage arising from such use; and
- 9.5.3 agrees to indemnify, defend and hold the Supplier and the manufacturer of the Goods harmless from and against any and all claims, damages, losses, costs, expenses and liabilities arising out of or in connection with such use or sale.

10 THE CUSTOMER'S INSOLVENCY OR INCAPACITY

- 10.1 If the Customer becomes subject to any of the events listed in clause 10.2, or the Supplier reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to the Supplier, the Supplier may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and the Supplier without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due.
- 10.2 For the purposes of clause 10.1, the relevant events are, if the other party makes any voluntary arrangements with its creditors; becomes subject to an administration order; goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or if an encumbrancer takes possession, or an administrative receiver or administrator is appointed, of any of the property or assets of the other party; or the other party ceases, or threatens to cease, to carry on business or suffers any action in consequence of debt; or a party reasonably apprehends that any of the events mentioned above is about to occur in relation to the other party and notifies the other party accordingly.
- 10.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

11 LIMITATION OF LIABILITY

- 11.1 Subject to clause 11.3, the following provisions set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 11.1.1 any breach of the Contract; and
 - 11.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 11.2 All warranties, conditions and other terms implied by statute or common law [(save for the conditions implied by section 12 of the Sale of Goods Act 1979)] are, to the fullest extent permitted by law, excluded from the Contract.
- 11.3 Nothing in this Contract excludes or limits the liability of the Supplier for death or personal injury caused by the Supplier's negligence or for fraud.
- 11.4 Subject to clause 11.3, the Supplier shall not be liable to the Customer for:
- 11.4.1 any indirect, consequential, special or punitive loss, damage, costs and expenses;
 - 11.4.2 loss of profit;
 - 11.4.3 loss of business;
 - 11.4.4 loss of reputation;
 - 11.4.5 depletion of goodwill;
 - 11.4.6 loss of, damage to or corruption of data; or
 - 11.4.7 loss resulting from the Customer's failure to follow the oral or written instructions of the Supplier as to storage, commissioning, installation, use and maintenance of the Goods.
- 11.5 Subject to clause 11.3, the Supplier's total liability to the Customer under or connected with the Contract for:
- 11.5.1 damage to the Customer's tangible property resulting directly from the Supplier's negligence or that of its employees shall not exceed £5m for any one event or series of connected events;
 - 11.5.2 any other loss not covered by clauses 11.5.1, shall not exceed 110% of the price of the Goods.

12 LIQUIDATED DAMAGES

- 12.1 The Supplier and the Customer agree that the amounts set out below represent a genuine pre-estimate of the Supplier's loss for each of the scenarios envisaged below:
- 12.1.1 If the Supplier gives its written consent to the cancellation of an Order, or if the Customer takes or fails to take any action which gives the Supplier no alternative but to cancel a delivery of an Order, the Customer shall pay to the Supplier a sum equal to 30% of the price set out in the Quotation. Where the Goods are identified as special goods in the Quotation, the Supplier agrees that (because the Goods are bespoke), the amount payable on cancellation will be increased to 100%.
 - 12.1.2 If the Supplier agrees to reschedule any delivery dates, the Customer shall pay to the Supplier an amount equal to 1% of the price of the Goods which are the subject of the delay for each week of delay (or part of a week as the case may be) up to a maximum of 10% of the price.

13 INTELLECTUAL PROPERTY

- 13.1 All intellectual property rights in the Goods shall remain the exclusive property of the Supplier or the third party manufacturer, unless otherwise agreed in writing by the Supplier. Subject to the Customer paying all monies due to the Supplier under the terms of the Contract and any other contract between the Supplier and the Customer, the Supplier hereby grants to the Customer a non-exclusive, royalty free, non-transferable licence of such intellectual property rights for the purpose of utilising the Goods in its normal course of business.

14 FORCE MAJEURE

- 14.1 Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or

other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, breakdown or interruption in the manufacture or supply process for the Goods, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

- 14.2 If the Force Majeure Event continues to have effect for a period of more than 3 months the Supplier shall have the right to terminate this Contract upon giving 1 month's written notice of such termination to the Customer.

15 ASSIGNMENT AND SUBCONTRACTING

- 15.1 The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 15.2 The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

16 NOTICES

- 16.1 Any notice given to a party under the terms of this Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, commercial courier or fax.
- 16.2 A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.1; if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, one Business Day after transmission.
- 16.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action or communication by email (where the same is provided for in this Contract).

17 SEVERANCE

- 17.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 17.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

18 WAIVER

- 18.1 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

19 THIRD PARTY RIGHTS

- 19.1 A person who is not a party to the Contract shall not have any rights under or in connection with it.

20 VARIATION

- 20.1 Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Supplier.

21 LANGUAGE

- 21.1 This agreement is drafted in the English language. If this agreement is translated into any other language, the English language text shall prevail.
- 21.2 Any notice or documentation given under or in connection with this agreement shall be in the English language. If such notice or document is translated into any other language, the English language text shall prevail.

22 GOVERNING LAW AND JURISDICTION

- 22.1 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, English law, and the parties irrevocably submit to the [non-]exclusive jurisdiction of the courts of England and Wales.