



## **Tomlinson Equine Ltd and Tomlinson Equine Stud Terms and Conditions.**

Tomlinson Equine Ltd (06389186) is a company incorporated in England and Wales with its registered office at Elmleaze, Westonbirt, Tetbury, Glos, England, GL8 8QE. Tomlinson Equine Stud is the trading name of E C Tomlinson, a sole trader. These terms and conditions form the basis on which Tomlinson Equine Ltd and Tomlinson Equine Stud ('TE', 'we' or 'us') provides equine veterinary and stud services and therefore we expect all clients to read these in full before working with us. If there are any queries about any part of these terms, please contact the TE office. By instructing TE to perform services, purchasing or ordering goods, or signing any paperwork, forms or TE documents the client confirms that they have read and understand the Price List and agree to be bound by the most recent terms and conditions below.

### **Our contract with you**

- A completed and signed booking form constitutes an offer by the client to purchase services from TE. A booking shall only be deemed accepted when TE confirms acceptance to the client, at which point and on which date a binding contract shall come into existence (the 'contract'). Where a booking form is not required, by instructing TE to perform services (whether by telephone, in person or by other means), or by purchasing or ordering goods, the client is making an offer to purchase services and/or goods from TE, If we accept such instructions, order or purchase, a legally binding contract will come into existence between TE and the client.
- These terms apply to the contract to the exclusion of any other terms that the client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- TE shall supply the services in accordance with the relevant booking form (where applicable) and these terms and conditions.
- The client is responsible for ensuring that the details provided in the booking form are complete and accurate.
- Where the client is not the owner of the horse, the client represents, warrants and undertakes that they are duly authorised by the owner to engage the services of TE in relation to such horse, provide information and personal data about the owner to TE (where necessary) and, to the extent that the client lacks relevant authority, the client hereby undertakes to indemnify and keep indemnified TE from and against all consequences of any such want of authority and confirms that they are liable for TE's fees for providing the services they have instructed us to provide.
- If TE's performance of any of its obligations under the contract is prevented or delayed by an act or omission of the client ('client default'), TE shall have the right to suspend performance of the services until the client remedies the client default. TE shall not be responsible for any costs or losses sustained or incurred by the client arising directly or indirectly from TE's failure or delay to perform any of its obligations in such circumstances.
- All horses at TE receive the best possible care and attention; however, we accept no responsibility for damage, theft or disease to any animal. TE reserves the right to request veterinary assistance as it deems necessary and is authorised by the client to take such action as recommended. The client acknowledges that there are inherent risks in carrying out reproductive procedures in horses and TE cannot guarantee a successful outcome. We will use all reasonable efforts to make contact with the client prior to veterinary

assistance being requested, except in cases where immediate treatment is imperative on humanitarian grounds, and the client will be charged for clinical fees accordingly by the attending vet.

- For animals under the care of TE, it may be necessary for our members of staff to administer more than basic first aid e.g. IV and IM injections, to client owned horses; in these cases the staff are suitably competent and capable and are always under the supervision and authority of a veterinary surgeon. Their experience and ability is continuously monitored and they are trained in the administration of injections as well as appropriate handling of drugs.

### **Arrival and Testing Requirements**

- Clients must provide a fully filled in booking form and health declaration prior to horses arriving at the centre.
- All horses arriving at the centre must be accompanied by a current passport and microchip, if we cannot find a microchip present, we will insert one at the client's cost as it is a legal requirement.
- TE has specific testing requirements for ALL horses arriving at the centre (including all donor mares, broodmares, recipient mares, geldings, youngstock, foals, and stallions). Please make sure you fully understand the requirements for your horse and abide by them at all times.
- Testing requirements do vary depending on local, national and international health status. A full summary of current testing and health requirements is available, please ask the office.
- Negative test results must be received by the TE office BEFORE any horse arrives at the centre. We accept faxed, scanned or emailed copies of results; we do not require the original certificate.
- Tests for semen or embryo export or freezing, must be submitted to a government lab (APHA) and are very specific depending on the country so please get in touch with the office for more details.
- All horses will be clinically examined (FOC) upon entry into the centre. Any horse showing signs of disease will be subjected to further tests at TE's discretion and either placed in strict isolation (until disease status is confirmed) or not admitted to the centre. Isolation will be at the cost of the client.
- TE reserves the right to refuse any horse arriving at the centre who, in TE's sole opinion, is deemed unfit for breeding, in general poor condition, or showing clinical signs/ symptoms of infectious diseases.
- TE isolates all resident horses for 3-4 weeks post arrival and at the end of this period horses will be clinically examined (FOC) and a strangles blood will be taken as standard. The lab fee and postage cost for the strangles blood will be invoiced to the client. Any other signs of disease will be investigated by TE once the client has been advised of this.

### **Payment and Fees**

- Unless we notify you otherwise, fees for TE goods and services shall be calculated in accordance with the TE Price List. Current Price Lists are available from the TE Office. TE reserves the right to change the Price List at any point without prior notice.
- If there is any part of the Price List or the way in which we charge our fees that is not clear, please contact the office to discuss prior to booking any services or purchasing goods.
- The client acknowledges that the investigation and subsequent treatment of accident, illness, injury, or disease often does not follow a standard conventional course and therefore costs may vary. The client accepts that if complications occur in respect of any procedure the fees may be in excess of those first anticipated. The client agrees to pay TE all fees that may be incurred for the provision of services whilst the client's horse is under TE's care. TE shall be entitled to charge the client for any expenses reasonably

incurred by TE in performing the services which aren't included in the client's chosen package. This includes the cost of services performed by third parties and for the cost of any materials and consumables.

- A non-refundable deposit of £200 + VAT (£240) will be invoiced at the time of booking for all horses attending the centre on livery to cover the preparation costs for that horse's arrival and must be paid prior to the horse's arrival on site.
- For certain services, TE reserves the right to require the client to pay the fees due (whether in full or in part) in advance or immediately on completion of the services. TE will advise the client at the time of booking if this is the case.
- Except where expressly stated, invoices are raised on a monthly basis and the client shall pay each invoice within 30 days of the date of the invoice. Payments can be made by cheque, BACS transfer or card payments over the phone.
- All amounts payable by the client under these terms 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 under these terms by TE to the client, the client shall, on receipt of a valid VAT invoice pay to TE 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 or goods.
- Clients are automatically eligible for Prompt Payment Discount ('PPD') status once they have paid their first invoice within 10 days' of the date of the invoice. Details of the PPD are available from the office. TE reserves the right to remove a client's PPD status without notice if the client has an outstanding balance over 30 days and may charge the administration fee set out below. A client may request PPD status be reinstated (such reinstatement being at TE's sole discretion) provided the client has paid all invoices within 30 days for a minimum of 2 consecutive months.
- If clients have unpaid invoices over 30 days, TE reserves the right to charge an administration fee of £20 plus VAT per month whilst the invoice remains outstanding plus interest at 8% on the outstanding amount. Any payment plan must be discussed with the TE office prior to receipt of the invoice and is at the sole discretion of TE.
- In the event of non-payment, we may refer the client to a debt collector. All subsequent charges relating to debt collecting (including legal fees) are to be paid for by the client.
- **Without exception, all fees must be paid in full before any horse leaves the centre and the client will remain liable for all costs incurred whilst the horse remains at the centre. TE shall be entitled to exercise a lien over any horse at the centre where fees remain unpaid.**

### Livery

- All horses can be kept on whichever livery is most suitable for them; Stabled (with or without turnout) or Grass livery (group or individual).
- Routine farrier trims are included on our Long-Term Livery packages for horses aged 3 years and older. Any remedial farriery or shoeing is excluded and charged as applicable.
- Farrier visits are not included for short term residents and will be charged as applicable.
- All foals at TE are regularly trimmed by our specialist farrier with guidance from our orthopaedic vet. These fees are not included and will be charged as applicable.
- During the early part of the breeding season (March – May), grazing and turnout may be limited due to the wet ground. It may therefore be necessary for horses to be stabled or on grazing rotation according to paddock availability and this may be reflected in the livery fees for that period.

- We feed any resident mares with a basic stud ration according to the client's requirements. We are able to feed any requested extra hard feed or supplements however, this is not included in the livery costs and will be charged as extra.
- Donor mares can reside at the centre, travel to the centre for each procedure or (dependant on location) TE vets can travel out to carry out work at the client's yard. We charge mileage for any yard visit unless the yard is less than 10 miles from the centre and more than 3 horses are seen during the same visit. Time of insemination is crucial and may require more than one examination to inseminate your mare at the right time. We find that better results are achieved if insemination is carried out at our centre, but it is possible for your own vet to inseminate your mare in close association with our centre.
- Horses most recent worming management should be provided at the time of arrival. All horses arriving at TE will have a faecal egg count on arrival and will be wormed as necessary. Such costs are included in our Long Term Livery packages but for all other horses will be charged separately to the client.
- Recipient mares provided by the client will be charged for keep from the day they arrive.
- Clients with a recipient mare hired from TE will be charged for their livery upon their 42-day positive pregnancy scan. Livery and all other charges are then back dated from day of the donor mare's ovulation.
- Any horses that need to stay at the centre in isolation will have isolation daily charges added to the normal livery charge. Please ask the office for details of the current charges.

### Veterinary services

- Fees for ambulatory veterinary services are determined by the time spent on a case, the level of intensity of investigation and treatment used, the expertise required and the technical equipment used, in addition to the costs of drugs, materials and consumables used. Where complex or costly investigation and treatment is anticipated, we will endeavour to discuss this with the client and provide an estimate where possible.
- Sedation for client owned mares may be used when necessary and will be charged without prior notice.
- We scan resident mares every week leading up their 42-day scan, then approximately every month thereafter unless otherwise requested. These scans are charged for after the heart-beat scan.
- At the discretion of TE, all foals on site may undergo supervised farrier visits by one of our veterinary surgeons, up until 6 months of age (or until it is no longer needed), unless expressly requested not to by the client. This is charged as extra on top of the farriery charged.
- Foetal Sexing – whilst this is carried out by trained veterinary professionals and we have a good sexing accuracy, 100% accuracy cannot be guaranteed since it is a subjective skill, influenced by many factors including but not limited to foetal position, and age of gestation. TE accepts no liability for the provision of incorrect results.

### AI services

- All mares being inseminated with frozen semen must stay onsite at TE for at least the 24 - 48 hour period surrounding ovulation.

### **Embryo Transfer**

- Recipient Mare Synchrony fees are charged at the time of booking a Walk in Flush/ Chilled Transported Embryos and are to be paid up front, regardless of whether the donor mare ovulates or not.
- When TE carries out the donor Artificial Insemination, the appropriate AI fee (Fresh / Chilled or frozen) is charged on a per cycle basis.
- TE charge an Embryo Transfer fee on a per procedure basis.
- TE will not transfer any transported embryos into a recipient mare without a completed Chilled Transported Embryo form & DNA Sample submitted by the flushing vet.
- Non-routine reproductive procedures (such as uterine lavages) are not included in the basic embryo transfer fees.
- Upon the achievement of a 42-day embryo pregnancy, TE charges an In Foal Fee plus associated Recipient Mare Hire and livery costs (as further detailed in the Livery section above).
- For the avoidance of doubt, livery, semen collection, courier, postage, transport and other non-routine reproductive and clinical veterinary work are charged in addition to the standard embryo transfer fees.
- We recommend 42-day pregnancy scans on all resident mares and these are charged to the client unless otherwise requested. We recommend clients with mares offsite to have an external vet carry out a 42-day pregnancy scan.

### **Donor Mares**

- Due to the small risk of an embryo either not being successfully flushed or arriving in the uterus after the day of flushing, post-flushing checks are essential to ensure the donor mare's uterus is healthy and that she is not pregnant. Donor mares should be checked usually at least twice between 3 and 8 days post flushing to make sure the uterus is healthy and to ensure they are coming back into season (i.e. to confirm they are not pregnant). If the donor mare is not resident at TE or has not been reproductively signed off when she leaves the centre, the client is responsible for getting their own vet to do the post-flushing checks, or bringing the donor mare back to the centre for the checks. We reserve the right to charge for such checks in certain circumstances and will notify you in advance of performing the checks if a fee will be charged.
- All donor mares are required to have their DNA profile stored at a recognised laboratory and database. TE routinely takes DNA samples from every new donor mare and sends the sample for profiling and storage on a database; the cost of which is charged to the client upon the achievement of the first 42-day embryo pregnancy. We recommend that foals are DNA typed before the age of 6 months since disputes over parentage must be brought forward to us before the foal is 9 months old.

### **Recipient Mares**

- Vaccinations – We expect the client to administer any Flu and Tetanus vaccinations that are due to recipient mares when under their care, in order that they remain up to date, otherwise a charge will be made to cover the cost of re starting the primary course on the recipient mare's return.
- Recipient mares can either be hired from us or provided by the client (as long as, in TE's sole discretion, they are suitable). We work on synchronising 3 recipients to 1 embryo and although we are usually successful at achieving synchrony in a client owned recipient mare, we cannot guarantee to be able to do so. If, at the time of flushing, a client recipient mare is not suitable we will endeavor to make the client aware but will transfer into a suitably synchronised TE recipient mare (unless requested otherwise in writing prior to flushing) which will incur standard Recipient Mare Hire and livery costs.

- All pregnant recipient mares must reside with us until they are scanned 42 days in foal, at which point they can leave the centre.
- It may be necessary for us to transfer into TE recipient mares that have a foal at foot. In such circumstances the transferring client will receive a reduction of 50% in the livery fees until the foal at foot has been weaned. The recipient mare must reside at the centre until the foal at foot has been weaned.
- Maiden mares – sometimes it is necessary for us to use TE recipient mares that are maiden. Please let us know at the time of booking, if you specifically do not want us to use a maiden recipient mare.
- Rented recipient mares must be returned to TE in a healthy condition (such condition to be determined solely by TE, acting reasonably) otherwise there will be an extra charge of up to £850 + VAT. This includes a good body condition and evidence of regular worming and foot trimming.
- If a rented recipient mare dies during the rental period, the mare's passport must be returned to TE within 28 days of the date of death, along with a veterinary certificate confirming date, time and cause of death (if known). A post-mortem is not required. In the event of death of a rented recipient mare after the 42 day scan the client is responsible for the Recipient Mare Hire fee plus an £850 + VAT surcharge. Any veterinary costs incurred for the recipient mare during the rental period are the responsibility of the hirer. In a few circumstances, recipient mares owned by 3rd parties may be insured for major veterinary fees, so please contact us urgently if any veterinary or other problem arises with a recipient mare so that we may update the owner accordingly.
- Recipients returning to us after weaning require valid negative results for CEM, EVA, EIA & Strangles Blood (please remember that EIA and Strangles test results are only valid for 30 days so the mare must return back to us within 30 days of the tests being done).
- TE accept recipient mares returning from weaning once a month for 5 days, starting on the 1st Tuesday of the month until the following Saturday. Please inform the office with at least 2 weeks' notice as to when the mare is intended to be returned, so that we can be prepared as necessary. We do not accept recipients back from weaning for 2 weeks over the Christmas and New Year period.
- Passport – Please do not change (or administer medicines necessitating a change in) the human consumption status of any recipient mare passport unless absolutely necessary. If you have any queries or problems regarding this, please contact the office in the first instance.
- Any recipient mares that lose a pregnancy after their 42-day scan are still subject to full Recipient Mare Hire charges, along with paying for any treatment needed as a result of the loss of pregnancy.

### **Stallions Standing at TE**

- Unless otherwise stated, all Stud Fees for stallions standing at TE will be invoiced at the time of semen request and must be paid for up front, prior to insemination or the sending out of semen. This Invoice will include all relevant transport fees, semen collection & handling fees and courier / postage costs. All Stud Fees are non-refundable unless stated in the individual Stud Card.
- Where a Live Foal Guarantee (LFG) applies to a stallion, the client shall be entitled to free returns for the mare to that stallion (valid for 3 breeding seasons) until a live foal is produced subject to the client producing for inspection to TE (not later than 14 days after the due date) a certificate signed by a registered veterinary surgeon that (i) an examination was carried out at least 28 days after the date of insemination and not later than the due date and the mare has been found barren; and (ii) the mare either failed to give birth to a live foal or gave birth to a foal that died within 48 hours of its birth (other than by reason of an accident). If for any reason fresh, chilled or frozen semen for the same stallion is unavailable on the mare's return, TE will offer fresh, chilled or frozen semen from an alternative TE available stallion.

- Where Pay On Pregnancy applies to a stallion, the client must provide TE with a certificate signed by a registered veterinary surgeon confirming the mare's pregnancy status within 7 days of the mare's 30 day scan. The Stud Fee will be due on receipt of a certificate confirming pregnancy or 30<sup>th</sup> October of that year, whichever is the sooner. If a certificate is not received by TE by 5pm on 30<sup>th</sup> October confirming non-pregnant status, the mare shall be deemed to be in foal.
- See current Stud Cards for individual stallions' terms and conditions.

### Semen Costs

- All semen costs are the responsibility of the client.
- There are often peripheral costs associated with semen such as collection, handling, transport, postage and container fees and these are dependent on the centre collecting / sending the semen for the insemination. All these associated costs must be covered by the client.
- The client is responsible for ensuring that they are fully aware of their chosen stallions' terms and conditions and must advise TE of any specific requirements in writing.
- TE is not responsible for (and accepts no liability for) semen supplied that is incorrectly labelled, has incorrect or incomplete instructions regarding thawing or dose usage per cycle, arrives with the incorrect paperwork, fails to arrive on time or is in an unsuitable condition on arrival.
- At the end of the breeding season, transport costs for sending frozen semen back to the frozen semen owner (if not the client) who supplied the semen, for whatever reason, and the organisation of this transport will be the responsibility of the client.
- Mare owners should be aware that by agreeing to our terms and conditions they authorise TE to disclose information regarding inseminations, flushings and pregnancy diagnosis to the relevant stallion agent/owner as is required by them in order to correctly invoice nominations, complete covering certificates or for any other ancillary purpose.
- **Please be aware that TE will categorically not inseminate imported semen that arrives without the correct paperwork, it is against the law to inseminate mares with semen sent out without the correct Health Certificates and export paperwork**, so please ensure the person or centre sending the semen is aware of the necessity for correct paperwork.

### Frozen Semen

- All frozen semen stored at TE is stored at the client's risk, TE holds no responsibility for insuring any semen stored or handled on site and accept no liability for its damage during handling or storage except in cases where TE has acted negligently or in breach of these terms.
- TE will charge the client storage for any frozen semen (whether owned by a client or a third party) on a monthly basis from the date it arrives at the centre.
- If fees for storage of frozen semen remain unpaid after 30 days, TE will use reasonable endeavours to contact the client and advise that the frozen semen is at risk of being destroyed. If storage fees remain unpaid after 60 days, TE will be entitled to destroy the frozen semen.
- Notwithstanding the above, requests to move or destroy frozen semen must be made in writing and a Semen Handling Fee may apply.
- TE holds no responsibility for and makes no guarantees concerning the fertility of any semen stored at or moved to our centre.

## Semen Orders

- Semen cannot be sent out for external inseminations without both the Stallion Nomination Form and Semen Request Form except for frozen semen storage relocation requests which only require a semen request form.
- Clients must submit both an insemination certificate and pregnancy diagnosis certificate to TE no later than 6 months after a foal is born in order for TE or the stallion owner to issue a breeding/covering certificates.
- Clients must return their chilled semen container within 7 days of receipt. Failure to do so will incur a fee to replace the container which will be invoiced to the client.
- Clients must return TE frozen semen containers within 7 days of receipt and failure to do so will incur a daily charge fee for each day not returned. If not returned within 30 days, the client will be charged the additional cost of replacing the container. The client is responsible for any courier insurance in this respect.
- TE does not hold responsibility for a failure of semen request due to either stallion performance, lack of stallion availability, or shipping issues/ delays.
- For external inseminations TE strongly recommend clients to use inseminating vets listed on the BEVA AI list.
- TE recommends mares to be tested for both EVA and CEM prior to inseminating with semen sent out by TE.
- TE will not send out any subsequent doses of semen to mares without confirmation from the vet concerned that she is not in foal (including WhatsApp or text message).

## Insurance

- Clients are responsible for all insurance cover for any horses belonging to them while under the care of TE.
- TE accepts no responsibility for insuring any horse. It is the owner's responsibility to provide their own insurance cover.
- All successful 42-day embryo pregnancies must be paid for; with all pregnancies there is a small risk that they will not result in a live foal. There is also the possibility that a hired recipient may die during the rental period or be damaged to the extent that she is no longer usable as a broodmare. It is the client's responsibility to insure against the risk of pregnancy or recipient mare loss post 42 days. For further details on post 42-day embryo pregnancy or recipient mare insurance please contact Piers Plunkett at Lycetts on 01672 512512 or [piers.plunket@lycetts.co.uk](mailto:piers.plunket@lycetts.co.uk)

## Terminating your instructions

In the event that you, the client, are contracting with TE as a consumer, and such contract is not made at TE's centre, you have under the Consumer Contract Regulations 2013 a right to cancel instructions given to TE by yourself within fourteen (14) working days of entering into a contract with TE. If you wish to terminate your instructions to TE within such fourteen (14) day period then please contact the office and TE will discontinue providing services to you, but you will be responsible for any services TE has provided up to and including the date when TE received your notice to terminate your instructions. If TE has completed the services you cannot change your mind, even if the 14 day period is still running.



### Limitation of liability

- Neither party shall be in breach of these terms or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. This includes, but is not limited to, acts of God, epidemic or pandemic, war or the threat of or preparation for war, imposition of sanctions, embargo, or breaking off of diplomatic relations, nuclear, chemical or biological contamination, any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent, collapse of buildings, fire, explosion or accident, and interruption or failure of utility service. The time for performance of such obligations shall be extended accordingly.
- If the client is a consumer, TE will be responsible for losses suffered by the client and caused by TE breaking the contract unless the loss is (i) Unexpected, not obvious that it would happen and nothing the client said to TE before we entered into the contract meant TE should have expected it (so, in the law, the loss was unforeseeable); (ii) caused by a delaying event outside TE's control; (iii) something the client could have avoided by taking reasonable action; or (iv) a business loss.
- If the client is a business, then, except in respect of the losses described in the paragraph below, TE shall not be liable to the client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of business opportunity or any indirect or consequential loss arising under or in connection with any contract between the client and TE. TE's total liability to the client for all other losses arising under or in connection with any contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the lesser of (i) £15,000; and (ii) one hundred and fifty per cent (150%) of the total sums paid by the client for the relevant service under the contract and from which the loss arose.
- Nothing in these terms shall limit or exclude TE's liability for (i) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); (ii) fraud or fraudulent misrepresentation; or (iii) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.

### General

- The contract constitutes the entire agreement between TE and the client. Each party acknowledges that in entering into the contract it does not rely on 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 or negligent misstatement based on any statement in the contract.
- No variation of these terms and conditions shall be effective unless it is in writing and signed by TE and the client (or their authorised representatives).
- If any provision or part-provision of these terms and conditions 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 the terms and conditions. If any provision of the terms and conditions is deemed deleted 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.
- If TE does not insist immediately that the client do anything it is required to do under the contract, or if TE delays in taking steps against the client in respect of the client breaking this contract, that will not mean that the client does not have to do those things and it will not prevent TE taking steps against the client at

a later date. For example, if you miss a payment and we do not chase you but we continue to provide the services, we can still require you to make the payment at a later date.

- 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 and Wales.
- Each of TE and the client irrevocably agrees that the courts of England and Wales shall have 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.