



CloudPlus PMS
Software & Hardware
Terms & Conditions



Wysdom CloudPlus PMS Software & Hardware (Rental)

Terms & Conditions

These Terms and Conditions apply to the provision of Software by us, Wysdom Dental Technologies Ltd, **the Licensor**, a company registered in Scotland under number SC114467, whose registered office address is at 272 Bath Street, Glasgow, United Kingdom, G2 4JR ("Company/we/us/our").

1. **DEFINITIONS AND INTERPRETATION:** In these Terms and Conditions, the following expressions have the following meanings:

"Authorised User" means each person authorised to use the Software by the Client;

"Authorised Device" means each device authorised to use the Software by the Client;

"Client/Licensee/you/your" means the individual, firm or corporate body purchasing the Software. Where an individual is entering into the Contract on behalf of a business, the individual confirms they have the authority to enter into the Contract on behalf of that business and the business will be the Client in the context of the Contract;

"Client Data" also known as "System Data" means all core data inputted to the Software by the Client and its Authorised Users, for the purpose of using the Software;

"Non-System Data" means the files, X-Ray images, scans that are not a direct part of or included in the "Client Data". This data will be stored on the CloudPlus hardware for the purposes of linking to the software system Client Data for referral and for inclusion in the cloud backup;

"Contract" means the contract formed as detailed in clause 2, which includes the acceptance of these Terms and Conditions;

"Hardware" means the CloudPlus hardware provided by the Company on a rental-only basis on which the Software is to be used;

"Site" means the location at which we will install the Hardware;

"Software" means the software provided by the Company.

1.1 Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.1.1 "writing" and "written" includes emails and similar communications;

1.1.2 a statute is a reference to that statute as amended or re-enacted at the relevant time;

1.1.3 "these Terms and Conditions" is a reference to these Terms and Conditions as amended or supplemented at the relevant time;

1.1.4 a clause refers to a clause of these Terms and Conditions; and

1.1.5 a "party" or the "parties" refer to the parties to these Terms and Conditions.

1.2 The headings used in these Terms and Conditions are for convenience only and have no effect upon their interpretation.

1.3 Words imparting the singular number include the plural and vice versa. References to persons include corporations.

2. **THE CONTRACT**

2.1 We will submit a SaaS Agreement to you for the Software subscription based on the current number of licenses requested. Licenses are required for **each Surgery OR Treatment Room** at the site. **Additional licenses may be added later as required at**

additional cost. Quotes including Key Terms are valid for a period of 30 days unless otherwise specified. Acceptance of our Agreement, electronically or otherwise, includes the acceptance of these Terms and Conditions, which will apply between you and us.

2.2 No terms or conditions stipulated or referred to by you in any form whatsoever will in any way vary or add to these Terms and Conditions, unless we agree otherwise in writing.

2.3 You are responsible for the accuracy of any information you submit to us and for ensuring that the Software to be provided reflects your requirements. Our Agreement is based on the information you provided to us when we prepared it. If any errors or discrepancies become evident, we reserve the right to make adjustments to it.

2.4 The Contract will be for AN INITIAL THREE MONTHS and then on a rolling monthly basis, on these Terms and Conditions until notice to terminate is given by either party in accordance with clause 9 below.

SOFTWARE SPECIFIC TERMS & CONDITIONS

3. **USE OF THE SOFTWARE**

3.1 The Software subscription cannot be purchased or used without the CloudPlus Hardware box provided by us, the rental cost of which is included in the Software subscription fee. The CloudPlus Hardware remains our property at all times and your use and access to it will terminate immediately upon the termination of the Contract. Please refer to our Hardware Terms and Conditions for further information.

3.2 You will provide details of the practice owner (System Administrator) or manager (Super User) who will be the person(s) responsible for approving User and Device information. User and Device numbers **are not limited**. Wysdom will set up the initial Users and their permissions levels. Subsequent changes or additions may be undertaken by System Administrator or Super User.

3.3 Each Authorised User will be sent a separate log-in for the Software. It is your responsibility to ensure that Authorised Users and Authorised Devices use the Software only in accordance with these Terms and Conditions and are accordingly notified of the same.

3.4 You will ensure that any Authorised User who leaves your employment, or no longer required Authorised Devices, have access to the Software removed immediately. You will use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and, in the event of any such unauthorised access or use, you must notify us promptly. We will be entitled to carry out regular audits to ensure that only Authorised Users and Authorised Devices have access to the Software.

3.5 You undertake that you will not allow or suffer any password to be used by more than one Authorised User and confirm that you will use reasonable endeavours to ensure that each Authorised User keeps their password confidential. You will also ensure that each password is strong and secure and is changed regularly, in accordance with cyber-security best practice.

3.6 You, and all Authorised Users, must not access, store, distribute or transmit any viruses, or any material during the course of

using the Software that:

- 3.6.1 is unlawful, discriminatory, harmful, threatening, defamatory, obscene, infringing, harassing or offensive;
- 3.6.2 facilitates illegal activity;
- 3.6.3 depicts sexually explicit images;
- 3.6.4 promotes unlawful violence; or
- 3.6.5 causes or may cause damage or injury to any person or property

and we reserve the right, without liability to the Client, to remove any material that breaches the provisions of this clause.

- 3.7 We do not warrant that your use of the Software will be uninterrupted or error-free; nor that the Software, and/or the information obtained by you through the Software will meet your requirements. We are not responsible for the output of the Software, or the way in which you choose to use the results obtained from it.
- 3.8 Certain additional features of the RotaAngel Software are designed to calculate statutory worker leave entitlements in England. It calculates this using the Client Data inputted. It is your responsibility to check all outputs with appropriate HR professionals, as we are not responsible for the output of the Software, or the way in which you choose to use the results obtained from it. It is also your responsibility to ensure that the outputs match your company's contracts and policies. See the applicable full RotaAngel Terms and Conditions.
- 3.9 We are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Software may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 3.10 We reserve the right to carry out Software maintenance at such times as may be necessary at our discretion but will endeavour to give you advance notice where possible.
- 3.11 We will issue operating guidelines on the use of the Software, which may change from time to time. It is your responsibility to follow current guidelines and to ensure all Authorised Users also follow such guidelines at all times.
- 3.12 Where the Software contains template documents and notes, these shall be for information only and are not to be relied upon. They are designed to be used as a basic foundation and must be reviewed and amended as appropriate. We shall have no responsibility where our template documents are used within clinical settings.

4. SMS TEXTING

- 4.1 In order to use the built-in SMS facility, you will need to purchase text credits from us. You will normally be required to either set up a Standing Order for a regular monthly amount of credits - this can be increased as required - or a credit account payable monthly by Direct Debit once the facility allows. Please note:
 - 4.1.1 Credits purchased and applied to your account cannot be refunded under any circumstances and;
 - 4.1.2 A standard SMS text currently has a maximum of one hundred and sixty characters (160). If you send messages of more than this maximum you will be charged more than one text credit per message; i.e. the credits charged will be based on the multiple of the standard characters limit of 160.

5. BUSINESS-LEVEL CLOUD BACK-UP SERVICES – NON-SYSTEM DATA

- 5.1 We will provide adequate space on the CloudPlus hardware for non-system data. **This data must be backed up to the Cloud and is subject to your included space allowance for such services. Space required above the inclusive level will be charged for.** You may also include in these backups data that is NOT on the CloudPlus hardware. You must notify us of any systems you run and maintain on your Hardware that require to be included in our Cloud Back-Up in order for us to include it within the services. Once we are notified of such system folders and files we shall include these in the regular automated backups. Where we do not receive notification of such folders and files we cannot be held responsible for any data loss that may occur.
- 5.2 Our cloud backup service will send you email confirmation of backups. If you receive any error notifications or fail to receive emails at all you should report this to us via our support facility immediately.
- 5.3 Any changes to systems, Hardware or Software, must be reported to us immediately in order to re-confirm and/or add appropriate files within your backup setup, should this not be the case we shall have no liability for these.

HARDWARE SPECIFIC TERMS & CONDITIONS

6. OUR SERVICES

- 6.1 We will install the Hardware at the agreed Site and configure it as necessary.
- 6.2 The Hardware cannot be used without a Software subscription, which covers the cost of the Hardware rental. Please refer to our Software Terms and Conditions for further information.
- 6.3 We will carry out maintenance on the Hardware, repair faults and provide replacement parts where necessary.
- 6.4 All support Services will be carried out remotely, unless we agree otherwise.
- 6.5 All our Services will be carried out during normal working hours (Monday - Friday, 9am - 5pm excluding bank holidays). Services required outside of these times will incur additional costs.

7. YOUR OBLIGATIONS

- 7.1 You agree to enable us to access the Site at all times during which we reasonably require such access in order to provide the Services. Any wasted visit will be chargeable.
- 7.2 We will issue operating guidelines on the use of the Hardware, which may change from time to time. It is your responsibility to ensure the Hardware is used in a proper, safe and prudent manner, with all due care and attention, for the purpose for which it was designed, and in accordance with current operating guidelines.
- 7.3 You must:
 - 7.3.1 keep the Hardware in your possession and control and ensure that it is kept secure and adequately insured, on a full replacement basis, against loss, damage and theft. You must provide evidence of such insurance to us upon request. The proceeds of any claim in respect of such insurance is to be held by you on trust for us;
 - 7.3.2 not move the Hardware from the specific area in which we installed it at the Site. If you require the Hardware to be relocated, please notify us and we will arrange to carry this out for an agreed fee;
 - 7.3.3 keep the Hardware in good working order, fair wear and tear excepted;

- 7.3.4 promptly notify us of any and all faults with the Hardware. You must not modify, service or repair the Hardware, or permit anyone other than us to do so;
- 7.3.5 pay the Software subscription fee promptly in accordance with the agreed payment terms. If we do not receive payment by the due date, then we reserve the right to terminate the Contract and recover the Hardware in accordance with clause 5.3;
- 7.3.6 ensure all users are fully trained in the correct operation of the Hardware
- 7.3.7 change the air filter(s) and drive(s) promptly when advised by us that this is required, following operating guidelines, and using the replacements issued to you by us;
- 7.3.8 not hold yourself out as owner of the Hardware, or charge, encumber, sell, let, lease, hire or otherwise dispose of, part with, or abandon the Hardware, or permit or suffer the creation of any lien or distress over the Hardware;
- 7.3.9 ensure that any identification marks, labels or signs on or fixed to the Hardware are not removed, defaced, amended, obscured or otherwise subjected to interference, including those which identify the Hardware as belonging to us;
- 7.3.10 obtain and maintain adequate electrical outlets and power for the Hardware in accordance with the operating guidelines; and
- 7.3.11 return the Hardware to us at the end of the Contract term, using a suitable method of transport and adequate packaging to ensure no damage (or loss) is incurred. You should retain proof of postage until the Hardware has been successfully returned to us. You can request we collect the Hardware but this will be chargeable.
- 7.4 If, when we receive the Hardware back, the whole or any part of it is found to be lost, damaged (whether accidentally or deliberately), misused, vandalised or stolen, due to you or anyone not authorised by us, we will invoice for the cost of repairing or replacing the Hardware. We reserve the right to continue to charge for the subscription fee under the Software terms and conditions until such time as all sums have been received.
- 8. RISK AND TITLE**
- 8.1 The responsibility (sometimes referred to as the "risk") for the Hardware remains with us until it has been installed at the Site, at which point it will pass to you. The risk in the Hardware will not revert back to us until the Hardware is back in our possession or control, notwithstanding the expiry of any agreed term (or extended term).
- 8.2 The Hardware is provided on a hire only basis. Title and all rights to the Hardware will at all times be vested in us and you acknowledge that you have no right, title, property or ownership in the Hardware.
- 8.3 We reserve the right to repossess any Hardware in which we retain title without notice. You irrevocably authorise us to enter your premises (or any premises at which we reasonably believe the Hardware is being held) during normal business hours for the purpose of repossessing any Hardware in which we retain title.
- 9. Intellectual Property Rights, Claims and Disputes**
- 9.1 Any and all intellectual property rights of whatever nature which now or in the future subsist in the Hardware are and will remain our property.
- 9.2 You must not:
- 9.2.1 attempt to copy, reverse compile, disassemble, or reverse engineer all or any part of the Hardware;
- 9.2.2 access all or any part of the Hardware in order to build a product or service which competes with the Hardware;
- 9.2.3 vary, delete or obscure any notices of proprietary rights or any product identification or restrictions on or in the Hardware;
- 9.2.4 sub-license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Hardware available to any third party; or
- 9.2.5 permit any third party to breach this clause 6.2, or attempt to obtain or assist third parties in obtaining, access to the Hardware other than as provided under these Terms and Conditions.
- 10. PAYMENT**
- 10.1 The Software is commercially licensed software. It is not open-source, freeware or shareware.
- 10.2 You will be required to pay an ongoing monthly licence fee (Subscription) as set out in our SaaS Agreement (Contract). Subscription payments are due monthly in advance, typically on the 1st of each month. Invoices will be provided on request. We may, **at our discretion**, offer a discount if the **full annual subscription fee** is paid in advance. **Additional Item fees** for SMS credits and additional backup space will be arranged to suit circumstances.
- 10.3 If you wish to add additional licenses or chargeable features to the subscription Software, we will advise whether these will be charged as a one-off fee, pro rata, for the remainder of the term or whether they will increase your monthly subscription fee.
- 10.4 All sums payable by either party are expressed exclusive of VAT (where applicable) and are to be made in UK pounds sterling without any set-off, withholding or deduction.
- 10.5 Unless otherwise agreed in writing we reserve the right to review our subscription fees annually and will provide you with a minimum of 30 days' notice of any change in the fees before the Contract automatically renews in accordance with clauses 2.4 and 9.1.
- 10.6 Time for payment is of the essence of the Contract. If you fail to make any payment to us in full by the due date or cancel your arrangement to pay then, without prejudice to any other rights which we may have, we will have the right to suspend your access to the Software and charge you interest from the due date until payment is made in full, both before and after judgment, at the rate of 8% per annum over the Bank of England base rate from time to time in force, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. We also reserve the right to charge the cost of legal expenses and other costs incurred in attempting to recover any outstanding debt.
- 11. INTELLECTUAL PROPERTY RIGHTS, CLAIMS AND DISPUTES**
- 11.1 Once the Contract is formed, we will grant you a non-exclusive, non-transferrable licence to use our Software solely for your own internal business operations, within the bounds of these Terms and Conditions.
- 11.2 The Software, together with any and all intellectual property rights of whatever nature which now or in the future subsist in the Software are and will remain our property. The Contract does not constitute a sale of the original Software or any copies of it.

- 11.3 You must not:
- 11.3.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, transmit, or distribute all or any portion of the Software in any form or media or by any means;
 - 11.3.2 attempt to reverse compile, disassemble, or reverse engineer all or any part of the Software;
 - 11.3.3 access all or any part of the Software in order to build a product or service which competes with the Software;
 - 11.3.4 vary, delete or obscure any notices of proprietary rights or any product identification or restrictions on or in the Software;
 - 11.3.5 sub-license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software available to any third party except the Authorised Users; or
 - 11.3.6 permit any third party to breach this clause 7.3, or attempt to obtain or assist third parties in obtaining, access to the Software other than as provided under these Terms and Conditions.
- 11.4 You must notify us immediately if you become aware of any unauthorised use of the whole or any part of the Software by any person.
- 11.5 We will defend, at our own expense, any claim brought against you alleging that the use of the Software infringes the intellectual property rights of a third party and we will pay all reasonable direct costs and damages awarded or agreed to in settlement of such a claim provided that you:
- 11.5.1 give us the sole authority to defend or settle the claim;
 - 11.5.2 furnish us with prompt written notice of the alleged claim; and
 - 11.5.3 provide us with reasonable assistance in respect of the claim.
- 11.6 We will have no liability for any such claim resulting from any modification of any part of the Software by any party other than us or an authorised agent of ours.
- 12. DATA**
- 12.1 All personal information that we may process will be collected, used and held in accordance with the provisions of the Data Protection Act 2018 and any subsequent amendments to them.
- 12.2 You agree that you will also comply with current data protection legislation in force from time to time. In particular, in relation to Client Data, you warrant that you have obtained the appropriate consents from any person whose personal data will be uploaded to the Software. We will have access to the Client Data, but will use this only to perform our obligations to you under the Contract.
- 12.3 You own all rights, title and interest in and to all of the Client Data and are solely responsible for its legality, reliability, integrity, accuracy and quality. All Client Data will be deleted from the Software upon termination as detailed in clause 9.
- 13. TERMINATION**
- 13.1 As detailed in clause 2.4 above, the Contract will continue on a rolling monthly basis unless a written notice to terminate is given by either party in accordance with this clause 9. This means one monthly subscription payment shall be due after serving notice of termination. **Additional Item fees'** collection will be arranged to suit circumstances.
- 13.2 Upon termination you will be required to return the CloudPlus hardware in accordance with Hardware Rental Ts & Cs.
- 13.3 You may choose to have access to your system data via a READ-ONLY CLOUD-ONLY version of the software for a period of time after termination. This will be provided under the same termination notice as 9.1 and at a monthly cost of £99+VAT – payable in advance, typically on the 1st of each month.
- 13.4 Non-System Data held on the CloudPlus hardware should be copied to a suitable device on your own computer system prior to termination of the primary contract as it will no longer be available once the CloudPlus hardware is returned and Wysdom is no longer providing backup services for these files.
- 13.5 Upon final termination and subject to receipt of all payments due Wysdom will supply you with a full copy of your system data in a digital format.
- 13.6 We may terminate the Contract at any time by giving you a minimum of ninety (90) days written notice.
- 13.7 Either party may terminate the Contract without liability by giving written notice to the other, if the other party:
- 13.7.1 commits a material breach of any of the provisions of the Contract and, if the breach is capable of remedy, fails to remedy it within 14 days after being given written notice of the breach and requiring it to be remedied; or
 - 13.7.2 goes into bankruptcy, liquidation or administration either voluntary or compulsory (except for the purposes of bona fide corporate reconstruction or amalgamation), if a receiver is appointed in respect of the whole or any part of its assets, or if the other party ceases, or threatens to cease, to carry on business.
- 13.8 For the purposes of clause 9.7.1, a breach will be considered capable of remedy if the party in breach can comply with the provision in question in all respects.
- 13.9 Upon termination of the Contract for any reason under clause 9.7:
- 13.9.1 any sum owing by either party to the other under any of the provisions of the Contract will become immediately due and payable;
 - 13.9.2 the Client's access and licence to use the Software will terminate immediately; and
 - 13.9.3 we will irretrievably delete any Client Data contained within the Software.
- 13.10 Any and all obligations of the parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of the Contract will survive termination on a pro-rata basis.
- 13.11 The rights to terminate the Contract given by this clause 9 will not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.
- 14. LIABILITY**
- 14.1 Nothing in these Terms and Conditions seeks to limit or exclude our liability in respect of death or personal injury caused by our negligence; fraud or fraudulent misrepresentation; or any other liability, which cannot lawfully be excluded or limited.
- 14.2 Except as provided in clause 10.1 above, we will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our employees, agents or otherwise) in connection with the performance of our obligations under the Contract. All warranties or conditions whether express or implied by law are expressly excluded to the maximum extent permitted by law.

- 14.3 You are solely responsible for procuring and maintaining adequate network connections and internet access and for all problems, delays, delivery failures and all other loss or damage arising from or relating to this.
- 14.4 Whilst we will do all in our power to provide a robust system and unfettered access, we do not warrant that your use of the Software will be uninterrupted or error-free; or that the Software, and/or the information obtained by you through the Software, will meet your requirements. You assume sole responsibility for results obtained from your use of the Software and for conclusions drawn from such use.
- 14.5 You are wholly responsible for the Client Data inputted to the Software and for the results obtained from this. We accept no liability for your use of the information obtained by using the Software.
- 14.6 We will take all reasonable precautions to ensure that no known viruses, spyware or other malware for which detection and antidote software is generally available are coded or introduced into the Software.
- 14.7 In the event of a breach by us of our express obligations under these Terms and Conditions, your remedies will be limited to damages, which in any event, will not exceed the fees paid by you for the use of the Software in the 12 months preceding the date on which the alleged claim arose.
15. **Confidentiality:** Each party undertakes that throughout the duration of the Contract, the parties may disclose certain confidential information to each other. Both parties agree that they will not use the confidential information provided by the other, other than to perform their obligations under the Contract. Each party will maintain the confidential information's confidentiality and will not disseminate it to any third party, unless so authorised by the other party in writing.
16. **FORCE MAJEURE**
Neither party to the Contract will be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the party in question.
17. **NOTICES AND COMMUNICATIONS**
Notices will be deemed to have been duly received and properly served 24 hours after an email is sent or three working days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that it was properly addressed to the address provided, stamped and placed in the post and in the case of an email, that it was sent to the specified email address of the addressee.
18. **OTHER IMPORTANT TERMS**
- 18.1 We may transfer (assign) our obligations and rights under these Terms and Conditions (and under the Contract, as applicable) to a third party (for example, if we sell our business). If this occurs we will inform you in writing. Your rights under these Terms and Conditions will not be affected and our obligations under these Terms and Conditions will be transferred to the third party who will remain bound by them.
- 18.2 You may not transfer (assign) your obligations and rights under these Terms and Conditions (and under the Contract, as applicable) without our express written permission.
- 18.3 Each party acknowledges that, in entering into the Contract, it does not rely on any representation, warranty or other provision except as expressly provided in the Contract. The Contract constitutes the entire agreement between you and us with respect to its subject matter and supersedes all proposals, representations, understandings and prior agreements, whether oral or written, and all other communications between us relating to that subject matter.
- 18.4 The Contract is between you and us. It is not intended to benefit any other person or third party in any way and no such person or party will be entitled to enforce any provision of these Terms and Conditions.
- 18.5 In the event that one or more of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that/those provisions will be deemed severed from the remainder of these Terms and Conditions (and the Contract, as appropriate). The remainder of these Terms and Conditions will be valid and enforceable.
- 18.6 No failure or delay by either party in exercising any of its rights under the Contract will be deemed to be a waiver of that right, and no waiver by either party of a breach of any provision of the Contract will be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 18.7 We may at any time amend or vary any of these terms and conditions. We shall notify you of any changes (in any manner we deem fit). If you do not terminate your Account after we have given such notice of change, you shall be deemed to have accepted and agreed to such changes without reservation regardless of whether or not you continue to use or operate the software after such notice.
19. **LAW, JURISDICTION AND DISPUTE RESOLUTION**
- 19.1 The Contract and all matters arising from it and any dispute resolutions referred to below will be governed by and construed in accordance with the laws of England and Wales.
- 19.2 The Client recognises that our business relies upon the protection of our Intellectual Property Rights ("IPR"). In the event of a breach or threatened breach of IPR, we will be caused irreparable damage and may therefore be entitled to injunctive or other equitable relief in order to prevent a breach or threatened breach of our IPR.
- 19.3 With respect to all other disputes which are not IPR related, the parties will attempt to resolve the dispute using an Alternative Dispute Resolution ("ADR") procedure acceptable to both parties before pursuing any other remedies available to them. If either party fails or refuses to agree to or participate in the ADR procedure or if in any event the dispute is not resolved to the satisfaction of both parties within 30 days after it has arisen, the parties will irrevocably submit to the exclusive jurisdiction of the courts of England and Wales for the purposes of hearing and determining any dispute arising out of the Contract.