

PLEASE READ CAREFULLY BEFORE USING THE VERIFI PLATFORM

These terms and conditions (“**Terms**”) are a legal agreement between you (“**Customer**” or “**you**”) and ChargePoint Technology Limited incorporated and registered in England and Wales with company number 6751239 whose registered office is at 58 Evans Road, Liverpool, L24 9PB (“**ChargePoint Technology**”, “**our**”, “**us**” or “**we**”) for use of our Verifi Hub Software and Verifi Portal Software provided via the Verifi Portal in support of use of Equipment (“**Services**”).

We allow you to use the Software and Services on the basis of these Terms. We do not sell the Software to you. We remain the owners of the Software at all times.

Any Equipment purchased by the Customer is purchase subject to ChargePoint Technology's standard terms and conditions for the supply of goods and services.

Any maintenance services provided to you by ChargePoint Technology in respect of the Software and Services are subject to a separate Maintenance Agreement between you and ChargePoint Technology.

If you are agreeing to these Terms on behalf of a company or organisation, you represent and warrant that you have authority to do so.

BY USING THE SOFTWARE AND SERVICES YOU AGREE TO THESE TERMS WHICH WILL BIND YOU AND YOUR EMPLOYEES. THESE TERMS INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CONDITION 11.

1. **Interpretation**

1.1. The definitions and rules of interpretation in this condition apply in these Terms.

"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
"Confidential Information"	information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in condition 10.
"Customer Data"	the data inputted by you or ChargePoint Technology on your behalf for the purpose of using the Software and Services or facilitating your use of the Software and Services.
"Data Protection Legislation"	up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (a) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (b) any successor legislation to the GDPR or the Data Protection Act 1998.

"Documentation"	the manual made available to you by ChargePoint Technology which sets out a description of the Software, Services and the user instructions for the Software and Services.
"Effective Date"	the date on which you commence use of the Software and/or Services.
"Equipment"	a valve or valves and / or a Verifi Hub purchased by the Customer from ChargePoint Technology.
"GDPR"	General Data Protection Regulation ((EU) 2016/679).
"Initial Period"	a period of 3 months commencing on the Effective Date.
"Licence Term"	the period set out in condition 12.1.
"Maintenance Agreement"	an agreement between you and ChargePoint Technology for maintenance services in respect of the Software and the Services.
"Normal Business Hours"	08:00 am to 17:00 pm local UK time, each Business Day.
"Services"	the services provided by ChargePoint Technology to you via the Verifi Portal, that enables you to monitor usage of the active half of any valves to which the Verifi Hub is attached, as more particularly described in the Documentation.
"Software"	the software applications provided by ChargePoint Technology comprising: (i) the Verifi Hub Software; and (ii) the Verifi Portal Software.
"Verifi Hub"	the hardware manufactured and supplied by ChargePoint Technology under our standard terms and conditions which, when attached to valves, records and displays data regarding usage of the valve.
"Verifi Hub Software"	the software contained on the Verifi Hub.
"Verifi Portal"	the portal which allows you to monitor the Customer Data collected by the Verifi Hub and located at www.verifiportal.com or any other website notified to you by ChargePoint Technology from time to time.
"Verifi Portal Software"	the software which enables the Verifi Portal.

“Verifi Services Order” an order by the Customer for continued use of the Services beyond the Initial Term.

"Virus" any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

2. **Grant of licence**

- 2.1. Subject to these Terms, ChargePoint Technology hereby grants to you a non-exclusive, non-transferable right to use the Software and Services and the Documentation during the Licence Term solely for the your internal business operations.
- 2.2. You undertake to keep your password for your use of the Services secure and confidential and change your password no less frequently than once every six months.
- 2.3. You shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that is unlawful, harmful, threatening, defamatory, obscene, infringing, discriminatory, harassing or racially or ethnically offensive and we reserve the right, without liability or prejudice to our other rights to you, to disable your access to any material that breaches the provisions of this condition.
- 2.4. You shall not:
 - 2.4.1. except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under these Terms,
 - 2.4.1.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
 - 2.4.1.2. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

- 2.4.2. access all or any part of the Software, Services and Documentation in order to build a product or service which competes with the Software, Services and/or the Documentation; or
 - 2.4.3. use the Software, Services and/or Documentation to provide services to third parties; or
 - 2.4.4. subject to condition 15.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Software, Services and/or Documentation available to any third party, or
 - 2.4.5. attempt to obtain, or assist third parties in obtaining, access to the Software, Services and/or Documentation.
- 2.5. You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software, Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify ChargePoint Technology.
- 2.6. The rights provided under this condition 2 are granted to you only, and shall not be considered granted to any subsidiary or holding company.

3. **Services**

- 3.1. We shall provide the Services and make available the Software and Documentation to you on and subject to these Terms.
- 3.2. We shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
- 3.2.1. planned maintenance where ChargePoint Technology has given reasonable notice of such maintenance on the Verifi Portal; and
 - 3.2.2. unscheduled maintenance performed outside Normal Business Hours.
- 3.3. ChargePoint Technology shall use reasonable endeavours to respond to reports for technical support and assistance submitted via the Verifi Portal or via email to verifi.support@thechargepoint.com.

4. **Customer data**

- 4.1. You shall own all right, title and interest in and to all of the Customer Data and you shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 4.2. We may access your Customer Data and may contact you where we deem it necessary in respect of the operation of the Equipment and the performance of the Services.
- 4.3. It shall be your responsibility to transfer Customer Data from the Verifi Hub Software to the Verifi Portal Software. The instructions on data transfers is contained in the Documentation. Such transfers are dependant upon the Verifi Hub Software establishing an internet connection. The Verifi Portal shall display Customer Data correct at the date of the last transfer. ChargePoint Technology

accepts no liability for lost Customer Data due to your failure to transfer Customer Data on a regular basis.

- 4.4. It shall be your responsibility to notify ChargePoint Technology in writing when you require back-ups of the Customer Data to be created and ChargePoint Technology's only obligation in this respect shall be to provide a copy of the Customer Data to the Customer, if such a copy is held, within 7 Business Days of such a request.
- 4.5. In the event of any loss or damage to Customer Data, your sole and exclusive remedy shall be for ChargePoint Technology to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by ChargePoint Technology. ChargePoint Technology shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by ChargePoint Technology to perform services related to Customer Data maintenance and back-up).
- 4.6. The Customer acknowledges that ChargePoint Technology will not hold Customer Data beyond the end of the Licence Term, and that it will be the Customer's responsibility to transfer Customer Data and / or to request a back-up of the Customer Data in accordance with condition 4.4 prior to the end of the Licence Term and the termination of these Terms.

5. **Data Protection**

In performing the Services, we will have access to the work email address and log in details of some of your employees, only for the purposes of performing the Services. Such information will be dealt with by ChargePoint Technology in accordance with the Data Protection Legislation.

6. **ChargePoint Technology's obligations**

- 6.1. During the Licence Term, ChargePoint Technology warrants that: (i) for 30 days following the Effective Date, the Software will perform in all material respects in accordance with the Documentation; and (ii) the Services will be performed with reasonable skill and care.
- 6.2. The warranty at condition 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Software and/or Services contrary to ChargePoint Technology's instructions, or modification or alteration of the Services by any party other than ChargePoint Technology or ChargePoint Technology's duly authorised contractors or agents. If the Software and/or Services do not conform with the foregoing warranty, ChargePoint Technology will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the undertaking set out in condition 6.1. Notwithstanding the foregoing, ChargePoint Technology:
 - 6.2.1. does not warrant that your use of the Software and Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained through the Services will meet your requirements; and

6.2.2. is 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 Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.3. These Terms shall not prevent ChargePoint Technology from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products, software and/or services which are similar to those provided under these Terms.

6.4. ChargePoint Technology warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these Terms.

7. **Customer's obligations**

You shall:

7.1.1. provide ChargePoint Technology with:

7.1.1.1. all necessary co-operation in relation to these Terms; and

7.1.1.2. all necessary access to such information as may be required by ChargePoint Technology;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

7.1.2. comply with all applicable laws and regulations with respect to its activities under these Terms;

7.1.3. carry out all other Customer responsibilities set out in these Terms in a timely and efficient manner;

7.1.4. obtain and shall maintain all necessary licences, consents, and permissions necessary for ChargePoint Technology, its contractors and agents to perform their obligations under these Terms, including without limitation the Services;

7.1.5. ensure that its network and systems comply with the relevant specifications provided by ChargePoint Technology from time to time; and

7.1.6. be solely responsible for procuring and maintaining your network connections and telecommunications links from its systems to the Verifi Hub Software and ChargePoint Technology's data centres (as applicable), and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.

8. **Charges and payment**

- 8.1. The use of the Software and the Service is without charge for the Initial Term and where you and ChargePoint Technology have entered into a Maintenance Agreement.
- 8.2. Where you have placed a Verifi Services Order, you shall pay the fees set out in the Verifi Services Order for the use of the Software and Services in accordance with the following conditions:
 - 8.2.1. prior to the end of the Initial Period you shall provide to ChargePoint Technology valid, up-to-date and complete credit card details, or information evidencing the creation of a standing order in respect of the fees acceptable to ChargePoint Technology and any other relevant valid, up-to-date and complete contact and billing details required by ChargePoint Technology;
 - 8.2.2. if you elect to pay the fees by credit card, then you hereby authorise ChargePoint Technology to bill such credit card for such fees in accordance with these Terms;
 - 8.2.3. if ChargePoint Technology has not received payment within 7 days after the due date, and without prejudice to any other rights and remedies of ChargePoint Technology:
 - 8.2.3.1. ChargePoint Technology may, without liability to you, disable your password, account and access to the Verifi Portal and ChargePoint Technology shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - 8.2.3.2. interest shall accrue on a daily basis on such due amounts at an annual rate equal to 2% over the then current base lending rate of the Barclays Bank plc from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
 - 8.2.4. all amounts and fees stated or referred to in these Terms:
 - 8.2.4.1. shall be payable in pounds sterling, Euros or US dollars;
 - 8.2.4.2. are, subject to condition 11.4.2, non-cancellable and non-refundable; and
 - 8.2.4.3. are exclusive of value added tax, which shall be added to ChargePoint Technology's invoice(s) at the appropriate rate.
 - 8.2.5. ChargePoint Technology shall be entitled to increase the applicable fees with 30 days written notice to you. Following such notice, you may exercise your right under condition 12.2 of these Terms to terminate this agreement.

9. **Proprietary rights**

- 9.1. You acknowledge and agree that ChargePoint Technology and/or its licensors own all intellectual property rights in the Software, Services and the Documentation. Except as expressly stated herein,

these Terms do not grant you any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Software, Services or the Documentation.

9.2. ChargePoint Technology confirms that it has all the rights in relation to the Software, Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, these Terms.

10. **Confidentiality**

10.1. Each party may be given access to Confidential Information from the other party in order to perform its obligations under these Terms. A party's Confidential Information shall not be deemed to include information that:

10.1.1. is or becomes publicly known other than through any act or omission of the receiving party;

10.1.2. was in the other party's lawful possession before the disclosure;

10.1.3. is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

10.1.4. is independently developed by the receiving party, which independent development can be shown by written evidence; or

10.1.5. is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

10.2. Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these Terms.

10.3. Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of these Terms.

10.4. Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

10.5. You acknowledge that details of the Software, Services, and the results of any performance tests of the Software and Services, constitute ChargePoint Technology's Confidential Information.

10.6. ChargePoint Technology acknowledges that the Customer Data is your Confidential Information.

10.7. This condition 10 shall survive termination of these Terms, however arising.

10.8. No party shall make, or permit any person to make, any public announcement concerning these Terms without the prior written consent of the other party, except as required by law, any

governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

11. Limitation of liability

11.1. This condition 11 sets out the entire financial liability of ChargePoint Technology (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you:

11.1.1. arising under or in connection with these Terms;

11.1.2. in respect of any use made by you of the Software, Services and Documentation or any part of them; and

11.1.3. in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with these Terms.

11.2. Except as expressly and specifically provided in these Terms:

11.2.1. you assume sole responsibility for results obtained from the use of the Software, Services and the Documentation, and for conclusions drawn from such use. ChargePoint Technology shall have no liability for any damage caused by errors or omissions in any information or instructions provided to ChargePoint Technology by you in connection with the Services, or any actions taken by ChargePoint Technology at your direction;

11.2.2. all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms; and

11.2.3. the Software, Services and the Documentation are provided to you on an "as is" basis.

11.3. Nothing in these Terms excludes the liability of ChargePoint Technology:

11.3.1. for death or personal injury caused by ChargePoint Technology's negligence;

11.3.2. for fraud or fraudulent misrepresentation; or

11.3.3. any other liability that cannot be excluded or limited under English law.

11.4. Subject to condition 11.2 and condition 11.3:

11.4.1. ChargePoint Technology shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Terms; and

11.4.2. ChargePoint Technology's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in

connection with the performance or contemplated performance of these Terms shall be limited to shall be limited to the greater of:

- 11.4.2.1. £1,000 (one thousand pounds); or
- 11.4.2.2. 100% of the total fees paid for the Services during the 12 months immediately preceding the date on which the claim arose.

12. Term and termination

12.1. You must commence use of the Services within 12 months of the shipment date of the Equipment by ChargePoint Technology.

12.2. These Terms shall commence on the Effective Date and shall continue (subject to earlier termination for cause under condition 12.4) for the Initial Period and then shall automatically extend in the event that:

- 12.2.1. you place an order with ChargePoint Technology for continued use of the Services prior to the end of the Initial Period ("**Verifi Services Order**"); or
- 12.2.2. you and ChargePoint Technology have entered into a Maintenance Agreement prior to the end of the Initial Period,

(the "**Licence Term**").

12.3. In the event that either there is not a Verifi Services Order or you and ChargePoint Technology have not entered into a Maintenance Agreement before the end of the Initial Period, the Licence Term shall expire upon the end of the Initial Period.

12.4. Following the Initial Period and the placing of a Verifi Services Order, either party may terminate these Terms for convenience by giving the other party at least 3 months written notice.

12.5. Where you have entered into a Maintenance Agreement prior to the end of the Initial Period, these Terms shall be terminated immediately (without notice) upon the termination of the relevant Maintenance Agreement.

12.6. Without affecting any other right or remedy available to it, either party may terminate these Terms with immediate effect by giving written notice to the other party if:

- 12.6.1. the other party fails to pay any amount due under these Terms on the due date for payment and remains in default not less than 15 days after being notified in writing to make such payment;
- 12.6.2. the other party commits a material breach of any other term of these Terms which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of ten days after being notified in writing to do so;

- 12.6.3. the other party repeatedly breaches any of the terms of these Terms in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of these Terms;
 - 12.6.4. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - 12.6.5. the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 12.6.6. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 12.6.7. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
 - 12.6.8. the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
 - 12.6.9. a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 12.6.10. a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
 - 12.6.11. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 12.6.4 to condition 12.6.10 (inclusive); or
 - 12.6.12. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 12.7. On termination of these Terms for any reason:
- 12.7.1. all licences granted under these Terms shall immediately terminate;
 - 12.7.2. you shall make no further use of the Software, Services, Documentation and other items (and all copies of them) belonging to ChargePoint Technology;

12.7.3. Subject to condition 12.8, ChargePoint Technology may destroy or otherwise dispose of any of the Customer Data in its possession unless ChargePoint Technology receives, no later than ten days after the effective date of the termination of these Terms, a written request for the delivery to you of the then most recent back-up of the Customer Data. ChargePoint Technology shall use reasonable commercial endeavours to deliver the back-up to you within 30 days of its receipt of such a written request, provided that you have, at that time, paid any and all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). You shall pay all reasonable expenses incurred by ChargePoint Technology in returning or disposing of Customer Data; and

12.7.4. any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced.

12.8. You acknowledge and agree that during Licence Term and thereafter ChargePoint Technology may retain data collected by the Verifi Hub Software and use it for its own business purposes including, without limitation, the purposes of analysing the performance of and improving its products and services.

13. **Force majeure**

ChargePoint Technology shall have no liability to you under these Terms if it is prevented from or delayed in performing its obligations under these Terms, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of ChargePoint Technology or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that you are notified of such an event and its expected duration.

14. **Communications between us**

14.1. If you wish to contact ChargePoint Technology in writing, or if any condition in these Terms requires you to give us notice in writing, you can send this to us by e-mail to verifi.support@thechargepoint.com.

14.2. If we have to contact you or give you notice in writing, we will do so by e-mail.

14.3. Any notice given by you to ChargePoint Technology, or by ChargePoint Technology to you, will be deemed received and properly served immediately when posted on the Verifi Portal or 24 hours after an e-mail is sent. In proving the service of any notice, it will be sufficient to prove that an e-mail was sent to the specified e-mail address of the addressee.

15. **Other important terms**

- 15.1. ChargePoint Technology may transfer its rights and obligations under the Terms to another organisation. You may only transfer your rights or your obligations under these Terms if ChargePoint Technology consents in writing.
- 15.2. These Terms and any document expressly referred to in them constitute the entire agreement between you and ChargePoint Technology. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of ChargePoint Technology which is not set out in these Terms.
- 15.3. If ChargePoint Technology fails to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If ChargePoint Technology does waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 15.4. Each of the conditions of these Terms operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 15.5. These Terms are drafted in the English language. If these Terms are translated into any other language, the English language version shall prevail.
- 15.6. These Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.
- 15.7. Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms or its subject matter or formation (including non-contractual disputes or claims).