

1. DEFINITIONS

“Expert” means a medical examiner selected by the Instructing Party from those on the panel maintained by MDL at the time of the Instruction or where the Instructing Party requests chosen by MDL from such panel.

“Instructing Party” means the person, firm, partnership, LLP or company providing MDL with the Instruction.

“Instruction” means a request made by the Instructing Party to MDL to provide the Services (or any part thereof). Such request may be made in writing, orally or electronically.

“MDL” means Mobile Doctors Limited whose registered office is at 50-52 Chancery Lane, London WC2A 1HL. The term “MDL” shall also include any associated or related company of MDL through whom MDL in their absolute discretion elect to perform the whole or any part of the Services.

“The Services” means:

- (1) The making of all such arrangements as may reasonably be required to enable the medical expert chosen by the Instructing Party to carry out an examination
- (2) Arranging for the medical expert to prepare a medical report for use by the Instructing Party in connection with a claim or potential claim for damages in respect of a personal injury.
- (3) Supplying such report to the Instructing Party.
- (4) Providing the medical expert with copies of such medical notes reports and x-rays as the Instructing Party may have supplied to MDL prior to the examination.
- (5) If so requested obtaining medical records x-rays and notes on behalf of the Instructing Party and supplying the same to the expert.
- (6) Reviewing the report provided by the expert to ensure compliance with the Civil Procedure Rules as to the form of the report.
- (7) Liaising with the Instructing Party, the expert and the examinee as reasonably necessary with regard to arrangements for attendance at the examination.

2. THE CONTRACT

2.1 By requesting MDL to perform the Services or any part of them the Instructing Party agrees that upon acceptance by MDL of the request the parties will be bound by these terms and conditions (unless otherwise agreed in writing by MDL).

2.2 The Instructing Party hereby acknowledges that there are no other agreements or understandings which in any way may add to vary alter or modify these terms and conditions and it has not relied upon any representation (written or oral) in requesting MDL to perform the Services or in entering into this contract.

2.3 The contract between MDL and the Instructing Party shall come into existence upon MDL taking any step preparatory to or in performance of the Services after receipt of an Instruction from the Instructing Party.

3. PAYMENT

3.1 The Instructing Party shall be liable to pay MDL for the Services whether or not any third party shall have also agreed to make payment of the same unless and until any such payment has been received from such third party.

3.2 MDL will render an invoice to the Instructing Party in relation to the Services in the case of provision of an expert report at the time of (or as soon as reasonably practicable thereafter) provision of the report and in all other cases at MDL’s discretion. Unless otherwise agreed in writing by MDL all such invoices shall be payable by the Instructing Party within 360 days of delivery or within **fourteen (14) days after the date on which the Claim is settled, compromised, discontinued, withdrawn, cancelled or otherwise concluded**, whichever is the earliest, without any deduction or set off whatsoever and notwithstanding any agreement by a third party to make payment thereof unless and until such payment has been received by MDL.

3.3 If the Instructing Party fails to make payment of any invoice by the due date then without prejudice to any other right or remedy it may have MDL:

3.3.1 May suspend performance of any services requested by the Instructing Party whether in relation to the matter where payment has not been made or any other matter where the Instructing Party has requested MDL to perform the Services. MDL shall not be liable to the Instructing Party or to their client or any other person whatsoever for any loss or damage caused by such suspension;

3.3.2 Charge the Instructing Party interest on any sums unpaid for more than 360 days at the rate provided from time to time by s.6 Late Payment of Commercial Debts (Interest) Act 1998.

4. LIABILITY AND SERVICE STANDARDS

4.1 MDL from time to time issues service standards in relation to the Services. Whilst MDL will use reasonable endeavours to comply with such service standards the parties agree that the standards are for indicative purposes only and are not intended to nor do they constitute any warranty or other contractual obligation upon MDL to perform to such standards nor shall the Instructing Party (or any other person) be entitled to any damages or other remedy for failure to meet such standards and any such failure shall not be a breach of contract by MDL unless otherwise agreed in writing.

4.2 The Instructing Party hereby agrees that MDL’s aggregate liability to the Instructing Party under any claim or total of all claims arising from any act or default of MDL (howsoever such default shall arise) shall not exceed the greater of the charges receivable by MDL in respect of the relevant instruction or part thereof or MDL’s insurance cover in respect thereof. The Instructing Party hereby agrees that MDL shall have no liability whatsoever into the Instructing Party or any third party in respect of any loss of profits business or goodwill or any type of special indirect or consequential loss or damage howsoever caused (including loss or damage suffered by the Instructing Party as a result of an action brought by a third party) even if such loss was reasonably foreseeable or in the contemplation of MDL unless MDL shall have agreed in writing prior to accepting the instruction to accept any liability in respect thereof.

4.3 Whilst MDL shall use reasonable endeavours to perform the Services within a reasonable time unless otherwise agreed in writing by MDL, MDL shall not be liable in respect of any failure to perform the Services by the particular time or in respect of any delay in the performance of the Services.

5. PROVISIONS AND CUSTODY OF THIRD PARTY PROPERTY

5.1 The Instructing Party shall be responsible for the supply to MDL of all relevant material to enable MDL to perform the Services. MDL shall not be responsible for any delays or additional costs caused as a result of the failure by the Instructing Party to supply accurate legible or complete material or any other default in relation thereto.

5.2 Insofar as MDL shall have received from the Instructing Party any documentation records or other material reasonably required for the provision of the Services MDL will take reasonable care to preserve such property but in the event that any such property shall be lost or damaged (whether by negligence or otherwise) MDL’s liability in respect thereof shall not exceed the limit of the liability as provided by MDL’s insurance policy current at the relevant time and any such liability shall exclude any claim for loss of profits business or goodwill or any special indirect or consequential loss or damage howsoever caused.

6. RELATED COMPANIES

6.1 Where MDL elect to perform all or any part of the Services through an associated or related company the Instructing Party will be deemed to have contracted directly with such company and will be liable to pay the company for such Services

6.2 These terms and conditions shall apply to any of the Services performed or to be performed by an associated or related company as if such company had expressly entered into a separate agreement with the Instructing Party incorporating the same and such associated or related company shall be entitled to rely upon and enforce the same directly against the Instructing Party.

7. THIRD PARTY

Save as provided in Clause 6 hereof a person who is not a party to the contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 (the Act) to enforce any term of this contract and all rights under that Act are expressly excluded.

8. INVALIDITY

If any provision of this contract is held by a competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this contract and the remainder of the provision in question shall not be affected.

9. RELEVANT LAW

This contract shall be governed by and construed in accordance with the laws of England and Wales and all disputes arising in connection with the contract shall be submitted to the exclusive jurisdiction of the English Courts.