

STANDARD TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1. **TG&A/We/Us/Our:** means TG Expert Witness and Associates Limited t/a Tessa Gough Associates (company number 12517992) of TG Associates, PO Box 699, Chorley, PR6 6RQ;
- 1.2. **The Client/You/Your:** means the client as set out in the Quote Information;
- 1.3. **Claimant:** means the Client's customer who is making a personal injury claim;
- 1.4. **Controller, Processor, Data Subject, Personal Data, processing and appropriate technical and organisational measures:** means as defined in the Data Protection Legislation;
- 1.5. **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act (DPA 2018) (and regulations made thereunder), and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all legislation and regulatory requirements in force from time to time which apply to a party relating to use of Personal Data (including without limitation, the privacy of electronic communications);
- 1.6. **Domestic Law:** means the law of the United Kingdom or a part of the United Kingdom;
- 1.7. **Expenses:** means all expenses reasonably incurred by Us or the Expert in connection with the Services and shall be calculated as set out in the Quote Information;
- 1.8. **Expert:** means any person engaged by Us to provide the Services to You under or in connection with these Terms and Conditions;
- 1.9. **Fees:** means Our fee for the initial Report as set out in the Quote Information, any charges for Services or follow up work charged at the Hourly Rate and any Expenses or Travel Time;
- 1.10. **Hourly Rate:** shall be the hourly rates as set out in the Quote Information;
- 1.11. **Instruction:** means a written instruction for Services as confirmed by Us in writing in accordance with clause 4;
- 1.12. **Offer:** means as defined in clause 4;
- 1.13. **Report:** means a report produced by the Expert;
- 1.14. **Services:** means any or all: of the provision of a Report, review and feedback on other experts' reports; research; visits to the Claimant; or attendance at Court; in each case as set out in Your instruction to Us, or any other Services agreed between You and Us in writing;
- 1.15. **Term:** means the term of these Terms and Conditions as defined in clause 15.1.

1.16. **Travel Time:** means time incurred by TG&A or the Expert in traveling to and from carrying out the Services and shall be calculated as set out in the Quote Information.

1.17. **UK GDPR:** means as defined in section 3(10) (as supplemented by section 205(4)) of the DPA 2018

2. THESE TERMS

Your continuing instruction of Us and Our Expert will be deemed evidence of Your acceptance of these Terms and Conditions.

3. FEES AND PAYMENT TERMS

Payment of Our Fees is to be made within 30 days of the date of Our invoice. We reserve the right to charge 8% per annum simple interest above the Bank of England base rate on a daily basis for each day thereafter. Fees are payable in full and within 30 days of the date of Our invoice regardless of any previous, or later, deductions made by the Court

4. INITIAL INSTRUCTIONS

All enquiries or requests for Services shall be sent to Us in writing, either by letter or email. Following receipt of an enquiry or request We will issue the Quote Information, which will be valid for 90 days from the date set out in the Quote Information. If You wish to proceed with the Services which have been quoted for, You should notify Us of this in writing. Your notification shall be deemed to be an offer to purchase Services ("**Offer**"). We shall be free to accept or decline Your Offer at Our absolute discretion. Your Offer shall be deemed to be accepted when We confirm Our acceptance to You in writing, at which point it shall become an Instruction (as defined) and a contract between You and Us will come into existence.

5. ADDITIONAL WORK

Further work shall be any work not quoted for by Us in the Quote Information, including comments on other experts' reports, re-visits, research, updates etc and will be charged at the Hourly Rate. Fees are invoiced to the nearest quarter hour.

6. REQUESTS FOR URGENT WORK

Where a request for an urgent response is received, We will reasonably endeavour to accommodate Your request, however We cannot guarantee to do so.



7. CLIENT OBLIGATIONS

- 7.1. You warrant on each day of the Term that You hold a valid registration with the Solicitors Regulation Authority and that neither You nor any of Your staff are under investigation or subject to any intervention. If We find You to be in breach of this clause We may terminate these Terms and Conditions with immediate effect.
- 7.2. You shall supply to Us, or the Expert, within a reasonable timescale, any information reasonably requested by Us or the Expert.
- 7.3. Remittance is to be made only by cheque or bank transfer to the bank details set out in Our invoice. Our Fees are exclusive of VAT which will be charged at the current rate.
- 7.4. During the Term We may increase Our Hourly Rate on an annual basis, subject to giving You no less than three (3) months' written notice of the increase. Should We increase Our Hourly Rate the increase shall take place on 1 June each year, or such other date as We shall notify You of in writing from time to time.
- 7.5. You shall comply with all applicable laws, statutes, regulations and codes, including but not limited to the Bribery Act 2010, Equality Act 2010 and Modern Slavery Act 2015.

8. TG&A OBLIGATIONS

- 8.1. We shall, and shall procure that the Expert shall, use reasonable endeavours to meet any timeframes for the Services agreed with You. Any such timeframes shall be estimates only and time for performance of the Services shall not be of the essence for these Terms and Conditions.
- 8.2. We shall select and recommend suitably qualified Experts.
- 8.3. You may request a specific Expert and We will use reasonable endeavours to fulfil that request. Where We cannot procure the requested Expert We shall recommend an alternative, suitably qualified, Expert.
- 8.4. We shall procure that the Expert shall maintain all necessary licences, consents and qualifications to perform the Services for the duration of the Services.

9. NOTICE OF CANCELLATION

Where notice of cancellation to attend Court is given, any preparation work will be charged at the Hourly Rate. Where notice of cancellation is given within 24 hours of the start of trial We may charge for any Travel Time and Expenses incurred by the Expert and/or by Us as applicable. If We and/or the Expert has travelled on the day to attend Court, Travel Time and Expenses incurred by the Expert and/or by Us will be charged.

10. CANCELLED APPOINTMENTS

We shall procure that the Expert will endeavour to attend the Client's assessments and hearings at agreed dates and times unless illness or Court appearances require the Expert to cancel. Should notice of a cancelled appointment be given to Us We reserve the right to charge for time lost in preparation at the Hourly Rate, Travel Time and Expenses.

11. SAFETY

- 11.1. We are reliant on You to inform Us of any risk to Our Expert when visiting the Claimant. If a risk is identified and/or the Claimant's legal representative is unable to be in attendance during a visit, it is agreed that We may arrange for Our Expert to be accompanied by an appropriate person of Our choosing.
- 11.2. If We are not told by You about any risk to the Expert when visiting the Claimant, and the Expert, at any time before, or during, the visit, believes that to continue with the visit would put them in danger or at risk of harm:
 - 11.2.1. the Expert may cancel or cut short the visit; and
 - 11.2.2. We will reschedule the visit and arrange for the Expert to be accompanied on the rescheduled visit.
- 11.3. We may charge for the any time spent by the Expert in preparing for and undertaking any visit that is cancelled or cut short at the Hourly Rate plus Travel Time and Expenses.
- 11.4. Where, for their own safety, the Expert is accompanied on a visit We will charge for the time spent by the accompanying person undertaking the appointment. The accompanying person will be charged at an hourly rate which is equal to half of the Hourly Rate plus Travel Time and Expenses. For the avoidance of doubt, Travel Time for the accompanying person shall be charged at half of the Hourly Rate charged for the accompanying person.

12. DATA PROTECTION

- 12.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This obligation is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 12.2. The parties acknowledge that for the purpose of the Data Protection Legislation, You are the Controller and We are the Processor. Schedule 1 sets out the scope, nature and purpose of processing by Us.



12.3. Without prejudice to the generality of clause 12.1

You shall ensure that You have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Us, and to third party sub-processors, such as the Expert (insofar as the Expert processes personal data as a Processor) for the duration and purpose of these Terms and Conditions. As appropriate, You shall promptly notify Us if the Data Subject withdraws or amends consent to Us, or a third party sub-processor, processing the relevant Personal Data. You shall also provide written confirmation of the basis of the lawful transfer and a copy of the relevant notice to Us within 24 hours of Our request for the same.

12.4. Without prejudice to the generality of clause 12.1

We shall, in relation to any Personal Data processed in connection with the performance of Our obligations under these Terms and Conditions:

12.4.1. process that Personal Data only on Your documented instructions, unless We are required by Domestic Law to otherwise process that Personal Data. Where We are relying on Domestic Law as a basis for processing Personal Data, We shall promptly notify You of this before performing the processing required by the Domestic Law, unless the Domestic Law prohibits Us from doing so. For the avoidance of doubt, an Instruction shall constitute a documented instruction for this purpose;

12.4.2. ensure that We have in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

12.4.3. ensure that all personnel who have access to and/or process the Personal Data are obliged to keep the Personal Data confidential;

12.4.4. not transfer any Personal Data outside of the EEA unless We have Your prior written consent and the following conditions are fulfilled;

12.4.4.1. either We or You have put in place appropriate safeguards in relation to the transfer;

12.4.4.2. the data subject has enforceable rights and legal remedies;

We comply with Our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

12.4.4.3. We comply with reasonable instructions notified to Us by You in advance with respect to the processing of Personal Data;

12.4.5. assist You, at Your cost, in responding to any request from a Data Subject and in ensuring compliance with Your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

12.4.6. notify You without undue delay on becoming aware of a Personal Data Breach;

12.4.7. at Your written direction, delete or return Personal Data (and any copies) to You on expiry or termination of these Terms and Conditions, unless required by Domestic Law to store the Personal Data; and

12.4.8. maintain complete and accurate records and information to demonstrate Our compliance with the terms in this clause 12.

12.5. You consent to Us appointing relevant Experts as third party sub-processors of Personal Data under these Terms and Conditions. As between You and Us, We shall remain fully liable for all actions or omissions of third party sub-processors (and the Expert when it is acting as a third party sub-processor) appointed by Us under this clause.

12.6. This provision shall survive termination of expiry of these Terms and Conditions.



13. INTELLECTUAL PROPERTY

All intellectual property rights in the Report are owned by Us and We grant to You a worldwide, non-exclusive, non-transferrable, licence to utilise the Report for the Claim from the date on which We provide You with the Report until payment of all Fees due in respect of such Report and any Services related to the same Claimant or Claim under these Terms and Conditions is received, and upon receipt of such payment the licence described in this clause 13 shall become perpetual and irrevocable.

14. LIABILITY

14.1. You accept that We are not an expert and no warranty and/or guarantee as to the suitability or content of any Services is given by Us.

14.2. To the extent permitted by law, Our liability (and any liability of any employee, agent, sub-contractor or consultant of TG&A) to You under or in connection with these Terms and Conditions, whether in contract, tort (including negligence) or otherwise, is limited to an amount of the Fees charged and paid by You to Us in respect of these Terms and Conditions. For this purpose, Fees shall not include disbursements or VAT or any equivalent tax.

14.3. We shall not be liable for any indirect or consequential loss, loss of profits, loss of sales or business, loss of agreements or contracts or loss of or damage to goodwill.

15. TERM AND TERMINATION

15.1. These Terms and Conditions shall apply from the date that We confirm Our acceptance of Your Offer in writing until completion or settlement of the Claimant's personal injury claim (whether that is by court order, judgment or execution by the Claimant of a binding settlement agreement) ("Term").

15.2. Either You or We may terminate these Terms and Conditions prior to completion of the Services if:

15.2.1. the other party commits a material breach of any of provision of these Terms and Conditions and such breach is not remedied within 30 days of that party being notified of the breach

15.2.2. an order is made or a resolution is passed for the winding-up of the other party or an order is made for the appointment of an administrator to manage the affairs, business and property of the other party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or

administrative receiver or which entitle the Court to make a winding-up order or the other party takes or suffers any similar or analogous action in consequence of debt; or

15.2.3. You lose Your licence with the Solicitors Regulatory Authority or such licence is suspended or You or any of Your staff is the subject of an investigation by the Solicitors Regulatory Authority.

16. FORCE MAJEURE

Neither party shall be in breach of these Terms and Conditions 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. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for eight weeks the party not affected may terminate these Terms and Conditions by giving 30 days written notice to the affected party.

17. CONFIDENTIAL INFORMATION

17.1. Save with Your prior written consent, We shall not, and shall procure that the Expert shall not, communicate directly with any third party (excluding the relevant Claimant to the extent required in respect of the Services) in connection with the Services.

17.2. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, and shall use such information only in connection with the provision of the Services. Exceptions to this provision are as follows:

Each party may disclose the other party's confidential information (i) to those third parties who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Services (subject to such parties being subject to confidentiality obligations not less stringent than those in this clause); or (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority

18. SURVIVAL

Any provision of these Terms and Conditions that expressly or by implication is intended to come into or continue in force on or after termination or expiry shall remain in full force and effect.



19. ENTIRE AGREEMENT

These Terms and Conditions and Your instruction to Us (once accepted by Us) constitute the entire agreement between You and Us and extinguishes all previous agreements, promises, assurance, warranties, representations and understandings between You and Us, whether written or oral, relating to its subject matter.

20. VARIATION

No variation of these Terms and Conditions shall be effective unless it is in writing and signed by You and by Us.

21. WAIVER

A waiver of any right or remedy is only effective if given in writing. Any delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

22. SEVERANCE

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 these Terms and Conditions.

23. ASSIGNMENT AND SUBCONTRACTING

23.1. You shall not sub-license, assign or subcontract any of Your rights or obligations under these Terms and Conditions without Our prior written consent.

23.2. We may assign or subcontract any of Our rights or obligations under these Terms and Conditions without Your prior written consent.

24. THIRD PARTY RIGHTS

These Terms and Conditions do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms.

25. NO PARTNERSHIP OR AGENCY

Nothing in these Terms and Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between You and Us, constitute either party as the agent of the other party or authorise any party to make or enter into any commitments for or on behalf of any other party.

26. NOTICES

26.1. Any notice given to a party under or in connection with these Terms and Conditions shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office, 16 Eaton Avenue, Chorley, PR7 7NA (if a company) or principal place of business (if a business).

26.2. Any notice shall be deemed to have been received:

26.2.1. if delivered by hand, at the time the notice is left at the registered office or principal place of business; or

26.2.2. if sent by pre-paid first class post or other next working day delivery service, at 09:00am on the second business day after posting. For this purpose a business day shall be a day other than a Saturday, Sunday or public holiday when banks in London are open for business.

27. GOVERNING LAW AND JURISDICTION

These Terms and Conditions and any dispute or claim arising out of or in connection with them shall be governed by English law and the parties hereby submit to the exclusive jurisdiction of the courts of England

Schedule 1

Processing, Personal Data and Data Subjects

1. Processing by TG&A

a) Purpose of the processing

For the purpose of the TG&A, third party sub-processors, including the Expert (to the extent that the Expert is acting as a sub-processor), providing Services to the Client.

b) Scope

TG&A is required to process personal data to effectively and promptly provide the Services in order to:

- source and engage an appropriate Expert;
- obtain medical records relating to the Claimant;
- where necessary to perform the Services, to contact the Claimant, arrange visits and to produce the Report
 - For the avoidance of doubt, producing the Report and providing the Services shall be carried out by the Expert as a separate Controller.

c) Duration of the processing

For the Term or until processing of any personal data by TG&A is no longer required by a governmental or regulatory body.

2. Types of personal data

Name, contact details including address and telephone number, date of birth

Special categories of personal data, including but not limited to, medical records and reports

3. Categories of data subject

The Claimant

The Client's fee earners and representatives