

These Terms and Conditions set out the basis on which we will provide you with treatment and advice. In what follows the terms "we", "us" and "our" refer to Midland Fertility Services Limited and "you" and "your" refer to you, the person who will receive the treatment.

We are regulated and licensed by the Care Quality Commission and the Human Fertilisation and Embryology Authority ("HFEA") and operate policies and procedures to ensure compliance with their regulations and codes of practice. It is important that you follow our reasonable instructions and policies in order to maintain such compliance. You may from time to time be asked to complete and sign various consent forms relating to treatments and storage of gametes, embryos, blood serum and follicular fluid.

AGREED TERMS

1. INTERPRETATION

The definitions and rules of interpretation in this condition apply in these terms and conditions (Conditions).

Contract: the Patient's request for the Services and MFS's agreement to provide the Patient with the Services

List of Charges: the fees applied to the Services as per the Patient Finance Information leaflet, the MFS website (including MFS's Cost Estimator) or as individually advised as appropriate.

MFS: Midland Fertility Services Limited (Company No.02160673) whose registered office is at Third Floor, Centre House, Court Parade, Aldridge, West Midlands, WS9 8LT.

Patient: the person(s) who receive Services from MFS.

Patient Finance Information: the patient finance information leaflet detailing generic charges for the Services offered by MFS.

Patient Notes: the notes for the Patient made by MFS during any initial consultation/meeting with MFS and any subsequent consultation/meeting.

Services: the services to be provided by MFS under the Contract and as set out in the Patient Notes, as may be amended from time to time.

2. APPLICATION OF CONDITIONS

2.1 These Conditions shall:

- apply to and be incorporated into the Contract; and
- prevail over any inconsistent terms or conditions contained, or referred to, in any pre-treatment checklist, Patient acceptance of a quotation or other document supplied by the Patient or MFS, or implied by law, trade custom, practice or course of dealing.

2.2 The Patient's request for services, or the Patient's acceptance of a quotation for Services by MFS, constitutes an offer by the Patient to purchase the Services specified in it on these Conditions. No offer placed by the Patient shall be accepted by MFS other than:

- by a written acknowledgement issued and executed by MFS; or
- (if earlier) by MFS starting to provide the Services, when a contract for the supply and purchase of the Services on these Conditions will be established.

2.3 Quotations, in line with the List of Charges, are given by MFS on the basis that no Contract shall come into existence except in accordance with condition 2.2.

3. COMMENCEMENT AND DURATION

3.1 Treatment will not commence until all relevant screening checks have been carried out in respect of the Patient, results are available and MFS are satisfied that the Patient does not have any pre-existing medical condition or other factor that would create an unacceptable risk to them or MFS.

3.2 Treatment will not commence until the Patient has completed the relevant consent forms.

3.3 Self funded treatment will not commence until payment has been received by us in cleared funds.

3.4 Third party funded treatment, including NHS treatment, will not commence until funding has been confirmed to us by the funding party.

3.5 The Services supplied under the Contract shall be provided by MFS to the Patient from the date of acceptance by MFS of the Patient's offer in accordance with condition 2.2.

4. MFS'S OBLIGATIONS

4.1 MFS shall use reasonable endeavours to provide the Services in accordance in all material respects with an appropriate treatment plan as discussed and agreed between the parties and referred to in the Patient Notes.

4.2 For the avoidance of doubt, due to the complex factors that influence the final outcome of the Services, MFS can accept no responsibility in the event that treatment is unsuccessful.

5. PATIENT'S OBLIGATIONS

5.1 The Patient shall:

- co-operate with MFS in all matters relating to the Services;
- provide to MFS, in a timely manner, such information as MFS may require and ensure that it is accurate in all material respects;
- co-operate fully with MFS staff in relation to the Services and ensure any behaviour policies of MFS are adhered to.

5.2 The Patient shall be liable to pay to MFS, on demand, all reasonable costs, charges or losses sustained or incurred by MFS (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Patient's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to MFS confirming such costs, charges and losses to the Patient in writing.

5.3 For the avoidance of doubt, any abusive behaviour or behaviour by a Patient deemed to be inappropriate shall constitute a breach of these Conditions and entitle MFS to terminate the Contract in accordance with Condition 10.

6. APPOINTMENTS

6.1 MFS reserve the right to charge the Patient a reasonable sum should the Patient fail to keep an appointment without having given MFS prior reasonable notice.

6.2 Should MFS need to cancel a Patient's appointment, MFS will give the Patient as much prior notice as possible and will, where possible, reschedule the Patient's appointment.

7. CHARGES AND PAYMENT

7.1 In consideration of the provision of the Services by MFS, the Patient shall pay the charges as set out in the List of Charges

7.2 The total price for the Services shall be the amount set out in the List of Charges, or as agreed between the parties from time to time.

7.3 For the avoidance of doubt, the List of Charges do not include any medication required throughout any treatment and should additional treatment be required, this will be charged in accordance with the List of Charges and will be the subject of a separate Contract.

7.4 The Patient shall pay each invoice submitted to it by MFS, in full and in cleared funds, at least 14 days prior to the commencement of any Services to a bank account nominated in writing by MFS.

7.5 Without prejudice to any other right or remedy that it may have, if the Patient fails to pay MFS on the due date, MFS may cancel or suspend all Services until payment has been made in full.

7.6 MFS reserve the right to review and amend any charges as MFS deem necessary.

7.7 HFEA levies are beyond the control of MFS and may be subject to change. The current HFEA rates will be made available to the Patient when entering into the Contract.

7.8 Time for payment shall be of the essence of the Contract.

8. CONFIDENTIALITY

In all dealings between MFS and the Patient proper standards of medical confidentiality will be maintained and MFS will comply at all times with the requirements of the Data Protection Act 1998 (as amended), the Human Fertilisation and Embryology Act 1990 (as

amended) and the HFEA Code of Practice with regard to the personal information of Patients.

9. LIMITATION OF LIABILITY

9.1 This condition 9 sets out the entire financial liability of MFS (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Patient in respect of:

- any breach of the Contract;
- any use made by the Patient of the Services; and
- any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

9.3 Nothing in these Conditions limits or excludes the liability of MFS:

- for death or personal injury resulting from negligence; or
- for any damage or liability incurred by the Patient as a result of fraud or fraudulent misrepresentation by MFS.

9.4 Subject to conditions 9.2 and 9.3, MFS's total 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 the Contract shall be limited to the price paid for the Services.

10. TERMINATION

10.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

- the other party fails to pay any amount due under the Contract on the due date for payment; or
- the other party commits a breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;

10.2 On termination of the Contract for any reason:

- the Patient shall immediately pay to MFS all of MFS's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, MFS may submit an invoice, which shall be payable immediately on receipt;
- the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

10.3 On termination of the Contract (however arising), the following conditions shall survive and continue in full force and effect:

11. FORCE MAJEURE

MFS shall have no liability to the Patient under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract 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 MFS or any other party), failure of a utility service or transport 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 subcontractors.

12. VARIATION

12.1 MFS may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.

12.2 No variation of the Contract or these Conditions or any of the documents referred to in them shall be valid unless agreed between the parties and documented in the Patient Notes.

13. WAIVER

13.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

13.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

14. SEVERANCE

14.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.

14.2 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

15. ENTIRE AGREEMENT

15.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

15.2 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly provided in the Contract.

15.3 Nothing in this condition shall limit or exclude any liability for fraud.

16. RIGHTS OF THIRD PARTIES

A person who is not a party to the Contract shall not have any rights under or in connection with it.

17. GOVERNING LAW AND JURISDICTION

17.1 The Contract, 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 and Wales.

17.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter or formation (including non-contractual disputes or claims).

I/we have read, understand and accept the above terms and conditions.

Signed _____

Signed _____

For and on behalf of Midland Fertility Services.

Signed _____

