

Terms and Conditions of Smart Hub Supply

September 2019

BACKGROUND

Tunstall has agreed to provide and the Customer has agreed to take and pay for the Smart Hub service provided by Tunstall subject to the terms and conditions set out in this agreement. The terms and conditions set out in this agreement will apply to any supply of Smart Hub and/or the Services (as defined below) to the Customer by Tunstall and all or any other terms and conditions or enquiries (whether in the Customer's order or otherwise) shall be of no effect.

AGREED TERMS

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions.

Agreement: the agreement between Tunstall and the Customer arising from Tunstall's acceptance of an order made by the Customer for the supply of Smart Hubs and associated services and which incorporates these terms and conditions

Authorised Users: those employees, agents, independent contractors and end users of the Customer who are authorised by the Customer to use the Services and the Documentation.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Cloud Service End-User Terms: the terms set out in Schedule 4 for the use by the Authorised Users of cloud computing services required in the provision of the Services.

Cloud Service Provider: the third-party provider of cloud computing services used by Tunstall in the provision of the Services.

Confidential Information: all data and information supplied by either party to the other or the supply of which is procured by either party to the other, whether in the form of written and/or printed documents (including facsimile transmissions), oral communication, data stored on magnetic or electronic media or data communicated over communication lines, including but not limited to information relating to the disclosing party's operations, processes, plans or intentions, production information, know-how, design rights, trade secrets, market opportunities and business affairs.

Connected Smart Hub: a Smart Hub that is connected to the Services in accordance with condition 2.6

Connection Procedure: the procedure for enabling Authorised Users to have access to and use the Services, as the same may be amended from time to time.

Customer: the purchaser of Smart Hubs and/or Service from Tunstall who has entered into the Agreement.

Customer Data: data provided by the Customer, Authorised Users, or Tunstall on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Data Protection Legislation: (i) unless and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is no longer directly applicable in the United Kingdom, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the United Kingdom including the Data Protection Act 2018 and then (ii) any successor legislation to the GDPR, the Data Protection Act 2018 or any other applicable national implementing laws, regulations and secondary legislation.

Documentation: the document made available to the Customer by Tunstall to the Customer from time to time which sets out a description of the Services and the user instructions for the Services.

Effective Date: the date of the Agreement.

Material: means any materials, goods, products, equipment, systems, software, programs or processes, in whatever form, used by Tunstall to provide the Services or supplied by Tunstall to the Client in the performance of the Service, including the Software.

Monthly Subscription Fee: the monthly subscription fee set out in the Schedule of Prices.

Normal Business Hours: 9.00 am to 5.00 pm local UK time, each Business Day.

Personal Data: has the meaning given in the Data Protection Legislation.

Schedule of Prices: the Schedule produced by Tunstall which sets out the prices payable from time to time for the Smart Hub and the provision of the Services.

Services: the services provided by Tunstall to the Customer under these terms and conditions, as more particularly described in the Services Description, as the same may be amended from time to time.

Services Description: the description of the Services set out in Schedule 1

SIM Card: a removable subscriber identity module provided by Tunstall that allows use of the Services when installed and used in the Smart Hub.

SIM Card End-User Terms: the terms set out in Schedule 2 for the use of the SIM Cards by the Authorised Users.

SIM Card Provider: the third party provider of the SIM Cards to Tunstall;

Smart Hub: the Lifeline Smart Hub social alarm device provided by Tunstall;

Software: Tunstall's Device Management Portal (DMP) software and any firmware installed within a Smart Hub;

Subscription Fees: the subscription fees payable by the Customer to Tunstall for the Services, as set out in the Schedule of Prices.

Support Services: means the first line support services provided by Tunstall to the Customer, as more particularly described in Support Services Description in Schedule 3, as the same may be amended from time to time.

Term: has the meaning given in condition 13.1.

Tunstall: means Tunstall Healthcare (UK) Limited incorporated and registered in England and Wales with company number 01332249 whose registered office is at Whitley Lodge, Whitley Bridge, Yorkshire DN14 0HR.

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.

- 1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.
- 1.6 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Agreement.

2. SUPPLY OF SMART HUB

- 2.1 When the Customer wishes to order Smart Hubs it shall do so in writing addressed to Tunstall. Each order shall be a separate offer by the Customer to buy the Smart Hubs on these terms and conditions, which Tunstall shall be free to accept or decline at its absolute discretion. An order shall not be binding unless and until accepted by Tunstall in writing.
- 2.2 No order which has been accepted by Tunstall may be cancelled by the Customer without Tunstall's agreement in writing. If Tunstall agrees to the Customer cancelling an order, the Customer will indemnify Tunstall against all losses (which may include the profits that Tunstall would have made from the order had it not been cancelled) suffered by Tunstall arising out of such cancellation.
- 2.3 All specifications, illustrations, colours, drawings and diagrams in Tunstall's catalogues, trade literature and other published matter are of a generally informative nature and are approximate only

and none of them form part of the Agreement or give rise to any independent or collateral liability of any nature whatsoever on the part of Tunstall and Tunstall shall be under no liability whatsoever for inaccuracies, changes or alterations in dimensions or measurements given, quoted or made by it.

- 2.4 Tunstall reserves the right (but does not assume the obligation) to make any changes in the specification of the Smart Hub and/or the Device Management Portal (DMP) software which are required to conform with any legislation and which do not materially affect the nature or quality of the Smart Hub and/or the Services.
- 2.5 Subject to condition 2.6, title to each Smart Hub shall pass to the Customer only when Tunstall receive payment in full for that Smart Hub. Until title in a Smart Hub in the possession of the Customer has passed to it, the Customer shall ensure that Smart Hub is kept in satisfactory conditions and readily identified as Tunstall's property.
- 2.6 Notwithstanding the provisions of condition 2.5:
- (a) the Customer shall be entitled to connect Smart Hubs in its possession to the Services in accordance with the Connection Procedure and the other terms contained in the Agreement; and
 - (b) the Customer may resell Smart Hubs in the ordinary course of its business (but not otherwise) before Tunstall receives payment for such Smart Hubs. However, if the Customer resells any Smart Hubs before that time:
 - (i) it does so as principal and not as Tunstall's agent; and
 - (ii) title to such Smart Hubs shall pass from Tunstall to the Customer immediately before the time at which resale by the Customer occurs.

2.7

The Customer's right to possession of a Smart Hub before ownership has passed to it shall terminate immediately if any of the circumstances set out in condition 13.2 arise or if the Customer encumbers or in any way charges a Smart Hub, or if the Customer fails to make any payment to Tunstall on the due date. Where such circumstances arise, Tunstall may (without prejudice to any part of its other rights) recover or resell the Smart Hubs or any of them and the Customer grants Tunstall, its agents and employees an irrevocable licence to enter any premises where the Smart Hubs are or may be stored in order to remove them. All costs incurred by Tunstall in repossessing the Smart Hubs shall be borne by the Customer.

- 2.8 Tunstall may maintain any action for the price of the Smart Hubs whether or not ownership in them has passed to the Customer.
- 2.9 For the avoidance of doubt, intellectual property in the firmware contained within the Smart Hubs shall remain within the ownership of Tunstall or its suppliers. Tunstall grants to the Customer a non-exclusive, irrevocable, royalty free licence to use any elements of such firmware.

- 2.10 Risk in the Smart Hubs shall pass to the Customer on completion of delivery. For this purpose, delivery is completed:
- (a) where delivery is performed by Tunstall, once the Smart Hubs have been unloaded at the Customer's place of business or such other delivery address agreed between the Customer and Tunstall; **or**
 - (b) where the Smart Hubs are collected by the Customer or a carrier organised by the Customer, when the Smart Hubs are physically passed between Tunstall and the Customer or the organised carrier (as the case may be)

and the risk of damage to or loss of the Smart Hubs will pass to the Customer at that time.

- 2.11 Tunstall shall be under no obligation to effect insurance of the Smart Hubs once risk has passed to the Customer.
- 2.12 On termination, Tunstall's rights contained in this condition 2 shall remain in effect.
- 2.13 The Smart Hubs will be delivered at the agreed time to the agreed point of delivery
- 2.14 Tunstall may at its discretion deliver the Smart Hubs by instalments in such quantities as it thinks fit. Where delivery is made by instalments, each instalment shall be construed as a separate contract to which all the provisions of these Conditions shall (with any necessary alterations) apply. Tunstall shall unload the Smart Hubs at the Customer's risk.
- 2.15 The Customer shall have no claim whatsoever against Tunstall for any direct or indirect or consequential loss or damage of any kind (including, for the avoidance of doubt, loss of profit, loss of reputation and all interest, penalties and legal costs) arising from any failure to make delivery or any delay in delivery of the Smart Hubs.
- 2.16 Without prejudice to any other rights of Tunstall under these terms and conditions, if the Customer fails to give all instructions reasonably required by Tunstall, or fails to provide all necessary documents, licences, consents and authorities for forwarding the Smart Hubs or otherwise causes or requests delay, Tunstall may charge the Customer for all reasonable storage and other costs of whatever nature incurred or arising from such delay.
- 2.17 Where the Smart Hubs are delivered in a damaged state or there is any shortfall in numbers delivered the Customer shall notify Tunstall in writing within seven days of delivery.
- 2.18 Where the quantity of Smart Hubs delivered is less than that stated in any applicable contract the Customer shall not have any right to reject such Smart Hubs and shall have no right to claim for damages for breach of contract arising from such under delivery. In such circumstances, the Customer will only be obliged to pay at the appropriate contract price for the quantity of Smart Hubs delivered.
- 2.19 Each sub-condition of this condition 2 is separate, severable and distinct. If any of them are for any reason unenforceable, the others shall remain in full force and effect.

3. SERVICES

- 3.1 Subject to the Customer purchasing Smart Hubs in accordance with condition 2 and the other provisions of these terms and conditions, Tunstall hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorised Users to use the Services, the Software and the Documentation during the Term solely for the Customer's internal business operations.
- 3.2 The Customer undertakes that:
- (a) it shall ensure that each DMP User keeps a secure password in respect of the use of the Services and Documentation and shall keep such password confidential;
 - (b) it shall permit Tunstall to audit the Services in order to verify compliance with these terms and conditions. Such audit may be conducted no more than once per quarter, at Tunstall's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;
 - (c) if any of the audits referred to in condition 3.2(b) reveal that the Customer has underpaid Subscription Fees to Tunstall, then without prejudice to Tunstall's other rights, the Customer shall pay to Tunstall an amount equal to such underpayment as calculated in accordance with the prices set out in the Schedule of Prices within 10 Business Days of the date of the relevant audit; and
 - (d) where a SIM Card is supplied by Tunstall to the Customer, it shall comply with the terms of the SIM Card End-User Terms.
- 3.3 The Customer shall comply with such acceptable usage policies as may be notified to it from time to time and shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - (b) facilitates illegal activity;
 - (c) depicts sexually explicit images;
 - (d) promotes unlawful violence;
 - (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - (f) in a manner that is otherwise illegal or causes damage or injury to any person or property.
- 3.4 The Customer shall not:
- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
 - (i) and except to the extent expressly permitted under these terms and conditions, 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

(ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

(b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

(c) subject to condition 21.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or

(d) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this condition 3; and

3.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Tunstall.

4. PROVISION OF SMART HUBS AND SERVICES

4.1 Tunstall shall, during the Term, provide the Services and make available the Software and the Documentation to the Customer on and subject to these terms and conditions.

4.2 Tunstall shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, but the Customer recognises that Tunstall is reliant upon the SIM Card Provider for the supply of SIM Cards and the Cloud Service Provider for the provision of the Services and shall not be required to provide a level of availability that is greater than the level provided to it by the SIM Card Provider or the Cloud Service Provider (as the case may be). The Customer acknowledges that in measuring the availability of the Services, no regard shall be had to:

(a) planned maintenance carried out following the provision to the Customer of at least 48 hours' notice in advance; and

(b) unscheduled maintenance whenever carried out, provided that Tunstall shall use reasonable endeavours to give the Customer at least 6 Normal Business Hours' notice in advance.

4.3 Tunstall will, as part of the Services and at no additional cost to the Customer, provide the Customer with the Support Services during Normal Business Hours. Tunstall may amend the Support Services in its sole and absolute discretion from time to time.

4.4 Tunstall warrants to the Customer that:

(a) Each Smart Hub (but not any SIM Card supplied with it) will be free from defects of workmanship and materials and will remain so for a period of five years from the date of the date of delivery of the Smart Hub to the Customer ("the Warranty Period") and that it will, at its option, repair, replace or refund the purchase price of any such defective Smart

Hub (other than consumable items). For the avoidance of doubt, the Sim Card shall be subject to the warranty referred to in the SIM Card End-User Terms;

- (b) the Services will be provided using reasonable care and skill. Notwithstanding any provision to the contrary, any dates, periods or times specified in Contract are estimates only and time shall not be of the essence for the performance of Tunstall's obligations; and
- (c) Tunstall will supply all parts and materials necessary for the provision of the Services.

4.5 Tunstall shall not in any circumstances be liable for a breach of the warranty contained in condition 4.4(a):

- (a) unless the Customer gives written notice of the defect to Tunstall within seven days of the time when the Customer discovers or ought reasonably to have discovered the defect;
- (b) unless after receiving the notice, the Customer (if asked to do so by Tunstall) returns such Goods to Tunstall's place of business for examination;
- (c) where following the giving of notice under condition 4.5(a) the Customer has made use of the Smart Hub in respect of which it has given such notice;
- (d) where the defect arises because the Customer failed to follow Tunstall's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Smart Hub or (if there are none) good trade practice;
- (e) where the Customer has altered or repaired the relevant Smart Hub without the written consent of Tunstall;
- (f) where the Smart Hub have been used in conjunction with any equipment or materials manufactured or supplied to the Customer by a third party other than Tunstall; or
- (g) where the Smart Hub has been used improperly or outside of their normal application.

4.6 The undertaking at condition 4.4(b) shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Tunstall's instructions, or modification or alteration of the Services by any party other than Tunstall or Tunstall's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Tunstall will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in condition 4.4(b). Notwithstanding the foregoing, Tunstall:

- (a) does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and
- (b) 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 the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

- 4.7 Where a Smart Hub is repaired or replaced by Tunstall any such repaired or replacement Smart Hub shall remain under warranty for any unexpired portion of the Warranty Period.
- 4.8 The Customer's remedies in respect of any claim under the foregoing express warranty or any condition or warranty implied by law or any other claim in respect of the Smart Hubs or any workmanship in relation to them (whether or not involving negligence on the part of Tunstall) shall, in all cases, be limited to repair, replacement, or refund of the purchase price. All warranties, conditions and other terms implied by statute or common law are excluded from these terms and conditions to the fullest extent permitted by law.
- 4.9 A claim in respect of any defect or failure to comply with the specification or in respect of any delivery or instalment or any part of it shall not entitle the Customer to cancel or refuse delivery of or payment for any other delivery or instalment or any part of the same delivery or instalment.
- 4.10 The Customer shall not be entitled to rely on any oral statement or representation made by Tunstall or by Tunstall's employees, agents or servants and the Customer acknowledges that it will only rely on written data and specifications supplied by Tunstall.
- 4.11 All batteries supplied with the Smart Hubs are excluded from the warranty detailed in condition 4.4(a).
- 4.11 Tunstall does not warrant or guarantee, and is not responsible for
defects, failures, damages or performance limitations caused in whole or in part by (A) power failures, surges, fires, floods, snow, ice, lightning, excessive heat or cold, highly corrosive environments, accidents, actions of third parties, or other events outside of Tunstall's control, (B) Customer's or Authorised User's abuse, mishandling, misuse, negligence, improper storage, servicing or operation, or unauthorized attempts to repair or alter the equipment in any way, or (C) the Customer's use of a SIM Card that has not been provided by Tunstall for use with a Smart Hub. The Customer must provide qualified technical personnel to maintain and repair the equipment; or

5. DATA

- 5.1 The Customer shall own all right, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.
- 5.2 If Tunstall processes any personal data on the Customer's behalf when performing its obligations under these terms and conditions, the parties record their intention that the Customer shall be the data controller and Tunstall shall be a data processor and in any such case:
- (a) the Customer acknowledges and agrees that the Personal Data may be transferred or stored outside the EEA or the country where the Customer is located in order to carry out the Services and Tunstall's other obligations under these terms and conditions;

- (b) the Customer shall ensure that the Customer is entitled to transfer the relevant Personal Data to Tunstall so that Tunstall may lawfully use, process and transfer the Personal Data in accordance with these terms and conditions on the Customer's behalf;
- (c) the Customer shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
- (d) Tunstall shall process the Personal Data only in accordance with these terms and conditions and any lawful instructions reasonably given by the Customer from time to time; and
- (e) each party shall
 - (i) comply with all applicable requirements of the Data Protection Legislation. This condition 5.2 (e)(i) is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation;
 - (ii) ensure that it has 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 (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - (iv) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the other party has been obtained and the following conditions are fulfilled:
 - (A) the transferring party has provided appropriate safeguards in relation to the transfer;
 - (B) the data subject has enforceable rights and effective legal remedies;
 - (C) the transferring party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (D) the transferring party complies with reasonable instructions notified to it in advance by the other party with respect to the processing of the Personal Data;
 - (v) assist the other party, at such party's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection

Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators; and

- (vi) notify the other party without undue delay on becoming aware of a Personal Data breach.

6. TUNSTALL'S OBLIGATIONS

- 6.1 Nothing in these terms and conditions or the Agreement shall prevent Tunstall from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under the Agreement.
- 6.2 Tunstall warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

7. CUSTOMER'S OBLIGATIONS

7.1 The Customer shall:

- (a) comply with:
 - (i) the terms of the Connection Procedures when connecting Authorised Users to the Services;
 - (ii) such other reasonable procedures relating to the use of the Smart Hubs and/or the Services as Tunstall shall notify to the Customer from time to time;
- (b) provide Tunstall with:
 - (i) all necessary co-operation in relation to these terms and conditions; and
 - (ii) all necessary access to such information as may be required by Tunstall;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
- (c) comply with all applicable laws and regulations with respect to its activities under the Agreement;
- (d) not use or permit the use of the Services to transmit data that infringes any applicable laws, regulations or third party rights;
- (e) ensure that the Authorised Users use the Services, the Software and the Documentation in accordance with these terms and conditions and shall be responsible for any Authorised User's breach of these terms and conditions;
- (f) obtain and shall maintain all necessary licences, consents, and permissions necessary for Tunstall, its contractors and agents to perform their obligations under the Agreement, including without limitation the Services;
- (g) ensure that its network and systems comply with the relevant specifications provided by Tunstall from time to time. In particular, the Customer shall promptly install and implement

any updates, upgrades, modifications and enhancements to the Software provided to it under the Agreement and acknowledges that any failure to do so could lead to security risks in its use of the Services;

- (h) comply with such reasonable instructions that may be given to it by Tunstall which are necessary for reasons of:
 - (i) health and safety;
 - (ii) quality of the Services;
 - (iii) an emergency; or
 - (iv) ensuring compliance by Tunstall and/or the SIM Card Provider with relevant and applicable EU and/or UK legislation or regulations;
- (i) take reasonable steps to ensure that any end users agree to allow the installation and use of equipment required for the receipt of the Services at their site(s) and prepare and provide a suitable place, conditions and connection points required for such equipment and electricity at such site(s) in accordance with Tunstall's reasonable instructions, if any;
- (j) follow any reasonable instructions given to it by Tunstall (including testing with the latest commercially available virus detection software) to ensure that any software used with or in connection with the Services is not infected by any or any other types of disruptive, destructive or nuisance programs;
- (k) report faults or requests for support only to Tunstall's support team at the number or email address provided from time to time for such purpose, providing such information as Tunstall shall reasonably require to assist it in remedying such faults or providing support in accordance with these terms and conditions;
- (l) be solely responsible for maintaining the security of any equipment connected to the Services; and
- (m) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Services, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

7.2 The Customer acknowledges that Tunstall shall provide some elements of the Services (including, for the avoidance of doubt, the provision of SIM Cards) under standard terms provided by relevant third parties. The Customer agrees to be bound by such terms and to ensure that the Authorised Users are bound under similar obligations. In particular, the Customer agrees to:

- (a) comply with the SIM Card End-User Terms (as the same may be amended from time to time by Tunstall giving no less than 30 days' notice to the Customer);
- (b) comply with the Cloud Service End-User Terms (as the same may be amended from time to time by Tunstall giving no less than 30 days' notice to the Customer); and
- (c) indemnify Tunstall against all such additional fees, costs and charges as Tunstall may incur from a relevant third party by reason of the Customer's termination of the Agreement or

early cancellation of a SIM Card (including, for the avoidance of doubt, any cancellation charges or compensation payable by Tunstall to the relevant third party).

8. CHARGES AND PAYMENT

- 8.1 The Customer shall pay the Subscription Fees for the Services and the purchase price of the Smart Hubs supplied to it to Tunstall in accordance with this condition 8 and the Schedule of Prices.
- 8.2 The Customer shall not dispute any invoice without reasonable cause but if the Customer does dispute an invoice:
- (a) the Customer shall notify Tunstall in writing within 7 days of the receipt of the invoice specifying the reasons for disputing the invoice;
 - (b) the parties shall negotiate in good faith to attempt to resolve the dispute promptly; and
 - (c) if the dispute is resolved in favour of the Customer, Tunstall shall within 7 days of the date of such resolution issue a revised and corrected invoice to the Customer which the Customer shall pay within 14 days of the date of such revised invoice.
- 8.3 All amounts and fees stated or referred to in the Agreement are exclusive of value added tax, which shall be added to Tunstall's invoices at the appropriate rate.
- 8.4 Tunstall may invoice the Customer for price of the Smart Hubs plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery.
- 8.5 Where the Customer has opted to pay the Subscription Fee monthly, Tunstall shall invoice the Customer for the Subscription Fee monthly in arrears. The amount payable under such invoice shall be calculated by multiplying the number of Connected Smart Hubs during the relevant month by the Monthly Subscription Fee.
- 8.6 The Customer shall pay each undisputed invoice within 30 days after the date of such invoice.
- 8.7 If Tunstall has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Tunstall interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of National Westminster Bank PLC from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 8.8 Tunstall shall be entitled to increase the fees payable in respect of additional Smart Hubs purchased pursuant to condition 2 upon 90 days' prior notice to the Customer. Where the Customer has opted to pay the Subscription Fee monthly, Tunstall shall be entitled to increase the Subscription Fees upon 90 days' prior notice to the Customer. In either case the Schedule of Prices shall be deemed to have been amended accordingly.

- 8.9 Where the Customer has used a SIM Card provided by Tunstall in connection with a Smart Hub and such Customer SIM Card exceeds the threshold to “Active” mode notified to it from time to time, Tunstall may charge the Customer at the rates set out in the Schedule of Charges for each month until the service to such Smart Hub is suspended for non-use or until the matter has been rectified in conjunction with the Tunstall support team.

9. PROPRIETARY RIGHTS

- 9.1 The Material shall remain within the ownership of Tunstall. Tunstall grants to the Customer a non-exclusive, irrevocable, royalty free license to use any elements of the Material during the term of this Agreement.
- 9.2 In respect of Material specifically created for the Customer as part of the Services, Tunstall retains full ownership of such Material and any and all of the copyright, other intellectual property rights and any other data or material used or subsisting in the Material whether finished or unfinished.
- 9.3 If any third party intellectual property rights are used in the provision of the Services, Tunstall shall ensure that it has secured all necessary consents and approvals to use such third party intellectual property rights for itself and the Customer.
- 9.4 The Customer acknowledges the right of Tunstall to the return or recovery of the Material on termination of the Agreement and shall perform such acts or provide such assistance as Tunstall may reasonably require to facilitate such return or recovery.
- 9.5 All Material supplied by Tunstall to the Customer shall, at all times, be and remain as between Tunstall and the Customer the exclusive property of Tunstall, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to Tunstall, and shall not be disposed of or used other than in accordance with Tunstall's written instructions or authorisation.
- 9.6 The Customer acknowledges and agrees that Tunstall and/or its licensors (including the SIM Card Provider) own all intellectual property rights in the Services and the Documentation. Except as expressly stated herein, these terms and conditions do not grant the Customer 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 Services or the Documentation.
- 9.7 Tunstall confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, these terms and conditions.

10. CONFIDENTIALITY

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

- (a) is or becomes publicly known other than through any act or omission of the receiving party;
- (b) was in the other party's lawful possession before the disclosure;
- (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
- (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
- (e) 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 the Agreement.
- 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 and conditions.
- 10.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 10.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Tunstall's Confidential Information.
- 10.6 Tunstall acknowledges that the Customer Data is the Confidential Information of the Customer. The Customer acknowledges that it may be necessary for Tunstall to provide Customer Data to the SIM Card Provider for the purpose of the performance of the Services and consents to such provision.
- 10.7 This condition 10 shall survive termination of the Agreement, however arising.
- 10.8 No party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), 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. INTELLECTUAL PROPERTY INDEMNITIES

- 11.1 The Customer shall defend, indemnify and hold harmless Tunstall against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's use of the Services and/or Documentation, provided that:
 - (a) the Customer is given prompt notice of any such claim;
 - (b) Tunstall provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

- (c) the Customer is given sole authority to defend or settle the claim.

11.2 Tunstall shall defend, indemnify and hold harmless the Customer, claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with any claim that the Services or Documentation infringes any patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- (a) Tunstall is given prompt notice of any such claim;
- (b) the Customer provides reasonable co-operation to Tunstall in the defence and settlement of such claim, at Tunstall's expense; and
- (c) Tunstall is given sole authority to defend or settle the claim.

11.3 In the defence or settlement of any claim, Tunstall may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate the Agreement on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

11.4 In no event shall Tunstall, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

- (a) a modification of the Services or Documentation by anyone other than Tunstall; or
- (b) the Customer's use of the Services or Documentation in a manner contrary to the instructions given to the Customer by Tunstall; or
- (c) the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from Tunstall or any appropriate authority.

11.5 The foregoing states the Customer's sole and exclusive rights and remedies, and Tunstall's (including Tunstall's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

12. LIMITATION OF LIABILITY

12.1 Neither Party excludes or restricts in any way its liability under or in connection with the Agreement:

- (a) for death or personal injury caused by its negligence; or
- (b) for fraud or fraudulent misrepresentation; or
- (c) in respect of any other liability that cannot be excluded or limited under any applicable law.

12.2 Subject to conditions 12.1, 12.4 and 12.5, each Party's total aggregate liability to the other under or in connection with the Agreement (whether in contract, tort, under statute, misrepresentation or otherwise, including in each case negligence, and whether or not the Party concerned was advised in advance of the possibility of such loss or damage), shall not, in any circumstances, exceed one

hundred and twenty five percent (125%) of the total value of the charges paid by the Customer to Tunstall in the calendar year in respect of which the claim arises.

12.3 Subject to conditions 12.1, 12.4 and 12.5, neither Party shall be liable to the other (whether in contract, tort, under statute, misrepresentation or otherwise, including in each case negligence, and whether or not the Party concerned was advised in advance of the possibility of such loss or damage), for:

(a) any of the following types of loss or damage whether direct, indirect or consequential howsoever arising under or in connection with the Agreement:

- (i) any loss of profits;
- (ii) any loss of sales or revenue;
- (iii) any loss of anticipated savings;
- (iv) any loss of business opportunity;
- (v) any loss of, or damage to, goodwill;
- (vi) business interruption; or
- (vii) liability to third parties; or

(b) any indirect or consequential loss or damage whatsoever.

12.4 Nothing in this condition 12 or in these terms and conditions shall exclude or limit the Customer's liability to pay (without set off) the charges under the Agreement.

12.5 Each part of this condition 12 operates separately, and if any part of this condition 12 is held by a Court to be unreasonable or inapplicable the rest of this condition 12 shall continue to apply.

12.6 This Condition 12 shall survive expiry or termination of the Agreement.

13. TERM AND TERMINATION

13.1 The Agreement shall, unless otherwise terminated as provided in this condition 12.1, commence on the Effective Date and shall continue until:

- (a) either party notifies the other party by giving 60 days' notice of termination, in writing, in which case the Agreement shall terminate upon the expiry of the notice period; or
- (b) otherwise terminated in accordance with the provisions of these terms and conditions;

and the period from and including the Effective Date until termination shall constitute the **Term**.

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

- (a) the other party commits a material breach of these terms and conditions which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of twenty days after being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in

relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under these terms and conditions has been placed in jeopardy.

13.3 Without affecting any other right or remedy available to it, Tunstall may terminate these terms and conditions with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment.

13.4 On termination of the Agreement for any reason:

- (a) all rights granted under the Agreement shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property and other items (and all copies of them) belonging to the other party;
- (c) the Customer shall return to Tunstall and make no further use of the Software and the Documentation; and
- (d) 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.

14. FORCE MAJEURE

Tunstall shall have no liability to the Customer under the Agreement if it is prevented from or delayed in performing its obligations under it, 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 Tunstall 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 the Customer is notified of such an event and its expected duration.

15. CONFLICT

If there is an inconsistency between any of the provisions of these terms and conditions and the Schedule of Prices, the Connection Procedure, the Services Description or the Support Services Description the provisions of these terms and conditions shall prevail.

16. VARIATION

No variation of the Agreement or these terms and conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17. WAIVER

No failure or delay by a party to exercise any right or remedy provided under these terms and conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18. RIGHTS AND REMEDIES

Except as expressly provided in these terms and conditions, the rights and remedies provided under these terms and conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

19. SEVERANCE

- 19.1 If any provision (or part of a provision) of these terms and conditions is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

20. ENTIRE AGREEMENT

- 20.1 The Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 20.2 Each of the parties acknowledge and agree that in entering into the Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Agreement or not) relating to the subject matter of the Agreement, other than as expressly set out in these terms and conditions.

21. ASSIGNMENT

- 21.1 The Customer shall not, without the prior written consent of Tunstall, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 21.2 Tunstall may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

22. NO PARTNERSHIP OR AGENCY

Nothing in these terms and conditions or the Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

23. THIRD PARTY RIGHTS

These terms and conditions do not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

24. NOTICES

24.1 Any notice, demand or communication in connection with the Agreement shall be in writing and may be:

- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to an email address notified by the receiving party to the sending party for that purpose.

24.2 The notice, demand or communication shall be deemed to have been duly served:

- (a) if delivered by hand, when left at the proper address for service;
- (b) if given or made by prepaid first class post or Special Delivery post, 72 hours after being posted (excluding days other than Business Days);
- (c) if sent by email, where sent before 4:00pm on any Business Day, on the day that the email was sent or, in any other case, on the Business Day following that on which the email was sent.

24.3 This condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

25. GOVERNING LAW

The Agreement 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.

26. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1. Smart Hub Services Description

Lifeline Smart Hub service description

Connected Care ecosystem components

The Lifeline Smart Hub is a Social alarm device that signals to a monitoring centre using either digital (IP) or analogue protocols. The Smart Hub connects to the centre by either using an ethernet connection or a 3G SIM card. It connects to a range of connected care sensors, including a pendant, using a European Social Alarm frequency radio receiver.

The Smart Hub is configured using a secure web-based interface called the Device Management Platform (DMP). The Smart Hub provides data to the portal on a regular basis indicating its status. Over the air(OTA) updates can be applied to the Smart Hubs while in user's homes. These updates will include new features and security updates.

The Smart Hub complies with all the required standards including EN50134-3 Social Alarm Standard for Controllers and EN50134-2 for trigger devices.

Connectivity

Cellular- SIM

The Smart Hub is supplied with a Tunstall Connectivity SIM which provides fully inclusive data and minutes at low cost. The Tunstall Connectivity SIM includes Tunstall help desk support and SIM management. The SIM is locked to ensure it can only be used within the Smart Hub and to avoid misuse. The SIM will provide multi network roaming and if one mobile network should suffer an outage will switch to an alternative network.

There is a monthly fee for the use of the connectivity, which includes the DMP subscription.

The Smart Hub will be delivered with the SIM pre-installed and the SIM phone number will be recorded on DMP.

SIMs will be shipped in an 'activation ready' mode and will automatically switch to 'active' mode when turned on for the first time and usage exceeds the data or voice threshold (1min voice, 500kb data).

There is no limit to how long the SIM is in 'activation ready' mode, there is currently no minimum or maximum contract term. SIM terms may change depending on the Tunstall Connectivity package being provided. Service providers will be invoiced monthly in arrears for all active SIMs in use. For the first month only on activation the monthly charge will be pro rata.

The Tunstall Connectivity SIM can be placed back into 'Activation ready' mode through non-use for over 1 calendar month. SIMs that are not active will not be charged and upon re-use will return to 'active' state and billable.

The SIM can also be 'Deactivated' by request to the Tunstall Support Team, this will make the SIM non-usable, customers will be invoiced for the last month of use.

The Tunstall Connectivity SIM rate plan is designed to provide customers connectivity to the monitoring service, access to DMP and over the air upgrades for a flat rate low monthly fee. Tunstall operates a fair usage policy and reserves the right to increase the basic rate plan if abuse / overuse of the service is detected.

If SIMs are damaged or lost contact the Tunstall support team.

If service providers intend to use their own SIM, then they must remove the Tunstall SIM before replacing with their SIM of choice

SIM specification

- 3G SIM with GSM and GPRS
- Minutes- depends if using in analogue or IP modes, along with call frequency and duration.
- Data- dependent if SIM only or also being used with Ethernet connectivity. Data required for alarm calls, regular communication with DMP and firmware updates.
- SMS – not currently used in the UK

Your SIM provider will provide their APN details that can be used to update your Smart Hubs via the DMP

Using any other SIM will be at your risk and we strongly recommend that you validate your SIM provision for both alarm handling (both 3G and 2G) and connectivity to DMP before operational deployment. Please ensure you purchase sufficient data to allow for over the air firmware updates. These updates will include security patches that protect the integrity of the system for all users. Tunstall cannot be held liable for any failure in performance or functionality and cannot be responsible for resolving any SIM connectivity issues with your provider.

If you who intend to use your own SIM within the Smart Hub you are recommended to remove the Tunstall Connectivity SIM prior to switching on the Smart Hub. Please be aware that if you exceed the threshold to 'Active' mode SIMs will be invoiced for 1month usage and subsequent months until service is suspended by either non-use or contacting the Tunstall support team to request deactivation.

Ethernet connection

The smart hub has an ethernet port which means that by the use of an ethernet cable it can be connected directly to the user's router. In the event of a power or connectivity failure the Smart Hub will , subject to the call sequence created, switch to using the cellular connection for alarm transmission and DMP communication

Device Management Platform(DMP)

DMP is a secure cloud-based service that provides a new way of configuring and managing your Smart Hubs remotely using IP connectivity. It is accessible via most internet connected web browsers, such as Chrome, Microsoft Edge and Safari. It contains no customer personal data and provides management functions only.

Your account on DMP will be created on agreement to these terms and will be sent to you by email. This will allow you to access all the DMP services at a Customer Advanced level and create additional users within your organisation.

The monthly fee includes access to the DMP platform and all the firmware updates. Future firmware will include security patches, enhancements and firmware to enable the future provision of services (the service provision may be separately chargeable)

New Smart hubs

Smart Hubs will be automatically placed in your DMP customer stock district when they are dispatched to you. The DMP platform will show the unique serial number (PRC number) and the phone number associated with the SIM card. Both will be required for your monitoring service.

Status information

Once connected the Smart Hub heartbeats every hour and informs DMP of its status. The status over the last 24 hours can be viewed. Status messages are grouped into four colours green- OK, yellow – caution/warning, red- action needs to be taken, blue – OK with technical status. The DMP can be configured to automatically inform you to changes via email alerts.

Battery status

DMP will display the current battery status as a percentage of capacity for each connected Smart Hub.

Cellular Service

When using the Tunstall Connectivity SIMs, the DMP will display. Telephone Number, ICCID, IMSI and Device IMEI.

Templates

You can create your own standard programming template which would typically include the IP addresses and phone numbers used in the alarm call sequence for your service along with any other settings that you would like to change from the default.

Configuration

In addition to using templates you can individually change each Smart Hub's setting to meet the needs of your customer. For example, event-based configuration where the Smart Hubs behaviour on receipt of a particular alarm can be configured.

Diverse call routing

The Smart Hub can be configured to use IP signalling to the monitoring centre with a fall back to STMF, TT21, TT92 or BS8521 if required. If the monitoring centre is not yet IP enabled, then traditional analogue protocols can be used. If Ethernet connectivity, where used, becomes unavailable the device will can revert to using the cellular route if a suitable call sequence is enabled.

Firmware updates

Tunstall, may make available future Smart Hub Firmware Updates; notification of updates will be distributed to emails registered to users of the DMP. Tunstall strongly recommends that Smart Hubs should be updated and always running the latest version of Firmware. These updates may include bug fixes, feature enhancements or improvements, or entirely new versions of the Software

DMP Update

From time to time, Tunstall may update the Software used by the DMP. These updates may include bug fixes, feature enhancements or improvements, or entirely new versions of the Software. Notification of updates will be distributed to emails registered to users of the DMP.

Service and Support

The Smart Hub is supplied with a five-year return to base warranty. For warranty returns please contact Tunstall CSC on 01977 661234 for a returns number. Support is provided by our Help Desk on 01977 660204

Monitoring Centre

The Smart Hub can communicate with the monitoring centre using a number of different methods

- IP protocols to suitably enabled monitoring centres delivered via the ethernet or 3G cellular connection
- Analogue protocols using the cellular connection

IP Protocols supported	Analogue
IPACS	STMF, TT21, TT92
SCAIP	BS8521

Monitoring centres need to be appropriately configured and you should speak to your supplier prior to using Smart Hub with your customers.

Schedule 2. SIM Card End-User Terms

1. In respect of each SIM Card, the Customer shall:
 - a. Comply with the terms of any communication plan provided to it from time to time detailing the services and networks available to the SIM Card;
 - b. Not use a SIM Card beyond the hard cap on volume notified to it from time to time;
 - c. Keep the SIM Card activated for at least the minimum activation term notified to the Customer at the commencement of the Agreement (if any);
 - d. Test the SIM Card and any device with which it is being used at the intervals and in the manner notified to the Customer from time to time;
 - e. If the Customer wishes to make any claims under the 12 month warranty attached to the SIM Card, ensure that any such claims are made within 12 months of the delivery of the SIM Card to the Customer;
 - f. If required, register with (or ensure that each end user registers with) the SIM Card Provider, select a unique password and user name ("User ID") and provide accurate, complete, and updated registration information. A user may not (i) select or use as a User ID a name of another person with the intent of impersonating that person; or (ii) use as a User ID without appropriate authorisation a name that is subject to any rights of a person other than such user;
 - g. Hold all and any information received in connection with the SIM Card Provider's automated connectivity management platform ("the Platform") in confidence and not disclose, and shall ensure that none of its end users shall disclose, such information to any person or entity who is not bound by the terms of the Agreement; and
 - h. ensure that any end user of the SIM Card:
 - i. complies with and uses the SIM Card in accordance with this Schedule (including any Annex);
 - ii. notifies Tunstall promptly (and confirms in writing) on becoming aware that any SIM Card or any device in which it is installed has been lost or stolen or that any person is making improper or illegal use of such device, the SIM Card or the services provided to the Customer as described in Schedule 1 under the heading "Cellular SIM" ("the SIM Card Services"). The Customer will be responsible for any charges incurred by Tunstall as a result of unauthorised use of any device, or SIM Card, or the information contained within a SIM Card, until Tunstall has received and relayed to the SIM Card Provider a request from the Customer to suspend the SIM Card Services to that device or SIM Card;
 - iii. shall not use the SIM Card Services fraudulently or in connection with a criminal offence or for the purpose of sending unsolicited text messages or any material which is offensive, abusive, indecent, defamatory, obscene or menacing, a nuisance or a hoax or which breaches any person's intellectual property rights or rights of privacy or is otherwise unlawful;
 - iv. complies at all times with such reasonable operational requirements as may be notified to the Customer from time to time;

- v. provides such information relating to the provision of the SIM Card Services as Tunstall may reasonably require, evidencing, to the reasonable satisfaction of Tunstall and/or the SIM Card Provider, the Customer's compliance with its obligations set out in the Agreement including, but not limited to, keeping Tunstall informed (to the extent reasonably relevant to the performance of the SIM Card Services) of the progress of its business with end users;
- vi. shall not directly or indirectly be involved or knowingly recklessly or negligently permit any other person to be involved in any fraud and shall immediately upon becoming aware of any such fraud notify Tunstall and comply with such procedures and rules adopted by or binding on Tunstall and/or the SIM Card Provider from time to time concerning such fraud;
- vii. shall not use any name, trade mark or other designation of Tunstall or the SIM Card Provider including any contraction, abbreviation, or simulation of any of the foregoing in, advertising publicity or marketing activities without the prior written consent of Tunstall or the SIM Card Provider (as the case may be);
- viii. complies with any and all guidelines issued by Tunstall and/or the SIM Card Provider to the Customer in respect of branding and use of trademarks, logos and other such intellectual property in respect of the SIM Card Services;
- ix. shall not use the Platform or related software in any manner that
 - 1. infringes the intellectual property or proprietary rights, rights of publicity or privacy or other proprietary rights of others,
 - 2. violates any applicable law, statute, ordinance or regulation, including but not limited to laws and regulations related to export, spamming, privacy, consumer and child protection, obscenity or defamation, or
 - 3. is harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libellous, or similarly offensive.

Further, users may not add any data into the Platform that may be regarded as personal data. For instance, should the user wish to enter information into the fields "End Customer", the user must ensure that such data in no way can be connected to a private individual;

- x. will not violate or attempt to violate the security of the Platform, including, without limitation,
 - 1. accessing data not intended for such end user or logging into a server or account which such end user is not authorised to access,
 - 2. attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization,
 - 3. attempting to interfere with, disrupt or disable the Platform to any end user, host or network, including, without limitation, via means of overloading, "flooding", "mailbombing" or "crashing",
 - 4. forging any TCP/IP packet header or any part of the header information in any e-mail,
 - 5. taking any action in order to obtain the Platform to which such end user is not entitled, or
 - 6. sending any virus, worm, Trojan horse or other harmful code or attachment.

- xi. consents to the processing of information necessary to provide the Platform at the SIM Card Provider's or its suppliers' data centres;
- xii. shall not, directly or indirectly:
 - 1. reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Platform or any technology related to the Platform ("Technology", including documentation);
 - 2. modify, translate, or create derivative works based on the Platform or Technology;
 - 3. copy (except for reasonable archival purposes), rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Platform or Technology;
 - 4. use the Platform or Technology for timesharing or the Platform bureau purposes or otherwise for the benefit of a third party, except for authorised end users;
 - 5. remove any proprietary notices or labels with respect to the Platform,
 - 6. use the Platform, related software or Technology or access it, as applicable, in order to build a competitive product or the Platform, or
 - 7. build a product or the Platform using similar ideas, features, functions or graphics of the Platform, or copy any ideas, features, functions or graphics of the Platform.
- 2. The Customer acknowledges that:
 - a. the SIM Card Services may be suspended without notification irrespective of whether the Customer or any of its end users are in breach of the terms of this Schedule or otherwise at fault;
 - b. Certain elements of GPRS Bearer, SMS and/or any other bearer services (including 3G, 4G, Circuit Switched Data), which the SIM Card Provider may from time to time provide ("the Bearer Services") are dependent on the Customer having a connected Smart Hub;
 - c. Neither Tunstall nor the SIM Card Provider guarantees the availability of any specific roaming partner or service provider in any part of the coverage area and the Customer acknowledges that any of such roaming partners or service providers are liable to change at any time. If a roaming partner is deemed to be not suitable for any part of the coverage area, the coverage area may be amended or reduced without giving rise to any claims of the Customer whatsoever;
 - d. The SIM Card Services may be temporarily unavailable for scheduled maintenance, either by the SIM Card Provider or by third-party providers. Neither Tunstall nor the SIM Card Provider is liable for any unavailability of the SIM Card Services in such circumstances provided that in the case of any scheduled maintenance, all reasonable endeavours have been used to schedule and undertake such maintenance with as minimal impact on the SIM Card Services as is reasonably possible in the circumstances;
 - e. No warranty is given in respect of any wireless airtime and network capacity ("Airtime"). It is the Customer's responsibility to ensure Airtime on sites where the Customer intends to use the Bearer Services;

- f. Without prior notice, any SIM Card service may be suspended and a SIM Card be disconnected in any of the following circumstances:
 - i. if the Customer fails in any material way to comply with the terms of this Schedule after being given written notice of its failure (including but not limited to failure to pay any sums due under the Agreement) until such failure to comply is remedied; and/or
 - ii. if the Customer fails in any material way to comply with the terms of the Network Communication Policy in the Annex to this Schedule after being given written notice of its failure until such failure to comply is remedied; and/or
 - iii. if the Customer causes anything, which in the reasonable opinion of the SIM Card Provider may have the effect of jeopardising the operation of the cables, exchanges, transmitters, receivers, computer hardware and software, and other equipment and facilities by which the SIM Card Services are provided (excluding equipment owned or used by the Customer and by other users and customers of the SIM Card Services) (“the Network”) or the SIM Card Services, or the SIM Card Services are being used in a manner prejudicial to the interest of the Customer and/or the SIM Card Provider (provided that the Customer is informed as soon as possible of any such suspension); and/or
 - iv. due to an emergency or upon instruction by emergency SIM Card Services or any government or appropriate authority or for the Customer’s own security;
- g. Any SIM Card may be suspended from making calls (other than to the emergency SIM Card Services) and disconnected from the SIM Card Services if Tunstall or the SIM Card Provider has reasonable cause to suspect fraudulent use of the SIM Card or the device in which it is installed, or either are identified as being stolen;
- h. During any period of suspension arising from the circumstances detailed in conditions f. and g. above the Customer shall remain liable for all Charges levied in accordance with the Agreement;
- i. any Service may be varied or modified, as required by legislation or other relevant authority;
- j. Title to, and all intellectual property rights in the software provided in connection with the use of the SIM Card Services (“the SIM Card Software”), associated documents and all parts thereof will be and remain vested in and be the absolute property of the owner of the copyright in the SIM Card Software or associated documents as appropriate, which owner shall be entitled to enforce any of the terms of the Agreement relating to the Customer’s use of that SIM Card Software, associated documents and all parts thereof, directly against the Customer;
- k. nothing in the Agreement will be deemed to or require the SIM Card Provider to transfer, assign or license any intellectual property rights to the Customer;
- l. Tunstall’s liability to the Customer and its end users in respect of all loss or damage arising under or in connection with the supply of the SIM Cards and SIM Card Services to the Customer, whether in contract, tort (including negligence), equity (including restitution), breach of statutory duty, or otherwise, shall be limited to the extent of any limitation within the terms of the agreement between Tunstall and the SIM Card Provider for the supply of the SIM Cards; and

- m. The Service may be temporarily unavailable due to scheduled maintenance or for unscheduled emergency maintenance or because of other causes beyond the SIM Card Provider's or Tunstall's reasonable control. Neither Tunstall nor the SIM Card Provider warrant that the end results obtained as result of using the Platform together with Customer's or an end user's devices and applications or that use of the Platform will be uninterrupted or error free. In particular, Tunstall and the SIM Card Provider disclaim all implied warranties of merchantability and fitness for a particular purpose and non-infringement in respect of the SIM Cards.
- 3. The Customer confirms that it consents to the SIM Card Provider contacting it directly in the event of any termination of the SIM Card Services to enquire whether the Customer requires ongoing provision of the SIM Card Services directly from the SIM Card Provider or another third party with whom the SIM Card Provider has a relationship and confirms that it will obtain the consent of each end user to the SIM Card Provider contacting such end user to communicate the consequences for end users of termination of the Agreement.

Annex

Network Communication Policy

1. PROBLEM STATEMENT

- 1.1. This section, Problem Statement, is included for informational and contextual purposes to support the Network Communication Policy section.
- 1.2. The predicted large scale growth of IoT devices will create major challenges for mobile network operators. One major challenge that mobile network operators must overcome is the risk caused by the mass deployment of inefficient, insecure or defective IoT devices on the mobile network operators' [domestic and roaming] networks. When deployed on a mass scale such devices can cause network signaling traffic to increase exponentially which impacts network services for all users of the mobile network. In the worst cases the mass deployment of such IoT devices can disable a mobile network completely.
- 1.3. IoT devices overusing the mobile network can affect not only the devices causing the incident but also other devices on the same IoT service platform or those devices of other end customers.
- 1.4. Network signaling resources are dimensioned assuming an overall device usage profile with a sensible balance between traffic and signaling needs. It is therefore important that IoT devices using mobile networks adhere to some basic principles before they can be safely connected to mobile networks.
- 1.5. Good design is essential to ensure that IoT Device performance is optimized and to prevent failure mechanisms creating runaway situations which may result in network overload.

2. NETWORK COMMUNICATION POLICY

- 2.1. The Customer is responsible for, and shall assure, that their entire M2M solution including Communication Module, Device, and Customer Backend follow this SIM Card Provider Network Communication Policy.
- 2.2. In the event of a Major Network Disturbance caused by non-compliance with the Network Communication Policy, the SIM Card Provider, at its sole discretion, may temporarily suspend or permanently terminate SIM Cards.
- 2.3. In the event of a Minor Network Disturbance caused by non-compliance with the Network Communication Policy, the SIM Card Provider, at its sole discretion may temporarily suspend SIM Cards.
- 2.4. The Customer undertakes to remedy Device or Customer Backend in the event that they cause Network Disturbances caused by non-compliance the Network Communication Policy. Until such time that the Customer can deploy a remedy to Devices using the Access Service and Roaming Network Services, the SIM Card Provider, at its sole discretion may keep SIM Card(s) suspended and take any actions necessary to ensure the Devices do not negatively impact the Services. The Customer shall bear all costs related to remedying Device and Customer Backend and any associated traffic costs for perform updates to the Device.

- 2.5. The SIM Card Provider reserves the right to charge for any unexpected cost that may occur due to non-compliance with the Network Communication Policy.
- 2.6. The Device, Customer Backend and Device's Communication Module shall in all parts conform to the requirements stated in Device Efficiency Guidelines.
- 2.7. Excluding MSUs generated by SMS traffic, the Device shall, in average, not generate more than:
- 2.8. Ten (10) MSUs per hour for a Device installed in a fixed location.
- 2.9. Twenty (20) MSUs per hour for a Device which is mobile.

3. QUALITY ASSURANCE

- 3.1. All changes to Device and/or firmware shall be tested in a secure environment by the Customer before release. The tests shall, at least, secure that the Network Communication Policy is followed.
- 3.2. The Customer shall inform the SIM Card Provider of planned releases that might affect the network communication behavior.

4. EXCESS SIGNALLING CHARGES

- 4.1. The SIM Card Provider IoT's network communication policy defines what is proper network communication patterns for devices in the network. Devices that deviate from this generate more signalling events than normal and put stress on our network and the networks of our roaming partners. For these mis-behaving devices the SIM Card Provider IoT charges an excess fee, applicable per device per month until the issue causing the mis-behaviour is removed.
- 4.2. Based on normal device behavior we've set a threshold at 10 000 signalling messages per device and month, including SS7, GTP and Diameter events. The excess fee is £0.18 per device + £0.00011 per signalling message above the threshold.

Schedule 3. Support Services Description

The support provided by Tunstall under these terms and conditions comprises:

Level 1 Support

Level 1 support is the end customer facing support level. Level 1 support will be responsible for the following;

- End user queries
- Determining query status
- Basic troubleshooting
- Advising end customers on resolutions

Schedule 4 Cloud Service End-User Terms**1. ACCEPTABLE USE**

- a. The Customer acknowledges that
- b. neither it nor its Authorised Users may use the cloud computing services:
 - i. in a way prohibited by law, regulation, governmental order or decree;
 - ii. to violate the rights of others;
 - iii. to try to gain unauthorised access to or disrupt any service, data, account or network by any means;
 - iv. to falsify any protocol or email header information (e.g., “spoofing”);
 - v. to spam or distribute malware;
 - vi. in a way that could harm the Services or impair anyone else’s use of them;
 - vii. or for any high risk use (where failure or fault of the Services could lead to death or serious bodily injury of any person, or to severe physical or environmental damage).

2. WARRANTIES

- a. The Customer agrees that the cloud computing services provided as part of the Services are subject to limited warranties and that no warranties, whether express, implied, statutory, or otherwise, including warranties of merchantability or fitness for a particular purpose are given in respect of those services except to the extent applicable law does not permit their exclusion. In particular, no warranty is given in respect of any performance or availability issues:
 - i. that arise due to factors outside the Cloud Service Provider’s reasonable control (for example, natural disaster, war, acts of terrorism, riots, government action, or a network or device failure external to the Cloud Service Provider’s data centres, including at the Customer’s or Tunstall’s site or between such sites and the Cloud Service Provider’s data centre);
 - ii. that result from the use of services, hardware, or software not provided by the Cloud Service Provider, including, but not limited to, issues resulting from inadequate bandwidth or related to third-party software or services;
 - iii. that results from failures in a single Cloud Services Provider Datacenter location, when the Customer’s network connectivity is explicitly dependent on that location in a non-geo-resilient manner;
 - iv. caused by the Customer’s use of the cloud computing services after the Cloud Service Provider or Tunstall (as the case may be) advised the Customer to modify its use of such service, if the Customer did not modify its use as advised;
 - v. during or with respect to preview, pre-release, beta or trial versions of a service, feature or software (as determined by the Cloud Service Provider) or to purchases made using Cloud Services Provider subscription credits;
 - vi. that result from the Customer’s unauthorised action or lack of action when required, or from the Customer’s employees, agents, contractors, or vendors, or anyone gaining access to the cloud

- computing services by means of the Customer's passwords or equipment, or otherwise resulting from the Customer's failure to follow appropriate security practices;
- vii. that result from the Customer's failure to adhere to any required configurations, use supported platforms, follow any policies for acceptable use, or the Customer's use of the cloud computing service in a manner inconsistent with the features and functionality of such service (for example, attempts to perform operations that are not supported) or inconsistent with our published guidance;
 - viii. that result from faulty input, instructions, or arguments (for example, requests to access files that do not exist);
 - ix. that result from the Customer's or an Authorised User's attempts to perform operations that exceed prescribed quotas or that resulted from the Cloud Service Provider's throttling of suspected abusive behaviour;
 - x. due to the Customer's use of service features that are outside of associated support windows; or
 - xi. for licenses reserved, but not paid for, at the time of the relevant incident.

3. SUSPENSION

- a. The Cloud Service Provider may suspend the provision of the cloud computing services irrespective of whether the Customer or any of its Authorised Users are in breach of the terms of this Schedule or otherwise at fault. In particular such services may be suspended where:
 - 1. it is reasonably needed to prevent unauthorised access to Customer Data;
 - 2. the Customer fails to respond to a claim of alleged infringement within a reasonable time;
 - 3. the Customer does not pay amounts due under the Agreement for the use of the cloud computing services; or
 - 4. the Customer does not abide by the rules relating to Acceptable Use set out above or violates any other terms of this Schedule

provided that if the Customer does not fully address the reasons for suspension within 60 days after the suspension, the Customer acknowledges that its right to use the cloud computing services may be terminated and its customer data deleted.

4. OTHER

- a. The Customer agrees that the Cloud Services Provider may make changes to the cloud computing services from time to time, including removing any material feature or functionality (excluding previews) following 12 months' notice of such removal, unless security, legal, or system performance considerations require an expedited removal;
- b. The Customer shall promptly notify our Tunstall about any possible misuse of its accounts or authentication credentials (including those of its Authorised Users) or any security incident related to the Services.