

SaaS Platform Subscription Service



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Introduction

Tunstall will provide its call and alarm handling platforms (SaaS through subscription under these terms and conditions.

1. INTERPRETATION

1.1. In this Service Line the following definitions shall apply:

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

Connections: the number of the Customer's Authorised Users connected to the service through Tunstall's software or hardware provision and measured using the equipment unit ID.

Customer: the purchaser of the Service from Tunstall who has entered into the Agreement.

Customer Data: the data relating to the Connections inputted into the information fields of the Software by the Customer or by Tunstall in accordance with the Customer's instruction on the Customer's behalf, including data migrated into the Software in accordance with paragraph 6

Documentation: the documents made available to the Customer by Tunstall which set out a further description of the Service and the user instructions for the Service.

Order Form: the Tunstall form completed by the Customer identifying the Service being ordered by the customer.

Service: the subscription Service to the Tunstall Service Platform (TSP) delivered through SaaS provided by Tunstall to the Customer under this Service Line, as more particularly described in the Documentation.

Regional Account Manager: an authorised individual appointed by Tunstall to act as the Customer's central point of contact.

SaaS: the software applications provided by Tunstall as part of the Service as more particularly described in the Documentation.

Tunstall: Tunstall Healthcare (UK) Limited whose registered office is at Whitley Lodge, Whitley Bridge, Yorkshire DN14 0HR.

Umbrella Terms: Tunstall's SaaS Umbrella Terms and Conditions that are incorporated into the agreement entered into between Tunstall and the Customer and are available for inspection at [www.tunstall.co.uk/SaaS-System-\(PNC\)-Umbrella-terms](http://www.tunstall.co.uk/SaaS-System-(PNC)-Umbrella-terms).

Workstation Licence: the user subscriptions purchased by the Customer which entitle Authorised Users to access and use the Service and the Documentation in accordance with this Service Line.

Virus: anything 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. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.

1.4. Unless the context otherwise requires, a reference to one gender shall include a reference to all genders.

2. SERVICE ADMINISTRATION

2.1. Tunstall shall appoint a Service Delivery Manager, who shall have the responsibility and commensurate authority for the overall performance of the Service and to whom all questions regarding this Service Line can be referred. The contact details of the Service Delivery Manager shall be notified in writing to the Customer.

2.2. The Customer shall appoint and maintain for the duration of the provision of the Service an individual to serve as primary contact with Tunstall for the purpose of the provision of the Service. The name and contact details of the appointed individual shall be notified in writing to Tunstall.

3. WORKSTATION LICENCES

3.1 Subject to the Customer purchasing the Workstation Licences in accordance with paragraph 10.3, the restrictions set out in this paragraph 3 and the other terms and conditions of this Service Line and the Umbrella Terms, Tunstall hereby grants to

the Customer a non-exclusive, non-transferable right to permit Authorised Users to use the Service and the Documentation solely for the customer's internal business operations.

3.2 It is not expected that the Customer's service users (being designated users of the Customer's monitoring or similar Service in whose homes monitoring equipment is usually installed) will access the Service using a Workstation Licence. A Customer service user shall only be entitled to access the Service using a Workstation Licence if such service user has also been authorised by the Customer to be an Authorised User.

3.3 In relation to the Authorised Users, the Customer undertakes that:

3.3.1 the maximum number of Authorised Users that will access and use the Service and the Documentation at any one time shall not exceed the number of Workstation Licences it is entitled to use from time to time;

3.3.2 it shall keep a secure password for each Authorised User and that each such password shall be kept confidential;

3.3.3 it shall permit Tunstall to audit its use of the Service. 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;

3.3.4 if any of the audits referred to in paragraph 3.3.3 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Tunstall's other rights, the Customer shall promptly disable such passwords and Tunstall shall not issue any new passwords to any such individual; and

3.3.5 if any of the audits referred to in paragraph 3.3.3 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 within 10 Business Days of the date of the relevant audit.

3.4 The Customer shall ensure that neither it nor any of its Authorised Users accesses, stores, distributes or transmits any viruses, or any material during the course of their use of the Service 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;

and where Tunstall, acting reasonably, believes that any such thing has occurred or is reasonably likely to occur Tunstall reserves the right, without liability or prejudice to its other obligations to the Customer, to disable the Customer's access to the Service or to any material that breaches the provisions of this paragraph.

3.5 The Customer shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:
 - (i) 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 Service and Documentation in order to build a product or service which competes with the Service and/or the Documentation; or
- (c) use the Service and/or Documentation to provide Service to third parties without the prior written agreement of Tunstall; or
- (d) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Service and/or Documentation available to any third party without the prior written agreement of Tunstall, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Service and/or Documentation, other than as provided under this paragraph 3.

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

3.7 The rights provided under this paragraph 3 are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.

4. ADDITIONAL WORKSTATION LICENCES

4.1 Subject to paragraph 10.2 and paragraph 10.3, the Customer may purchase additional Workstation Licences and Tunstall shall permit Authorised Users to use such additional subscriptions to access the Service and the Documentation in accordance with the provisions of this Service Line and the Umbrella Terms.

4.2 If the Customer wishes to purchase additional Workstation Licences, the Customer shall notify Tunstall in writing using the Order Form.

4.3 If Tunstall agrees to the Customer's request to purchase additional Workstation Licences, the Customer shall, within 30 days of the date of Tunstall's invoice, pay to Tunstall the relevant fees for such additional Workstation Licences and, if such additional Workstation Licences are purchased by the Customer part way through a year, such fees shall be pro-rated for the remainder of the relevant year.

5. SERVICE

5.1 Tunstall shall provide the Service and make available the Documentation to the Customer on and subject to the terms of this Service Line and the Umbrella Terms.

5.2 Tunstall shall use commercially reasonable endeavours to make the Service available 24 hours a day, seven days a week, except for acts, events, omissions or accidents beyond its reasonable control, including strikes, lockouts or other industrial disputes (whether involving the workforce of Tunstall 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 contractors or subcontractors.

5.3 Tunstall will, as part of the Service and at no additional cost to the Customer, provide the Customer with Tunstall's standard customer support service during normal business hours in accordance with Tunstall's Support Service Policy in effect at the time that the services are provided. Tunstall may amend the Support Service Policy in its sole and absolute discretion from time to time.

6. DATA MIGRATION

6.1 This condition 6 shall apply where Customer Data is stored on an existing Tunstall Service platform, or where Tunstall have otherwise agreed in its offer document to the Customer to migrate Customer Data from the Customer's previous data platform.

6.2. Tunstall shall use reasonable efforts to ensure the accurate migration of any Customer Data but gives no warranties as to the completeness or accuracy of such migration where inaccurate data has been provided by the Customer. The Customer shall be responsible for checking the accuracy and completeness of the migrated data and shall promptly give sufficient details to Tunstall of any inaccuracies or omissions arising from Tunstall's errors in performing such migration in order to permit Tunstall to correct them. For the avoidance of doubt, Tunstall shall have no obligation to correct inaccuracies or omissions arising from the supply of inaccurate data by the Customer.

7. CUSTOMER DATA

7.1. The Customer shall own all rights, 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.

7.2. Other than in respect of any data migration carried out by Tunstall in accordance with paragraph 6, the Customer shall be responsible for such migration, transfer, updating or other uploading of Customer Data onto the Tunstall Service platform as is required to enable the use of the Service by the Customer.

7.3. If Tunstall processes any personal data on the Customer's behalf when performing its obligations under this Service Line, it shall do so in accordance with the terms of the Umbrella Terms.

8. THE CUSTOMER'S RESPONSIBILITIES

8.1 The Customer shall:

- (a) provide Tunstall in a timely manner with:
 - (i) all necessary co-operation and assistance in relation to this Service Line, including the provision of and access to such of the Customer's information technology and operational resource as Tunstall may require or the performance of such acts or tasks as Tunstall may reasonably require;
 - (ii) such access to the Customer's premises, systems and data, and such office accommodation and other facilities, as may be required by Tunstall; and
 - (iii) all necessary access to such information as may be required by Tunstall; to enable it to provide the Service;
- (b) have in place appropriate arrangements for a secondary site for business continuity purposes to which communications will be automatically transferred where the Customer's primary site ceases to function for any reason. The Customer acknowledges that Tunstall shall have no liability to the Customer where such arrangements have not been put in place by the Customer and, as a result, the

Customer is unable to receive communications via the call monitoring Service platform.

(c) comply with all applicable laws and regulations (in particular, but without limitation, the Data Protection Act 2018, 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 and then any successor legislation to the GDPR or the Data Protection Act 2018.) with respect to its activities under this Service Line;

(d) carry out all other Customer responsibilities set out in this Service Line or in the Umbrella Terms in a timely and efficient manner. In the event of any delay in Customer's provision of such assistance as agreed by the parties, Tunstall may adjust any timetable or delivery schedule as reasonably necessary and increase its charges accordingly.

8.2 The Customer shall ensure that all data and information provided by it or on its behalf to Tunstall pursuant to the terms of this Service Line (including Customer Data) is free from any Viruses or other material which is malicious or technologically harmful.

9. PROPRIETARY RIGHTS

9.1. The Customer acknowledges and agrees that Tunstall and/or its licensors own all intellectual property rights in the Service. Except as expressly stated herein, neither this Service Line or the Umbrella Terms grants the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Service or any related documentation.

9.2. Tunstall confirms that it has all the rights in relation to the Service that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Service Line.

10. CHARGES

10.1. The Customer shall pay the charges set out from time to time in the Tunstall pricing schedule.

10.2. The initial set up charges are as set out in the pricing schedule and are payable upon completion.

10.3. The Workstation Licence charges as set out in the pricing schedule are annual in advance fees.

10.4. The connection charge in any month will be calculated in accordance with the number of the Customer Connections to the Service. Where the change in connection volume is greater than plus or minus 10% the Customer shall immediately inform Tunstall, such change may affect the volume related charges. Tunstall reserves the right to amend the per connection charge in these circumstances.

10.5. Tunstall shall include with each invoice issued to the customer a written statement setting out how the charges in the relevant month have been calculated, including the number of connections.

