

## 1. INTERPRETATION

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

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

**Customer:** the person who buys or has agreed to buy the Services subject to these terms and conditions.

**Customer Data:** the data inputted into the information fields of the System by the Customer or by Authorised Users of the Customer.

**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.

**Fulfilment:** fulfilment of the completed Referral in accordance with clause 4;

**Referral:** the introduction of a Service User onto the System in accordance with clause 3 of this Service Line.

**Service:** the referrals management and fulfilment service more particularly described in this Service Line and the Documentation.

**Service User:** a designated user of the Service in whose home equipment is normally installed and for whom a Referral has been made by the Customer.

**System:** Tunstall's ICP triagemanager system which is a web-based application which enables clinicians to interpret vital signs readings and health interview responses provided by patients living in their own home, or in a residential care setting.

**Task:** the communication of a request given within the System to perform such actions or respond to such questions as may be specified in the relevant Task.

**Tunstall:** Tunstall Healthcare (UK) Limited whose registered office is at Whitley Lodge, Whitley Bridge, Yorkshire DN14 0HR (Company No. 01332249).

**Umbrella Terms:** Tunstall's umbrella service terms that are incorporated into the agreement entered into between Tunstall and the Customer and published at [www.tunstall.co.uk/telehealth-umbrella-terms](http://www.tunstall.co.uk/telehealth-umbrella-terms).

### 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 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 name and contact details of the appointed individual 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 in accordance with this clause.

## **REFERRAL PROCESS**

2.3. In order to effect a Referral the Customer shall:

- (a) complete the “new enrolment” section on the System with relevant details of the Service User being referred; and
- (b) assign a task on the System to Tunstall indicating the equipment that is to be provided to the relevant Service User.

2.4 The Referral will not be completed and processed by the System until all necessary information fields in the “new enrolment” section have been completed (including the selection by the Customer of the appropriate “question tree”) and all other information required by the System has been submitted to the System by the Customer. Where a Referral has not been completed, Tunstall will assign it back to the Customer to be completed and it shall be the responsibility of the Customer to load all necessary information onto the System to enable the Referral to be completed.

2.5 Following receipt of the Referral from the Customer into the System, Tunstall will review the information contained within the Referral to ensure that it includes all information required to progress to Fulfilment and shall either:

- (a) reassign the task to the Customer for the provision of further or updated information; or
- (b) forward the Referral for Fulfilment.

2.6 For the avoidance of doubt, Tunstall shall have no responsibility to provide notification to the Customer that a Referral has not been completed beyond any notifications shown on the System.

## **3. FULFILMENT**

3.1 Following completion of a Referral in accordance with clause 3, Tunstall shall select and configure equipment for use by the relevant Service User in the receipt of connected health services. Configuration of the equipment shall include loading required software onto the equipment and ensuring that all such equipment is capable of connecting to and operating with the System when installed; and

3.2 Tunstall shall ensure the delivery of the configured equipment to the relevant installation engineer for installation at the Service User’s premises. If Tunstall is not providing installation services to the Customer, risk in the equipment shall pass to the Customer on the earlier of:

- (a) Where the equipment is to be collected by or on behalf of the Customer or its nominated installer, the handover of the equipment at Tunstall’s premises to the Customer’s staff or appointed courier or those of the nominated installer; or
- (b) Where the equipment is to be delivered by Tunstall to Customer or its nominated installer, when the relevant equipment leaves Tunstall’s premises.

## **4. ASSIGNMENT OF TASKS**

4.1 The Customer and Tunstall may from time to time assign Tasks to each other within the System.

4.2 Tasks may only be assigned by the Customer or Tunstall to the other of them by selecting the relevant Task from the drop-down list contained within the System or by completion of the relevant free text box within the System.

4.3 Where a Task has been assigned by one party to the other, it shall be performed within a reasonable time by the party to whom the Task has been assigned, provided that:

(a) Tunstall shall not be required to perform any Task that has been assigned to it by completion of the free text box within the System unless it agrees to the performance of such Task; and

(b) Neither party shall be required to complete a Task assigned to it until such time as the other has provided such reasonable additional information or replied to such reasonable questions as may be specified by the party to whom the Task has been assigned to enable it to complete the Task.

## **5. TUNSTALL'S OBLIGATIONS**

5.1 Tunstall undertakes that the Service will be performed substantially in accordance with the Documentation and with reasonable skill and care.

5.2 The undertaking at clause 5.1 shall not apply to the extent of any non-conformance which is caused by use of the Service contrary to:

(a) Tunstall's instructions; or

(b) the terms of this Service Line and/or the Umbrella Terms, or

(c) modification or alteration of the Service by any party other than Tunstall or Tunstall's duly authorised contractors or agents.

5.3 If the Service does 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 clause 5.1. Notwithstanding the foregoing, Tunstall:

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

5.4 Nothing in this Service Line or the Umbrella Terms shall prevent Tunstall from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or Service which are similar to those provided under this Service Line or the Umbrella Terms.

5.5 Tunstall warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Service Line.

## **6. CUSTOMER DATA**

6.1 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.

6.2 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.

## **7. THE CUSTOMER'S RESPONSIBILITIES**

7.1. 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; and
  - ii. all necessary access to such information as may be required by Tunstall to enable it to provide the Service;
- (b) when requested by Tunstall, in the case of an outage planned as part of the process of performing the Service and on being given reasonable notice, run its monitoring operations from its disaster recovery site for the duration of the planned outage;
- (c) 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.
- (d) comply with
  - (i) such reasonable procedures relating to the use of the Service as Tunstall shall notify to the Customer from time to time;
  - (ii) all applicable laws and regulations (in particular, but without limitation, the Data Protection Act 2018) with respect to its activities under this Service Line;
  - (iii) such reasonable instructions that may be given to it by Tunstall which are necessary for reasons of:
    - (A) health and safety;
    - (B) quality of the Service;
    - (C) an interruption to the Service for:
      - 1. unplanned engineering works due to an emergency; or
      - 2. planned engineering works or service upgrades properly notified under this agreement;
    - (D) an emergency; or
    - (E) ensuring compliance by Tunstall with relevant and applicable UK legislation or regulations;
- (e) 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 Service is not infected by any or any other types of disruptive, destructive or nuisance programs;
- (f) 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 this Service Line and the Umbrella Terms;
- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the System, 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 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, trojans, worms, logic bombs or other material which is malicious or technologically harmful.

7.3 The Customer acknowledges that Tunstall shall provide some elements of the Service under standard terms provided by 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:

(a) To comply with the terms of any contract that Tunstall shall have with a third party provider of goods and/or Service and upon which Tunstall is reliant for the provision of the Service (as the same may be amended from time to time by Tunstall giving no less than 30 days' notice to the Customer);

(b) To indemnify Tunstall against all such additional fees, costs and charges as Tunstall may incur from a third party by reason of the Customer's termination of this agreement or early cancellation of any element of it (including, for the avoidance of doubt, any cancellation charges or compensation payable by Tunstall to the third party); and

(c) Notwithstanding the provisions of clause 9 of the Umbrella Terms, where any liability arises under or in connection with this Service Line or the Umbrella Terms as a result of the acts or omissions of a third party provider, Tunstall's liability to the Customer in respect of such acts or omissions shall not exceed the amounts recoverable by Tunstall from the third party provider.

## **8. PROPRIETARY RIGHTS**

8.1 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.

8.2 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.

## **9. CHARGES**

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

9.2 Tunstall shall include with each invoice issued to the Customer a written statement setting out how the charges have been calculated.

