

Terms & Conditions of Purchase

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Introduction

These terms and conditions together with Tunstall's *Responsible Purchasing Policy* (available on request) form the contract upon which Tunstall purchases goods & services (including digital content) from Suppliers.

1. INTERPRETATION

1.1 Definitions:

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

Conditions: the terms and conditions set out in this document as updated in accordance with clause 2.1 from time to time or as varied in accordance with clause 18.4.

Contract: the contract between Tunstall and the Supplier for the sale and purchase of the Goods and/or the Supply of Services in accordance with these Conditions.

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR (having the meaning given to it in section 3 (10) (as supplemented by section 205(4)) of the Data Protection Act 2018); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery date: the date specified in the Order for the delivery of the Goods and/or Services (as the case may be), or, if none is specified, within 15 days of the date of the Order.

Delivery Location: the address for delivery of Goods as set out in the Order.

Goods: the goods described in the Specification (or any part of them) as more particularly set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings that is provided by Tunstall to the Supplier.



Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: Tunstall's order for the supply of Goods and/or Services, as set out in Tunstall's purchase order form advised to the Supplier from time to time.

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

Services: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Service Specification: the description or specification for Services agreed in writing by Tunstall and the Supplier.

Supplier: the person or legal entity from whom Tunstall purchases the Goods and/or Services.

Tunstall: Tunstall Healthcare (UK) Limited of Whitley Bridge, Yorkshire, DN14 0HR (registered in England and Wales with company number 01332249).

1.2 Interpretation:

(a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

(b) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

(c) a reference to writing or written includes emails.

1.3 Unless the context otherwise requires, any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in England and Wales from time to time including as retained, amended, extended, re-enacted or otherwise given effect on or after 11pm on 31 January 2020.

2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. These Conditions are published at <https://www.tunstall.co.uk/terms-purchase> and periodically updated from time to time and these Conditions shall be deemed to be replaced by any updated Conditions published on the date of the Order.

2.2 The Order constitutes an offer by Tunstall to purchase Goods and/or Services in accordance with these Conditions.

2.3 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing a written acceptance of the Order; and
- (b) the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence.

2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

2.5 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

2.6 Tunstall may amend or cancel an Order in whole or in part at any time before delivery by giving the Supplier written notice. If Tunstall amends or cancels an Order, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Order up until the date of receipt of the notice of amendment or cancellation but such compensation shall not include loss of anticipated profits or any consequential loss. Where the amendment or cancellation results from the Supplier's failure to comply with its obligations under these Conditions Tunstall shall have no liability to the Supplier in respect of it.

3. SUPPLY OF GOODS

3.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Goods Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by Tunstall expressly or by implication, and in this respect Tunstall relies on the Supplier's skill and judgement;
- (c) be free from defects in design, material and workmanship and remain so for 28 months after delivery;

(d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and

(e) be manufactured in accordance with the quality plan/manufacturing workflow document supplied with the Order (if any).

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract, including (for the avoidance of doubt) all necessary intellectual property rights.

3.3 Tunstall may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3.4 If following such inspection or testing Tunstall considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, Tunstall shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and Tunstall may conduct further inspections and tests after the Supplier has carried out its remedial actions.

3.6 The Supplier will, without further liability or cost to Tunstall, during business hours provide telephone and email support as is reasonable in the circumstances to enable Tunstall's proper use and/or application of the Goods.

4. DELIVERY OF GOODS

4.1 The Supplier shall ensure that:

(a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

(b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

(c) if the Supplier requires Tunstall to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.

4.2 Time shall be of the essence for the delivery of the Goods. The Supplier shall deliver the Goods:

- (a) on the Delivery Date;
- (b) at the Delivery Location; and
- (c) during Tunstall's normal business hours, or as instructed by Tunstall.

4.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.

4.4 If the Supplier delivers more or less than the quantity of Goods ordered, and Tunstall accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

4.5 The Supplier shall not deliver the Goods in instalments without Tunstall's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle Tunstall to the remedies set out in clause 6.1.

4.6 Without prejudice to any rights of rejection, title and risk in the Goods shall pass to Tunstall on payment or on completion of delivery whichever is sooner.

5. SUPPLY OF SERVICES

5.1 The Supplier shall from the date set out in the Order (or, if none, the date of the Order) and for the duration of the Contract provide the Services to Tunstall in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by Tunstall.

5.3 In providing the Services, the Supplier shall:

- (a) co-operate with Tunstall in all matters relating to the Services, and comply with all instructions of Tunstall;
- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;

(d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by Tunstall;

(e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;

(f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to Tunstall, will be free from defects in workmanship, installation and design;

(g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;

(h) observe all health and safety rules and regulations and any other security requirements that apply at any of Tunstall's premises;

(i) hold all materials, equipment and tools, drawings, specifications and data supplied by Tunstall to the Supplier (Tunstall Materials) in safe custody at its own risk, maintain Tunstall Materials in good condition until returned to Tunstall, and not dispose or use Tunstall Materials other than in accordance with Tunstall's written instructions or authorisation; and

(j) not do or omit to do anything which may cause Tunstall to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that Tunstall may rely or act on the Services.

6. REMEDIES

6.1 If the Supplier fails to deliver the Goods and/or perform the Services by the Delivery Date, or does not comply with the undertakings set out in clause 3.1 and/or clause 5.3, then, without limiting any of its other rights or remedies, and (in the case of Goods) whether or not it has accepted the Goods, Tunstall may exercise any one or more of the following remedies:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) in the case of Goods,

(i) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;

(ii) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

(iii) exercise a lien over Goods (where title has not already passed to Tunstall under clause 4.6);

(c) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;

(d) to recover from the Supplier any costs incurred by Tunstall in obtaining substitute goods and /or services from a third party;

(e) where Tunstall has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and

(f) to claim damages for any other costs, loss or expenses incurred by Tunstall which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

6.2 These Conditions shall apply to any substituted or remedial services and/or repaired or replacement Goods supplied by the Supplier.

6.3 Tunstall's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

7. MUTUAL OBLIGATIONS

Each party shall:

(a) provide the other with reasonable access at reasonable times to the other's premises for the purpose of providing the Services; and

(b) provide such information as either party may reasonably request for the provision of the Services and either party considers reasonably necessary for the purpose of providing the Services.

8. PRICE AND PAYMENT

8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price calculated in accordance with the price list agreed between Tunstall and the Supplier or, if no such price list has been agreed, Tunstall will pay a reasonable price.

8.2 The price of the Goods:

(a) excludes amounts in respect of value added tax (VAT), which Tunstall shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

(b) includes the costs of packaging, insurance and carriage of the Goods.

8.3 The charges for the Services shall be set out in the Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by Tunstall, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

8.4 No extra charges shall be effective unless agreed in writing with Tunstall.

8.5 The Supplier may invoice Tunstall for price of the Goods on or at any time after the completion of delivery. In respect of Services, the Supplier shall invoice Tunstall on completion of the Services or at such other periods as may be set out in the Order or otherwise agreed in writing by Tunstall. The Supplier shall ensure that the invoice includes the date of the Order, the invoice number, Tunstall's order number, the Supplier's VAT registration number, and any supporting documents that Tunstall may reasonably require, including (in the case of Services) complete and accurate records of the time spent and materials used by the Supplier in providing the Services.

8.6 Tunstall shall pay correctly rendered invoices within such period as may be agreed from time to time or, in default of agreement, 60 days of the month end following receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier.

8.7 All amounts payable by Tunstall under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to Tunstall, Tunstall shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

8.8 If a party fails to make any payment due to the other under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above National Westminster Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.

8.9 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow Tunstall to inspect such records at all reasonable times on request.

8.10 Tunstall may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to Tunstall against any liability of Tunstall to the Supplier.

9. INTELLECTUAL PROPERTY

9.1 The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, and data supplied by Tunstall to the Supplier (Tunstall Materials) and all rights in Tunstall material are and shall remain the exclusive property of Tunstall. The Supplier shall keep Tunstall Materials in safe custody at its own risk, maintain them in good condition until returned to Tunstall, and not dispose or use the same other than in accordance with Tunstall's written instructions or authorisation.

9.2 In respect of the Goods and any goods that are transferred to Tunstall as part of the Services under the Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to Tunstall, it will have full and unrestricted rights to sell and transfer all such items to Tunstall.

9.3 The Supplier assigns to Tunstall, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the Goods and Services (including products of the Services, and for the avoidance of doubt, the Deliverables).

9.4 The Supplier shall obtain waivers of all moral rights in the products of the Services (including for the avoidance of doubt the Deliverables) to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

9.5 The Supplier shall, promptly at Tunstall's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as Tunstall may from time to time require for the purpose of securing for Tunstall the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to Tunstall in accordance with clause 9.3.

9.6 Where the Goods (or any of them) include firmware or any similar software program the Supplier grants to Tunstall, its affiliates and any person to whom the Goods are supplied by Tunstall, a non-exclusive, perpetual, royalty free licence to use such software for any purpose associated with the use and operation of the Goods.

9.7 Tools, gauges, dies, jigs, fixtures, patterns or drawings ("the Tools") specifically made by the Supplier for the purpose of the Contract, whether in whole or part, or supplied by Tunstall to the Supplier for the purpose of the Contract shall be used solely for the manufacture of the Goods and not for any other purpose or for any other customer. Any such Tools shall be kept by the Supplier in good order and

repair and the Supplier shall where they are not already the sole property of Tunstall grant to Tunstall the right to acquire all or any of them or any one or more of them on payment of the written down value of such Tools appearing in the Supplier's books at the date Tunstall exercise such right, provided that the Supplier shall reduce such price by an amount equivalent to the proportion by which any payment made by Tunstall towards the original cost of purchase or manufacture of such Tools bears to such original cost.

10. DATA PROTECTION

10.1 Where it is required to process Personal Data when supplying goods and/or services to Tunstall, the Supplier will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove or replace, the Supplier's obligations under the Data Protection Legislation.

10.2 Without prejudice to the generality of clause 10.1, the Supplier will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data for the duration and purposes of the Contract. The Supplier will promptly provide evidence of such consents and notices to Tunstall upon request.

10.3 Without prejudice to the generality of clause 10.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by it of its obligations under the Contract:

(a) process that Personal Data only in accordance with the law of the United Kingdom or any part of the United Kingdom applicable to the Supplier to process Personal Data (Applicable Laws). Where the Supplier is relying on the law of the United Kingdom or any part of the United Kingdom as the basis for processing Personal Data, it shall promptly notify Tunstall of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying Tunstall;

(b) ensure that it has in place appropriate technical and organisational measures reviewed and approved by Tunstall 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, anonymising 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);

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

(d) not transfer any Personal Data outside of the United Kingdom or European Economic Area (EEA) unless the prior written consent of Tunstall has been obtained, is in accordance with Chapter V of the UK GDPR and the following conditions are fulfilled:

(i) the Supplier has provided appropriate safeguards in relation to the transfer;

(ii) the data subject has enforceable rights and effective legal remedies;

(iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(iv) the Supplier complies with reasonable instructions notified to it in advance by Tunstall with respect to the processing of the Personal Data;

(e) assist Tunstall 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;

(f) notify Tunstall without undue delay on becoming aware of a Personal Data breach;

(g) at the written direction of Tunstall delete or return Personal Data and copies thereof to Tunstall on termination of the Contract unless required by Applicable Law to store the Personal Data; and

(h) maintain complete and accurate records and information to demonstrate its compliance with this clause 10 and allow for audits by Tunstall or Tunstall's designated auditor.

10.4 Tunstall does not consent to the Supplier appointing any third-party processor of Personal Data under the Contract.

10.5.1 The Supplier shall ensure that in relation to any Personal Data transferred to Tunstall under the Contract, that Tunstall has;

(i) the right to anonymise the Personal Data;

(ii) the right to derive data from the Personal Data;

(iii) the right to create from the Personal Data, meta data, linked data, structured data or aggregated data in any shape or form; and

(iv) in relation to the way in which the data under this sub-clause 10.5.1 (i) to (iii) is held by Tunstall, the right to database copyright and all Database rights under Copyright and Rights in Databases Regulations 1997 (SI 1997/3032); and

10.5.2 In so far as any data is created by reason of Tunstall's rights under this clause, all Intellectual Property rights shall vest in Tunstall absolutely.

11. INDEMNITY

11.1 The Supplier shall keep Tunstall indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Tunstall as a result of or in connection with:

(a) any claim made against Tunstall for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods, or receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

(b) any claim made against Tunstall by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

(c) any claim made against Tunstall by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and

(d) any claim, costs, expenses, damages or liabilities suffered or incurred by or made against Tunstall as a result of the Supplier's breach of its Personal Data obligations set out in clause 10

11.2 This clause 11 shall survive termination of the Contract.

12. INSURANCE

During the term of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on Tunstall's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

13. CONFIDENTIALITY

13.1 Subject to the obligations of Confidentiality set out in this clause, the Supplier shall, at its own cost disclose to Tunstall upon request, all technology and materials (including any device or product management software) but only in so far as to enable the Tunstall to re-sell the Goods or Services.

13.2 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

13.3 This clause 13 shall survive termination of the Contract.

14. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

14.1 In performing its obligations under the Contract, the Supplier shall:

(a) comply with all applicable laws, statutes, regulations and codes from time to time in force;

(b) in particular, comply with all applicable laws, statutes, regulations and codes relating to:

(i) anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010; and

(ii) anti-slavery and human trafficking, including but not limited to the Modern Slavery Act 2015. and

(c) Adhere in all respects with Tunstall's 'Responsible Purchasing Policy' as updated from time to time.

14.2 The Supplier shall provide Tunstall with reasonable access at reasonable times to the Supplier's premises for the purpose of ensuring compliance with this clause 14 and provide such consents and information as the Tunstall may reasonably request for the purpose of ensuring compliance with this clause 14.

14.3 Tunstall may immediately terminate the Contract for any breach of clause 14.

15. TERMINATION

15.1 Tunstall may terminate the Contract:

- (a) in respect of the supply of Services, by giving the Supplier one month's written notice;
- (b) in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. Tunstall shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss; and
- (c) in respect of an ongoing contract for the supply of Goods on a call-off basis, by giving the Supplier one month's written notice.

15.2 The Supplier may terminate the Contract by giving Tunstall six months' written notice.

15.3 In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

15.4 Without limiting its other rights or remedies, Tunstall may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 15 days of the Supplier being notified in writing to do so;
- (b) the Supplier 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 Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his 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;

(d) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(e) the Supplier's financial position deteriorates to such an extent that in Tunstall's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

15.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

15.6 Clauses that expressly or by implication survive termination of the Contract shall continue in full force and effect.

16. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason, the Supplier shall immediately deliver to Tunstall all Deliverables whether or not then complete and return all Tunstall Materials. If the Supplier fails to do so, then Tunstall may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

17. FORCE MAJEURE

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from an event, circumstance or cause beyond its reasonable control. If the period of delay or non-performance continues for 12 weeks, the party not affected may terminate this Contract by giving 7 days' written notice to the affected party. The Supplier shall use all reasonable endeavours to mitigate the effect of such events, circumstances or causes on the performance of its obligations.

18. GENERAL

18.1 Assignment and other dealings

(a) Tunstall may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract.

(b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Tunstall.

18.2 Subcontracting. The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of Tunstall. If Tunstall consents to any subcontracting by the Supplier, the Supplier shall remain

responsible for all the acts and omissions of its subcontractors as if they were its own.

18.3 Entire agreement. This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

18.4 Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Tunstall.

19.5 Alternative Dispute Resolution (ADR). In the event of any dispute of whatever nature arising out of any aspect of the Contract, the parties hereby agree to submit the dispute to mediation, expert determination or such other recognised ADR process as they shall agree is appropriate. Within 14 days of one party informing the other that they wish a dispute to be resolved in this manner, the parties shall each provide the name of one suitable third party neutral to conduct or determine the dispute resolution process as appropriate. If within a further 7 days, the parties cannot select from these a mutually acceptable neutral then the decision shall be referred to a director of Tunstall whose decision on an appointment shall be final. The parties agree not be bound by the outcome of ADR under this clause.

