

Tunstall Response Disaster Recovery



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Introduction

In this Service Line Tunstall, will in accordance with the invocation process, engage the call handling service then provide a Response Monitoring Service in the event of a Disaster.

1. INTERPRETATION

1.1. In these terms the following definitions shall apply:

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

Customer Data: the data provided by the Customer of their Social Alarm connections which is required by Tunstall to provide the Response Monitoring Service during the Disaster Recovery Period.

Disaster: an unplanned and unforeseen failure (not including a Force Majeure event) of the Customer's principal Social Alarm monitoring service where no onsite/ local back-up is available including failure of local telephone and electricity (in the event that the onsite UPS and/or generator has also failed); or the evacuation of the Customer's Social Alarm monitoring service centre in the event of flood, fire, gas, bomb warning or other situation in which the emergency services require evacuation that prevent the Customer from conducting its monitoring business.

Disaster Recovery Period: a maximum of 10 hours following any Disaster unless extended by agreement.

Equipment: the Customer's equipment including the Customer's Social Alarm and the Customer's monitoring receiving centre that are compatible with Tunstall's monitoring/receiving centre system.

Response Monitoring Service: the service provided by Tunstall under terms set out at www.tunstall.co.uk/response-monitoring-services as amended by clause 2.4(c), when invoked in accordance with the terms of this Service Line.

Contact: means individual(s) or organisation who have been so named and have given consent to the Customer for Tunstall to contact them, for them to take appropriate action in the event of an activation under any Response Service Line.

Service: the Disaster Recovery specified in Clause 2.

Service Agreement: means a contract entered into between the Customer and a supplier for the maintenance and repair of the Equipment.

Social Alarm: a system providing 24-hour facilities for alarm triggering, identification, signal transmission, alarm reception, two-way speech communication, reassurance and assistance.

Service User: a designated user of the Customer's Response Monitoring Service in whose home Equipment is normally installed.

Tunstall's Response Umbrella Terms: Tunstall's Response Umbrella Terms that are incorporated into the agreement between Tunstall and the Customer for the supply of the Service and available for inspection at www.tunstall.co.uk/response-services-umbrella-terms.

Tunstall: Tunstall Healthcare (UK) Limited, (registered office) Whitley Bridge, Yorkshire, DN14 0HR (Company number 01332249) trading as "Tunstall Response".

Tunstall's Operating Procedures: the operating procedures adopted by Tunstall from time to time for the performance of the Response Monitoring Service.

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. THE SERVICE

2.1. Where invoked in accordance with clause 2.3, Tunstall shall provide a Response Monitoring Service to receive requests for help and assistance from Service Users via the Social Alarm and communicate these requests for help to the Customers and/or Service Users Contact in accordance with this Service Line and Tunstall's Operating Procedures.

2.2. In the event that Tunstall (acting reasonably) determines that the Customer shall have invoked the Response Monitoring Service in circumstances that do not fall within the definition of "Disaster" given in clause 1.1, Tunstall at its discretion, may terminate the provision of the Response Monitoring Service with immediate effect and charge the Customer a fee equal to Tunstall's standard charges for management, supervision, transfer, call handling, administration etc. for the duration of the service provision/event claimed to be a Disaster.

2.3. In the event of a Disaster, the Customer may invoke the Response Monitoring Service by calling Tunstall on the dedicated telephone number provided by Tunstall for the purpose giving the following information:

- a. the Customer's centre name;
- b. the nature of the Disaster; and
- c. the name and telephone number of the appropriate person who is dealing with the Disaster on the Customer's behalf;

but the Customer shall not divert calls to the Tunstall monitoring centre until it has been notified by Tunstall in accordance with clause 2.4b that it may do so.

2.4. Where the Response Monitoring Service has been invoked by the Customer, Tunstall will:

- a. Load the Customer Data onto the Tunstall call monitoring system within a commercially reasonable time;
- b. Upon completion of the loading of the Customer's data, notify the Customer that calls may be diverted to Tunstall's monitoring centre; and
- c. perform its obligations set out at <https://www.tunstall.co.uk/response-monitoring-services> (subject to the variations set out in Schedule 1) using a single operator terminal.

2.5. The Customer acknowledges that;

- a. the Response Monitoring Service is not intended to provide the same level of service as that provided by the Customer's own service and that Tunstall operates a commercial service and has a number of third-party customers entitled to use its Disaster Recovery Service; and
- b. Tunstall Response Disaster Recovery Service is not intended as a substitute for or replacement of the Customer's own business continuity plan.

Accordingly in the event of invocation of the Response Monitoring Service by multiple customers leading to competing requests for use of Tunstall's services, the Customer acknowledges that:

- i) one or more other customers may either have invoked use of or be using the Services at the time of invocation by the Customer;
- ii) Tunstall shall operate in accordance with priorities determined by Tunstall (acting reasonably);
- iii) the Customer shall cooperate with Tunstall; and
- iv) Tunstall shall use its reasonable efforts to provide the Service in accordance with the priorities determined by Tunstall as aforesaid and/or in accordance with its

ability to do so under the circumstances which exist at the time when the request to invoke the Response Monitoring Service is made by the Customer.

2.6. Tunstall will treat all information received by it in relation to any Service User regarding keyholders, Contacts and personal circumstances as confidential.

2.7. When the Response Monitoring Service is called upon by the Customer, it will be carried out by Tunstall for a maximum of 10 hours following any Disaster. The Customer hereby irrevocably authorises Tunstall (without liability or obligation to the Customer and without prejudice to Tunstall's other rights or remedies) to cease the provision of the Response Monitoring Service if for whatever reason the Customer has not done so within such time.

2.8. Following the notification of the end of the Disaster or the expiration of the Disaster Recovery Period detailed at sub-clause 2.7 above, the Customer will either: (a) return to normal operation (b) or invoke its own business continuity plan (not included in this Service Line) to enable monitoring to be carried out via a dedicated business continuity service provider engaged by the Customer.

2.9. Tunstall shall use commercially reasonable endeavours to ensure that the Service is available at all times but does not represent or make any commitment that the Service will be uninterrupted. The Customer acknowledges that there are likely to be business interruptions, including for:

- a. planned maintenance carried out at non-peak times;
- b. regular testing of the Service (or any part of it); and
- c. unscheduled emergency maintenance,

provided that Tunstall will use reasonable endeavours to give the Customer at least 6 business hours' notice in advance of interruptions falling within sub-clause 2.9a and 2.9b.

3. CUSTOMER DATA

3.1. 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.

3.2. Tunstall shall follow its archiving procedures for Customer Data as set out in its Back-up Policy available at <https://uk.tunstall.com/data-backup-policy>. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for Tunstall to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Tunstall in accordance with the archiving procedure described in its Back-up

Policy. Tunstall shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except those third parties sub-contracted by Tunstall to perform services related to Customer Data maintenance and back-up).

3.3. 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 Tunstall's Response Umbrella Terms.

4. THE CUSTOMERS RESPONSIBILITIES

4.1. The Customer shall:

a. provide Tunstall with:

i. all necessary co-operation and assistance in relation to this Service Line; (including assisting in the loading of data on the invocation of the Response Monitoring Service); and

ii. all necessary access to such information as may be required by Tunstall to enable it to provide the Service and the Response Monitoring Service;

b. comply with all applicable laws and regulations (in particular, but without limitation, the Data Protection Act 2018) with respect to its activities under this Service Line;

c. carry out all other Customer responsibilities set out in this Service Line or in the Tunstall's Response 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

d. following invocation of the Response Monitoring Services, comply with its obligations under the Response Monitoring Service terms set out at www.tunstall.co.uk/response-monitoring-services as varied herein.

4.2. The Customer shall have in place a Service Agreement for the Equipment for the entire duration of the period in which the Service is provided to the Customer. In addition, the Service Agreement shall provide a minimum of a 4 hour response at all times to the Customer's monitoring receiving centre for the Equipment referred to herein. Should the Response Monitoring Service be invoked as a result of a failure by the Customer to ensure that all or any part of the Equipment is maintained to a level necessary for its satisfactory operation, Tunstall may make an additional charge to the Customer in respect of the provision of the Response Monitoring Service in such circumstances.

4.3. 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 is free from any viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful.

4.4. The Customer shall not route alarm calls to Tunstall until notified to do so by Tunstall in accordance with clause 2.4b. The Customer acknowledges that Tunstall has no liability for any consequence (including extended invocation time) caused by the Customer's failure to comply with the terms of this clause 4.4 and that the Customer shall indemnify Tunstall against any claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with such failure.

4.5. In the event of a Disaster affecting the Customer, the Customer shall immediately place a request for repair of the affected Equipment with their service provider or implement such other steps as shall be necessary to restore use of the Customer's facility should it suffer a Disaster and shall keep Tunstall informed of the progress in restoring service at the Customer's site. Such information shall include estimated duration of the problem and notification when appropriate personnel arrive on site to rectify the problem.

4.6. The Customer shall seek to use the Service only when a genuine Disaster has occurred. The service is not intended to be a substitute for the Customer's own disaster recovery plans. For the avoidance of doubt the following do not fall within the definition of "Disaster":

- i. Lack of human resources within the Customer's premises;
- ii. Planned works;
- iii. Planned upgrades;
- iv. Maintenance activities;
- v. Minor Equipment failure;
- vi. Effects on or evacuation of the Customer's premises due to meetings, infestation, refurbishment works, building works, cleaning operations etc.; or
- vii. Fire alarm testing.

4.7. The Customer shall provide Tunstall by File Transfer Protocol (FTP) with a weekly up to date copy of the Customer Data.

4.8. The Customer shall have in place appropriate arrangements with their telephone service provider for the diversion of telephone lines to Tunstall and shall invoke such arrangements when notified by Tunstall in accordance with clause 2.4b.

4.9. During the performance of the Response Monitoring Service by Tunstall, the Customer will take all reasonable steps to reduce the number of non-emergency calls (including but not limited to alarm testing, warden on-site and warden off-site calls) using the Response Monitoring Service.

5. PROPRIETARY RIGHTS

5.1. The Customer acknowledges and agrees that Tunstall and/or its licensors own all intellectual property rights in the Service and the Response Monitoring Service. Except as expressly stated herein, neither this Service Line or the Tunstall's Response 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 the Response Monitoring Service or any related documentation.

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

6. CHARGES

6.1 The Customer shall pay the annual retainer for the Service set out in the proposal document or renewal agreement entered into between the Customer and Tunstall or, if no such renewal agreement is entered into, Tunstall's rates prevailing at the time and in all cases, together with any applicable VAT.

6.2 Where the Response Monitoring Service has been invoked in a Disaster, the Customer shall pay an additional charge for Response Monitoring Service for the period during which the Service is provided ('the Disaster fee') at the rate that is set out in the proposal document or renewal agreement entered into between the Customer and Tunstall or, if no such renewal agreement is entered into, Tunstall's rates prevailing at the time together with any applicable VAT.

6.3 Invoice frequency for the Disaster fee: the frequency set out in the proposal document or renewal agreement entered into between the Customer and Tunstall or, if no such renewal agreement is entered into, the month end following the Disaster on a rolling basis.

6.4 Tunstall Response Disaster Recovery Service shall automatically renew unless cancelled before expiration of the existing term and the then current terms available at <https://www.tunstall.co.uk/response-disaster-recovery-and-management->

service shall apply to any renewal period and these terms shall be deemed to be replaced by the said terms.

Schedule 1

Variations to Tunstall Response Monitoring Service terms set out at <https://www.tunstall.co.uk/response-monitoring-services>

The following clauses are deleted;

clause 2.2 (remote release safes); clause 7 (charging);
and
clause 3.3 (archiving data)

The following clauses are amended;

In clause 2.1 after “24 hours a day, 365(6) days a year” insert “available from notification from Tunstall under clause 2.4(b) of Response Disaster Recovery Service terms until notification of the end of the Disaster or the expiration of the Disaster Recovery Period”.



