

Tunstall Healthcare (UK) Limited

TERMS AND CONDITIONS

For the Sale and Supply of Goods and/or Services

1. PRELIMINARY

1.1 In these conditions:

- (a) "**Tunstall**" means Tunstall Healthcare (UK) Limited;
- (b) "**the Customer**" means the person who buys or has agreed to buy the Goods or receive the Services subject to these terms and conditions;
- (c) "**Conditions**" means Tunstall's terms and conditions set out in this document;
- (d) "**Contract**" means a contract between Tunstall and the Customer for the sale and purchase of Goods from Tunstall and/or for the supply of Services by Tunstall, incorporating these Conditions;
- (e) **Data Protection Legislation**: any data protection legislation from time to time in force in the United Kingdom including the Data Protection Act 2018 or any successor legislation and (for so long as and to the extent that the law of the European Union has legal effect in the United Kingdom) the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any other directly applicable European Union regulation relating to privacy.
- (f) "**Goods**" means any item of whatsoever nature or part thereof which is to be sold or supplied by Tunstall;
- (g) "**Intellectual Property Rights**" means patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including without limitation all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
- (h) "**Services**" means the services provided by Tunstall to the Customer pursuant to a Contract;
- (i) "**Warranty Period**" means a period of 12 months commencing on the date of despatch of Goods from Tunstall's premises.

1.2 The headings contained in these Conditions shall not affect the meaning or interpretation of these Conditions.

2. ACCEPTANCE OF ORDERS

2.1 **THESE CONDITIONS SHALL APPLY TO ANY SUPPLY OF GOODS AND/OR SERVICES BY TUNSTALL TO THE CUSTOMER AND ALL OR ANY OTHER TERMS AND CONDITIONS OR ENQUIRIES (WHETHER IN THE CUSTOMER'S ORDER OR OTHERWISE) SHALL BE OF NO EFFECT.**

2.2 When the Customer wishes to order Goods and/or Services it shall do so in writing addressed to Tunstall. Each order shall be a separate offer by the Customer to buy Goods and/or to receive Services on these 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.

2.3 These Conditions and the Contract constitute the entire agreement between Tunstall and the Customer. Any modification to these Conditions will only be binding if made in writing, signed on behalf of Tunstall and containing a specific reference to these Conditions being modified. Tunstall may, at its sole discretion, accept amendments to an order after it has been accepted.

2.4 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 (including, without limitation, loss of profit) suffered by Tunstall arising out of such cancellation.

2.5 No Contract for the supply of Goods shall be a sale by sample unless Tunstall expressly agrees in writing.

2.6 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 any Contract 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.

2.7 Tunstall reserves the right (but does not assume the obligation) to make any changes in the specification of Goods and/or Services which are

required to conform with any legislation and which do not materially affect the nature or quality of the Goods and/or Services (as the case may be).

3. ESTIMATES AND PRICES

3.1 Where requested by the Customer, Tunstall may at its sole discretion provide a price quote to the Customer. Any such quote is valid for a period of 30 days and Tunstall may withdraw it at any time by written notice to the Customer.

3.2 Unless otherwise stated in writing the prices for Goods estimated or quoted by Tunstall are inclusive of basic packaging but are exclusive of freight and insurance charges, charges for delivery, VAT and other applicable taxes, duties or levies of any kind whatsoever, all of which are payable in addition by the Customer.

3.3 The price of Goods shall be the quoted price or, where no price has been quoted, the price listed in Tunstall's price list current at the date of acceptance of the order.

3.4 Prices of Goods are based on, amongst others, the cost of materials, labour, transport, import duties and levies, currency exchange rates and statutory obligations prevailing at the date of Tunstall's acceptance of the Customer's order. If before delivery there occurs any increase, howsoever arising, in the cost to Tunstall of supplying the Goods, including (without limitation) any of the above matters, Tunstall shall be entitled to adjust the price for the Goods by a reasonable amount to take account of such increases.

3.5 Charges for Services may be increased no more than once in any 12 month period by Tunstall giving the Customer written notice of any such increase 3 months before the proposed date of increase.

4. PAYMENT

4.1 The Customer shall pay the price of Goods and/or Services supplied by Tunstall within 30 days of the date of an invoice for the same issued by Tunstall. The time of payment shall be of the essence of any Contract

4.2 Without limiting any other right or remedy of Tunstall, if the Customer fails to make any payment due to Tunstall by the due date for payment, Tunstall shall have the right at its sole discretion:

(a) to disapply any discounts applied to in respect of the charges; and

(b) to charge interest on the overdue amount at the rate of 4% per annum above the current base rate of the Bank of England accruing on a daily basis from the due date for payment of the overdue amount.

4.3 Tunstall may (at its absolute discretion) refuse to make delivery of any further consignment of any Goods or withhold the Services or make a charge at the Fee Rates or cancel any Contract, either in whole or part, by notice in writing to the Customer without incurring any liability to the Customer for any loss caused by such refusal or cancellation:

(a) where any payment is overdue at a time when performance of the Services or the delivery of any Goods is required;

(b) where access for provision of the Services or delivery of the Goods cannot be obtained at the relevant time for such performance or delivery;

(c) where in the Tunstall's reasonable opinion access for provision of the Services or delivery of the Goods cannot be exercised safely; or

(d) in such other circumstances (if any) listed in the Contract.

4.4 All payments due to Tunstall under a Contract shall become due immediately on its termination regardless of any other provision.

4.5 VAT shall be added to the price of the Goods and/or Services at the prevailing rate.

4.6 The Customer shall pay all amounts due under these Conditions or any Contract in full without any deduction or withholding except as required by law and shall not be entitled to assert any credit, set off or counterclaim against Tunstall in order to justify withholding payment of any such amount in whole or in part.

5. TRANSFER OF PROPERTY

5.1 Goods shall remain the sole and absolute property of Tunstall as legal and beneficial owner and Tunstall reserves the right to dispose of such Goods until such time as payment is received by it in full for all Goods and/or Services subject to an order and all other sums which are or become due to Tunstall from the Customer on any account. Until ownership in Goods has passed, the Customer shall

(a) hold the Goods on a fiduciary basis as Tunstall's bailee;

(b) store the Goods (at no cost to Tunstall) in satisfactory conditions and separately from all the Customer's other Goods or those of a third party, so that they remain readily identifiable as Tunstall's property;

- (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
 - (d) keep the Goods insured on Tunstall's behalf for their full price against all risks with a reputable insurer to the reasonable satisfaction of the Tunstall and hold the proceeds of such insurance on trust for Tunstall and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
 - (e) keep the Goods in its possession properly maintained in the same condition they were in when delivered to it and shall make good any damage or deterioration.
- 5.2 Notwithstanding the provisions of Condition 5.1, the Customer shall be entitled to install Goods in its possession in accordance with Tunstall's installation instructions or manuals.
- 5.3 The Customer's right to possession of the Goods before ownership has passed to it shall terminate immediately if any of the circumstances set out in condition 11.2 arise or if the Customer encumbers or in any way charges the Goods, 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 Goods or any of them.
- 5.4 The Customer grants Tunstall, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them (including, for the avoidance of doubt, premises where the Goods have been installed), or where the Customer's right to possession has terminated, to remove them. All costs incurred by Tunstall in repossessing the Goods shall be borne by the Customer.
- 5.5 Tunstall may maintain any action for the price of Goods whether or not ownership in them has passed to the Customer.
- 5.6 Where the Goods include firmware, intellectual property in such firmware shall remain within the ownership of Tunstall. Tunstall grants to the Customer a non-exclusive, irrevocable, royalty free licence to use any elements of such firmware.
- 5.7 Each sub-Condition of this Condition 5 is separate, severable and distinct. If any of them are for any reason unenforceable, the others shall remain in full force and effect.

6. RISK AND INSURANCE

- 6.1 Subject to Condition 5, Goods are at the Customer's sole risk (and the Customer shall be under a duty to insure the Goods to their full value against all risks to the reasonable satisfaction of Tunstall) from the first point in time of any of the following:
- (a) the passing of property to the Customer in accordance with Condition 5 above; or
 - (b) the physical delivery of the Goods by Tunstall to the Customer's place of business or to such other third party premises as the Customer shall have directed; or
 - (c) the physical delivery of the Goods to the Customer's carrier or to an independent carrier for the purpose of transmission to the Customer or his nominee; or
 - (d) the physical delivery of the Goods to the Customer at Tunstall's premises.
- 6.2 Tunstall shall be under no obligation to effect insurance of the Goods once risk has passed to the Customer.
- 6.3 On termination, Tunstall's rights contained in Conditions 5 and 6 shall remain in effect.

7. DELIVERY OF GOODS

- 7.1 Goods will be delivered at the agreed time to the agreed point of delivery
- 7.2 Tunstall may at its discretion deliver Goods 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 Goods at the Customer's risk.
- 7.3 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 Goods.
- 7.4 Without prejudice to any other rights of Tunstall under these 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 Goods or otherwise causes or requests delay, the Customer shall pay to Tunstall all reasonable storage and other costs of whatever nature incurred or arising from such delay.
- 7.5 Where Goods 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. Where the quantity of Goods delivered differs from that stated in any applicable contract the Customer shall not have any right to reject such Goods and shall have no right to claim for damages for breach of contract. In such circumstances, the Customer will only be

obliged to pay at the appropriate contract price for the quantity of Goods delivered.

8. WARRANTY

- 8.1 Tunstall warrants to the Customer that:
- (a) the Goods are free from defects of workmanship and materials and will remain so for the Warranty Period and that it will, at its option, repair, replace or refund the purchase price of any such defective Goods (other than consumable items);
 - (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 Service.
- 8.2 Tunstall shall not in any circumstances be liable for a breach of the warranty contained in condition 8.1(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 the Customer has made use of the Goods in respect of which it has given written notice under condition 8.2(a);
 - (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 Goods or (if there are none) good trade practice;
 - (e) where the Customer has altered or repaired the relevant Goods without the written consent of Tunstall;
 - (f) where the Goods 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 Goods have been used improperly or outside of their normal application.
- 8.3 Where Goods are repaired or replaced by Tunstall any such repaired or replacement Goods shall remain under warranty for any unexpired portion of the Warranty Period.
- 8.4 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 Goods 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 Conditions and any Contract to the fullest extent permitted by law.
- 8.5 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.
- 8.6 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.
- 8.7 All batteries supplied with the Goods are excluded from the warranty detailed in this Condition 8.

9. LIMITATION OF LIABILITY

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION 9

- 9.1 Tunstall shall not be liable for any loss or damage to the Customer arising by reason of the Services (or any Goods) being temporarily unavailable as a result of any cause whatsoever and shall not be responsible in any circumstances for any indirect or consequential loss or damage however arising (including but not limited to loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of use or loss or corruption of data or information) which the Customer may sustain in connection with the Goods and/or Services.
- 9.2 Nothing in these conditions excludes or limits the liability of Tunstall for death or personal injury caused by Tunstall's negligence, or for fraud or any other matter for which it would be unlawful for Tunstall to exclude or attempt to exclude its liability.
- 9.3 All warranties conditions, and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from any Contract.
- 9.4 If Tunstall's performance of its obligations under a Contract is prevented or delayed by any act or omission of the Customer or failure by the Customer to perform any relevant obligation, Tunstall shall not be liable

- for any costs charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention, delay or failure and, without limiting its other rights or remedies, Tunstall shall have the right to suspend delivery of Goods or the performance of the Services until the prevention delay or failure has been remedied and to rely on such prevention delay or failure to relieve it from the performance of any of its obligations so affected.
- 9.5 Tunstall shall not be liable for any indirect or consequential loss arising from the non-delivery of Goods or the non-performance of the Services including (for the avoidance of doubt) loss of profits, loss of business, loss of anticipated savings, loss of goods, loss of contract, loss of use or loss or corruption of data or information.
- 9.6 Without prejudice to condition 9.2, Tunstall's total liability arising under or in connection with a Contract shall be limited to shall be limited to one hundred and twenty five per cent (125%) of the total charges paid and/or payable by the Customer under such Contract.
- 9.7 The Customer shall (and shall procure that any third party to whom any Goods may subsequently be supplied shall) comply with all instructions of Tunstall and any other manufacturer in relation to the fitting, installation, service and use of the Goods and, notwithstanding such compliance, the Customer shall indemnify and keep indemnified Tunstall fully and effectually against all costs, claims, demands, expenses and liabilities of whatsoever nature and wheresoever arising, including, without prejudice to the generality of the foregoing, claims for damage to property and consequential loss (including loss of profit) which may be made against Tunstall or which Tunstall may sustain, pay or incur arising out of or in connection with the supply, fitting, installation or use of the Goods except to the extent that Tunstall is prevented by law from avoiding such liability.
- 10 INTELLECTUAL PROPERTY AND CONFIDENTIALITY**
- 10.1 The Customer acknowledges that all Intellectual Property Rights used by or subsisting in the Goods or arising from the performance of the Services are and shall remain the sole property of Tunstall or (as the case may be) the third party owner of those rights and the Customer shall not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.
- 10.2 Tunstall shall retain the property and copyright in all materials, drawings, data and other documents supplied to the Customer in connection with a Contract and it shall be a condition of such supply that the contents of such items shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of Tunstall.
- 10.3 Except as may be allowed by law, the Customer shall not (and shall not permit any third party to) copy, adapt, reverse engineer, decompile, disassemble, modify, or make error connects to all or any firmware contained within the Goods in whole or in part
- 10.4 The Customer shall not at any time disclose to any person any confidential information disclosed to it concerning the business or affairs of Tunstall, including but not limited to information relating to Tunstall's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers (**Confidential Information**), provided that the Customer may disclose Confidential Information:
- to its employees, officers, agents, consultants or sub-contractors who need to know such information for the purposes of the supply, fitting, installation or use of the Goods and shall ensure that such persons are subject to confidentiality obligations corresponding to those in this Condition; and
 - as may be required by law, court order or any governmental or regulatory authority.
- 10.5 This Condition 10 shall survive termination of a Contract, howsoever arising.
- 11. TERMINATION**
- 11.1 Tunstall reserves the right to determine a Contract at any time on giving seven days' notice in writing to the Customer and Tunstall shall not be obliged to give any reason for determining such Contract in this manner.
- 11.2 Without prejudice to Condition 11.1 Tunstall may determine a Contract forthwith if the Customer:
- has made any material misstatement in the particulars supplied to Tunstall from time to time;
 - fails to pay any sums payable under any Contract (or under any other agreement between Tunstall and the Customer) in full within 14 days after such sums have become due (whether demanded or not);
 - commits a material breach of any of the other terms or conditions (whether express or implied) of a Contract (or of the terms and conditions of any other agreement previously mentioned);
 - if any distress, execution, or other legal process is levied on or against the Goods or any part of the Goods, or against any premises where the Goods are, or against any of the Customer's Goods or other property, or the Customer permits any judgment against it to remain unsatisfied for seven days;
 - if the Customer, being an individual, dies, suffers an interim order (within the meaning of the Insolvency Act) to be made against him or enters into a voluntary arrangement or suffers the making of a statutory demand or the presentation of a petition for a bankruptcy order;
 - if the Customer, being a body corporate, enters into any liquidation, calls any meeting of its creditors, or has a receiver or administrative receiver appointed over all or any of its undertaking or assets, or suffers the appointment or the presentation of a petition for the appointment of an administrator under the provisions of Part II of the Insolvency Act, or is deemed by virtue of Section 123 of the Insolvency Act to be unable to pay its debts; or
 - being an individual suffers from mental disorder and either:
 - the Customer is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or, in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
 - an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for the Customer's detention or for the appointment of a receiver, curator bonis or other person to exercise power with respect to the Customer's property or affairs.
- 11.3 The Customer may terminate a Contract:
- by not less than 90 days written notice if, where having been notified of an increase in Tunstall's charges, it notifies Tunstall within one month of such notification that it wishes the Contract to be terminated; or
 - by 30 days written notice if Tunstall has not performed or is unable to perform the Services or deliver the Goods (as the case may be) for a period of three months or more.
- 12. FORCE MAJEURE**
- Tunstall reserves the right to defer the date of delivery, or to cancel a Contract or reduce the amount of Goods to be delivered or Services to be performed, or to extend the time or times for delivery or otherwise performing such Contract by a period at least equivalent to that during which such delivery or performance has been extended by any of the following events if it is prevented from or delayed in 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.
- 13. ASSIGNMENT AND SUBCONTRACTORS**
- 13.1 The Customer or Tunstall shall not assign or transfer or purport to assign or transfer any Contract or the benefit thereof to any person whatsoever.
- 13.2 Tunstall shall be entitled to subcontract any work relating to a Contract without obtaining the consent of, or giving notice to, the Customer.
- 14. DATA PROTECTION**
- 14.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Condition 14 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 14.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Tunstall is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).
- 14.3 Without prejudice to the generality of Condition 14.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Tunstall for the duration and purposes of the provision of the Goods and/or Services.
- 14.4 Without prejudice to the generality of Condition 14.1, Tunstall shall, in relation to any Personal Data processed in connection with the performance by Tunstall of its obligations under any Contract:
- process that Personal Data only on the written instructions of the Customer unless Tunstall is required by the laws of any member of the European Union or by the laws of the European Union applicable

- to Tunstall (for so long as and to the extent that they apply to Tunstall) or by the Data Protection Legislation or any other law that applies in the United Kingdom to process Personal Data (**Applicable Law**);
- (b) 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);
- (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 European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or Tunstall has provided appropriate safeguards in relation to the transfer;
- (ii) the data subject has enforceable rights and effective legal remedies;
- (iii) Tunstall 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) Tunstall complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) assist the Customer, at the Customer'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;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the provision of the Services 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 Condition 14.
- 14.5 The Customer consents to Tunstall appointing a third-party processor of Personal Data under any Contract. Tunstall confirms that it will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this Condition 14.
- 14.6 Tunstall shall have no liability to deliver the Services in respect of any data transmitted or processed in connection with the Services which is lost or sufficiently degraded as to be unusable.
- 14.7 The Customer agrees to indemnify and keep indemnified Tunstall against all claims, costs, expenses, damages or liabilities suffered or incurred by Tunstall as a result of the Customer's withdrawal or amendment of instructions given in accordance with condition 14.4(a).
- 15. CONSUMER SALES**
Nothing in these Conditions or in any Contract shall affect the statutory rights of any person dealing with Tunstall as a consumer.
- 16. HEALTH AND SAFETY**
16. The Customer agrees
- 16.1. to comply with any information or any revisions to such information supplied to it by Tunstall relating to the use for which the Goods are designed or have been tested or the conditions necessary to ensure that the Goods will be safe and without risk to health at all times when they are being set, used, cleaned or maintained by any person at work or when they are being dismantled or disposed of;
- 16.2. to ensure that its employees and agents comply with the information and revised information referred to in Condition 16.1;
- 16.3. to take such steps as may be specified by the above information to ensure that, as far as reasonably practicable, the Goods will be safe and without risk to health at all times as mentioned above;
- 16.4. that it will pass on to any person to whom it supplies the Goods any information supplied to it pursuant to Condition 16.1 and shall be solely responsible for ensuring that such persons are adequately informed and trained in the use of the Goods; and
- 16.5. to indemnify and keep indemnified Tunstall against all claims, costs, expenses, damages or liabilities suffered or incurred by Tunstall as a result of the Customer's failure to comply with its obligations and responsibilities under this Condition 16.
- 17. NOTICES**
- 17.1 Any notice or other communication to be given under a Contract must be in writing and may be delivered by hand or sent by prepaid first class letter post or email.
- 17.2 Any notice or document shall be deemed served:
- (a) if hand delivered, at the time of delivery;
- (b) if posted, 48 hours after posting; and
- (c) if sent by email, where sent before 4:00pm on any working day, on the day that the email was sent or, in any other case, on the working day following that on which the email was sent
- provided that this Condition 17 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.
- 18. INVALIDITY**
If any Condition (or part of a Condition) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other Conditions shall remain in force.
- 19. THIRD PARTY RIGHTS**
A person who is not party to a Contract shall have no right under the Contracts (Right of Third Parties) Act 1999 to enforce any term of the Contract. This Condition does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 20. DELAY AND WAIVER**
- 20.1 Failure or delay by Tunstall in enforcing or partially enforcing any provision of these Conditions shall not be construed as a waiver of any of its rights under a Contract.
- 20.2 Any waiver by Tunstall of any breach of, or any default under, any provision of these Conditions by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of a Contract.
- 21. DISPUTE RESOLUTION**
If any dispute arises in connection with the Service Agreement, directors or other senior representatives of the parties with authority to settle the dispute will, within fourteen days of a written request from one party to the other, meet in a good faith effort to resolve the dispute. If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.
- 22. SPECIAL CONDITIONS**
- 22.1 Communication Costs**
The supply of the Goods does not include connection to an approved telecommunications service. Where the Goods supplied require connection to such a service the Customer is wholly responsible for arranging such connection and for payment of the costs of such connection.
- 22.2 Standards**
Where any Goods are classified as a medical device (as defined in Regulation (EU) 2017/745 of 5 April 2017) the Customer shall
- (i) comply with all statutory and regulatory requirements in connection with the use of the Goods;
- (ii) keep adequate records of medical devices to ensure that each item's location is known at any point in time; and
- (iii) maintain each such medical device in accordance with the manufacturer's recommendations
- and where equipment is returned to Tunstall under the terms of warranty or repair the Customer shall ensure that it has been cleaned in accordance with the Medicines and Healthcare Products Regulatory Agency requirements prior to return.
- 22.3 Calibration**
The supply of Goods does not include the cost of any necessary calibration required during or following expiration of the Warranty Period.
- 22.4 Harmful Substances**
The Customer acknowledges that Tunstall has not inspected the properties at which the Services are to be performed and as a consequence Tunstall may recover from the Customer any additional costs arising from the presence at such properties (or any of them) of any materials, substances or organisms which alone or in combination with others is capable of causing harm (including radioactive substances and materials containing asbestos) and which require the performance

of additional works (whether by Tunstall or a third party) to make the properties (or any of them) safe for the performance of the Services. The Customer further acknowledges that Tunstall shall not be liable for any failure or delay in the performance of the Services arising as a result of the discovery of any such materials and/or the performance of any associated works of rectification.

22.5 Anti-Bribery/ Anti- Slavery

Tunstall confirms that it shall:

- (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; and

- (b) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

23. LAW

All Contracts, and any non-contractual disputes or claim arising out of such a Contract, shall be governed by and construed in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the English courts.