

## TERMS OF CONTRACT WITH THE TINNITUS & HEARING CLINIC GOODS AND SERVICES

### 1. PLEASE READ CAREFULLY BEFORE SIGNING

- 1.1 This document forms part of the contract between The Tinnitus Clinic Limited (“we”/ “us”) and you, our patient (“you”). Please read these terms (“Terms”) carefully. By signing these Terms you are stating that you agree to them. Please also read the Customer Order Form (“Customer Order Form”) carefully and sign. This includes details of the goods and treatment we are to provide you with. By signing this form you agree to the order you are making.

### 2. OUR CONTRACT WITH YOU

- 2.1 These terms (“Terms”), together with the details of the treatment set out in any Customer Order Form signed by you are all of the terms of our contract with you for the supply of services and (where applicable), goods (“Contract”). The Contract is formed upon you signing the Terms and the Customer Order Form.
- 2.2 All terms implied by law and which we may by law exclude, are excluded from the Contract. Other than the Contract and Terms which are implied by law and which cannot by law be excluded by us, there are no other terms included in this Contract. Any statements made by our employees or representatives are not terms included in this contract unless they are included in the Customer Order Form and you agree that you have not relied upon any such statements when entering into the Contract. Goods supplied under a Contract shall be as described in the Customer Order Form, but any other brochures are not a part of the Contract.
- 2.3 Please ensure that you read and understand these Terms before you sign the Customer Order Form, because you will be bound by the Terms once a Contract comes into existence between us, in accordance with Clause 2.1. The goods (“Goods”) and services (“Services”) which we will provide to you are those described in the Customer Order Form and will be provided to you personally and not to any other person.

### 3. WHAT WE NEED FROM YOU

- 3.1 You understand that the Services we provide aim to reduce and help to manage your symptoms.
- 3.2 You agree that you have told us about all relevant medical issues which you are now suffering from or have in the past suffered from, and all medication which you are taking. You agree that if, whilst we are treating you, you suffer any significant medical issues, take a course of medication or are given medical treatment you will inform us of this. You understand that this information is important because we take it into account when designing an appropriate treatment for you.
- 3.3 If any of these Terms are inconsistent with the Customer Order Form, the Terms shall prevail.
- 3.4 We have the right to revise and amend these Terms from time to time to reflect changes in market conditions affecting our business, changes in technology, changes in payment methods and changes in relevant laws and regulatory requirements. If the revision affects your Contract, we will notify you in writing of these changes before applying them. These changes will not however allow us to perform the Contract in a manner which is substantially different from what you reasonably expected or to not perform our obligations in the Contract at all or to exclude or restrict any of our liability for our own breach of the Contract.
- 3.5 We understand unexpected events may mean you need to change an appointment date. You must give us at least 48 hours notice if you need to postpone an appointment or we may charge you and we may ask for payment in advance of any rescheduled appointment which we arrange for you.
- 3.6 You agree that we may write to your GP or other physician treating you to ask for relevant medical information about you and/ or to provide them with relevant medical information. Where you do not agree to us writing to your GP or other physician, we may not agree to treat you. Whether or not we have contacted your GP we cannot be held liable for any effects or damage which arise as a result of our not having been fully informed about any of your medical condition(s).

#### **4. OUR PROMISES TO YOU - OUR SERVICES**

- 4.1 We will provide Services, carried out with reasonable care and skill and comply with all applicable statutory and regulatory requirements for supplying the Services in the United Kingdom. We operate our clinic to the Care Quality Commission standards and our staff will treat you with courtesy and respect. In the unlikely event that the Services do not conform with the Contract, let us know as soon as possible after we have carried them out. We agree that we will listen to your concerns and at our discretion will either provide you with a full or partial refund; or re-perform the Services using a different staff member.
- 4.2 Except where the law requires otherwise this refund or re-performance will be your only remedy where Services are not properly performed as we have agreed that they should be. This does not affect your statutory rights.
- 4.3 Our audiologists are registered with the Registration Council for Clinical Physiologists (RCCP) or with The Health Professions Council (HPC) and operate within the professional standards of the RCCP or HPC, as applicable. Our doctors are specialists in audiology and otology, registered with the UK's General Medical Council, and work within its code of Good Medical Practice.
- 4.4 Appointment dates and times will be kept by us, unless circumstances beyond our control prevent us from doing so. If we are unable to keep an appointment, we will let you know as soon as possible and will rearrange the appointment for the earliest possible date that is convenient for you.
- 4.5 These Terms will apply to any replacement Services we supply to you.

#### **GOODS**

- 4.6 Where we supply you with Goods we have the rights necessary to ensure that, once you have paid us for them, we can give you the right to possess and own the Goods; they will be fit for their purpose; and they will be of satisfactory quality.
- 4.7 Goods will be delivered to you at our premises or at your home if we are treating you remotely, unless we agree otherwise. If you are not able to attend our premises, or to receive the goods, so we can test the Goods on you within six (6) months of the date of the Customer Order Form, then the contract will terminate, your rights to receive the Goods and to the Services will terminate, and we will have the right to dispose of the Goods at our discretion. If we receive a refund from the manufacturer for the Goods, then we will pay this to you. We will refund to you sums you have paid for Services which you have not received, less the amount of £500 as an administration charge. After testing the Goods with you, we may determine that they are not in fact suitable for you. If this happens we will cancel the Customer Order Form for the Goods and refund the purchase price to you.
- 4.8 Consumable items such as batteries included as part of Goods supplied to you and which need to be replaced from time to time, are to be replaced by you at your own cost. Where we supply you with Goods which as provided to you do not meet the requirements of the Contract or any terms implied by law, if you return them to us, we will repair or replace them at our discretion. Except where the law requires otherwise and except as provided in Term 7.3, this repair or replacement will be your only remedy where Goods do not comply with the terms of the Contract. This does not affect your statutory rights.
- 4.9 Once we have supplied the Goods to you following our testing their suitability for you and if you have paid the full purchase price in cleared funds for them whether personally or through a consumer credit arrangement, then the Goods will be your responsibility and we recommend these should be insured by you for their replacement value in case of accident or loss. We will not be responsible for damage occurring after the Goods have left our premises. Damage to Goods should be reported to us so that we can check that the Goods are functioning properly.

#### **HEARING AIDS**

- 4.10 Where the Goods include a hearing aid then, at any time up to the date six (6) weeks from your first fitting, you may return the hearing aid to us for a refund. The fitting charge of £500 for all Hearing Aids and Combination Devices is VAT exempt and non-refundable. This does not affect your statutory rights or your rights under Term 4.6 for defective Goods. Replacement batteries and repairs of aids are not included in the price of hearing aids.

#### **LENIRE**

- 4.11 Where the Goods include a Lenire© System there is a three year warranty on the device and 12 months warranty on the tongue tip. There is no trial period provided for the device, however if there is a negative event arising from your use of the device, then we will investigate this and with the agreement of the manufacturers, they may agree to a return of the device. If the device return is agreed, we will refund the price you paid less a fitting charge of £500. This does not affect your statutory rights or your rights under Term 4.6 for defective Goods.

### **RETURNING GOODS**

- 4.12 You are responsible for Goods being returned to us and we recommend returns should be made by hand or via a reputable courier which provides insurance to the full replacement value. Any refund made to you will be available within 14 working days of our agreement to refund and once the goods have been returned and checked by us. Where you have used consumer credit, then our partner Klarna Ltd will return any monies due to you.
- 4.13 Where treatment and goods have been paid for under medical insurance and we agree with your request to a refund, you will be entitled to a refund only for any device and appointments which you have paid for personally.

### **INTELLECTUAL PROPERTY RIGHTS**

- 4.14 All patents, copyright, design right and all other intellectual property rights in any materials and other documents or items that we prepare or produce for you in connection with the Services or the Goods will belong to us absolutely. You may not use the Goods or any materials, documents or other items purchased from us for any commercial purpose or for any other person because they are provided to you personally.

## **5. PRICE AND PAYMENT**

- 5.1 The price of the Services and any Goods (or the price of them combined) will be as set out in the Customer Order Form and will include applicable VAT as detailed on the Customer Order Form.
- 5.2 If the rate of VAT changes between the date of the Customer Order Form and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Services or Goods in full before the change in the rate of VAT takes effect. If you are registered disabled and exempt from VAT, we can provide you with an exemption certificate and remove any VAT which would otherwise be payable.
- 5.3 We will invoice you for the Services and Goods once you have signed the Customer Order Form. You must pay the invoice in cleared monies, either credit card, debit card, cash or put in place an agreed consumer credit agreement before we provide you with the Services and Goods. Without limiting any other remedies or rights that we may have, if you do not pay us on time, we may cancel or suspend any or all Contracts with you. This means that we may not perform Services and provide you with Goods until you have paid all outstanding amounts, under any Contract.

## **6. LIMITATION OF LIABILITY**

- 6.1 Subject to Term 6.2, 6.3 and 7, if either of us fails to comply with these Terms, neither of us shall be responsible for any losses that the other suffers as a result, except for those losses which we or you could reasonably foresee would result from the failure to comply with these Terms.
- 6.2 Subject to Term 7.3, neither of us shall be responsible to the other for the following losses, whether in contract, tort (including negligence), breach of statutory duty or otherwise:
- (a) indirect losses; consequential losses; loss of income or revenue; (b) third party claims; (c) loss of business; (d) loss of anticipated savings; or ( e ) loss of an opportunity.
- 6.3 No Term, including without limitation this Term 6, shall exclude or limit in any way our liability for:
- (a) death or personal injury caused by our negligence; or
  - (b) fraud or fraudulent misrepresentation; or
  - (c) any breach of the obligations implied by the Sale of Goods Act 1979 or of the Supply of Goods and Services Act 1982 and in respect of which obligations the law prohibits us from so limiting or excluding our liability; or
  - (d) losses where the Consumer Protection Act 1987 prohibits us from so limiting or excluding our liability for those losses; or
  - (e) any other matter for which it would be illegal or unlawful for us to so limit or exclude or attempt to so limit or exclude our liability.

- 6.4 Subject to Term 6.2, 6.3 and 7, our liability to you for breach of contract or tort (including negligence) or breach of statutory duty shall be limited to:
- (a) in the case of a failure in our provision of Services, the sums that you have paid to us in respect of those Services. This is on the basis that you will be able to use this sum to pay a different provider for equivalent Services; and
  - (b) in the case of loss or damage to physical property whilst at our premises, the sum of £5000 which is the amount we have estimated is the maximum value of property we might reasonably foresee to be on your person whilst you attend our premises; and
  - (c) where Goods cause loss or damage to physical property other than at our premises, the sum of £5 million which is the amount which we have insured for these purposes.

## **7. EVENTS OUTSIDE OUR CONTROL**

- 7.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Terms that is caused by events outside our reasonable control ("Force Majeure Event"). A Force Majeure Event includes any act, event, non-occurrence, omission or accident beyond our reasonable control and includes, in particular (without limitation), the following:
- (a) strikes, lock-outs or other industrial action; or
  - (b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war; or
  - (c) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster; or
  - (d) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport; or
  - (e) impossibility of the use of public or private telecommunications networks or electricity or gas networks.
- 7.2 Our obligations under these Terms are suspended for the period that the Force Majeure Event continues, and we will extend the time to perform these obligations for the duration of that period. We will take reasonable steps to bring the Force Majeure Event to a close or to find a solution by which our obligations under these Terms can be performed despite the Force Majeure Event.

## **8. TERMINATION**

- 8.1 Once you have signed or accepted the Customer Order Form/ treatment quote a Contract is made between us and you cannot terminate this Contract unless we fail to provide the Goods or Services to you within a reasonable time, except where that failure is due to your unavailability for appointments. If you fail to pay any sums payable pursuant to a Customer Order in cleared funds, then we shall have the right to not provide you with the Goods or Services stated in the Customer Order Form and we may terminate the Contract. Termination will not affect either party's outstanding rights or duties, including our right to recover from you any money you owe us under these Terms.

## **9. PERSONAL CONTRACT**

- 9.1 The Contract is personal to you. We provide Services and Goods only to and for you. You cannot transfer your rights under the Contract to any other person. The Goods are not to be used by any other person. We can transfer all or any of our rights and obligations under these Terms to another organisation, but this will not affect your rights under these Terms.

## **10. NOTICES**

- 10.1 All notices sent by you to us must be sent to: The Tinnitus Clinic at 86 Harley Street, London, W1G 7HP or [info@thetinnitusclinic.co.uk](mailto:info@thetinnitusclinic.co.uk). We may give notice to you at either the e-mail or postal address you provide to us.
- 10.2 Notice will be deemed received and properly served 24 hours after an e-mail is sent or three days after the date of posting of any letter to the UK or seven days after the date of posting of any letter to any other address. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that the letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that the e-mail was sent to the specified e-mail address of the addressee.

**11. DATA PROTECTION**

11.1 We will only use, store and transfer the personal information you provide to us as reasonably necessary to provide the Services, receive payment of the Finance through Klarna Ltd, or to inform you about similar services which we provide and information relevant to your condition, unless you tell us that you do not want to receive this information. We will not pass or sell your data to third parties. All personal information will be processed in accordance with applicable privacy laws.

**12. GENERAL**

12.1 If any court or competent authority decides that any of the provisions of these Terms are invalid, unlawful or unenforceable to any extent, the term will, to that extent only, be severed from the remaining terms, which will continue to be valid to the fullest extent permitted by law.

12.2 If we fail, at any time while these Terms are in force, to insist that you perform any of your obligations under these Terms, or if we do not exercise any of our rights or remedies under these Terms, that will not mean that we have waived such rights or remedies and will not mean that you do not have to comply with those obligations. If we do waive a default by you, that will not mean we will automatically waive any subsequent default by you. No waiver by us of any of these Terms shall be effective unless we expressly say that it is a waiver and we tell you so in writing.

12.3 Any variation of these Terms or any Contract can only be made in writing and signed by you and one of our authorised representatives. A person who is not party to these Terms shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.

12.4 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

12.5 The Tinnitus Clinic Ltd reserves the right to utilise your treatment outcome results, whether quantitative or qualitative, for producing peer reviewed articles in scientific journal publication. This will only apply to treatment that the company has been directly involved in providing and any data utilisation will be entirely anonymised.

**TERMS OF CONTRACT WITH THE TINNITUS CLINIC LIMITED FOR SERVICES AND GOODS**

I confirm I have read and understood the Terms of Contract stated above:

Customer Name: .....

Address: .....

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Signature: ..... Date: .....

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Clinician name and signature: ..... Date: .....

Administrator name and signature: ..... Date: .....

Patient Reference No: .....