



TilliT Service Terms

These terms apply where you (**End User**) have been supplied with access to TilliT services (**Services**) by a distributor (**Distributor**) of TilliT Pty Ltd (**TilliT**).

Permission to access and use the Services is conditional upon you, the customer, agreeing to the terms set out below. The Services are only offered to you on condition that you read and accept all the terms of this document and wish to become an end user of the Services. By using or accessing the Services, you are considered to have accepted the terms set out in this document. If you do not agree with or otherwise do not wish to accept the terms set out in this document, do not use or access the Services.

1. Services

- (a) TilliT will provide the End User with the Services in the manner specified in the End User's agreement with the Distributor, on the terms and conditions set out in that agreement and this document.
- (b) The End User is only entitled to use the Services:
 - (i) in the manner, to the extent and for the period specified in its agreement with the Distributor, and in accordance with any usage limits so specified; and
 - (ii) if all fees charged by the Distributor in respect of the Services have been fully paid.

The End User is not permitted to use the Services in any other circumstances, and, except as set out in this document, the End User does not have any right or entitlement to access or use the Services, or permit others to do so.

2. End User's obligations

The End User hereby undertakes the following obligations:

- (a) to not copy, reproduce, translate, adapt, vary, modify, decompile, reverse-engineer, disassemble, or attempt to derive the source code of any software used in the Software without the express consent of TilliT, except as expressly authorised by this agreement or Pt III Div 4A of the *Copyright Act 1968* (Cth);
- (b) to supervise and control the use of the Services in accordance with the terms of this licence;
- (c) to ensure its employees, sub-contractors and other agents who have authorised access to the Services are made aware of the terms of this licence;



- (d) to not provide or otherwise make available the program in any form to any person other than those referred to in paragraph (c) without the written consent of TilliT;
- (e) to not use the Services for or in connection with a service bureau operation;
- (f) to only use the Services, and ensure that its employees, sub-contractors and other agents only use the Services in accordance with the normal operating procedures and instructions as notified by TilliT (including as specified in any accompanying technical documentation); and
- (g) to comply with all applicable laws and regulations in connection with the use of the Services.

3. Copyright

- (a) TilliT retains all right, title and interest to all intellectual property rights subsisting in the Services, including software used to deliver the Services.
- (b) The End User acknowledges that software used to deliver the Services and any documentation associated with the Services are the subject of copyright. The End User will not during or any time after the expiry or termination of this licence permit any act which infringes that copyright.
- (c) The End User will indemnify TilliT fully against all liabilities, costs and expenses which TilliT may incur to a third party as a result of the End User's breach of the copyright provisions of this licence.

4. Updates

- (a) The terms of this document (as amended pursuant to clause 12) will govern any updates or modifications made to the Services by TilliT (**Updates**), unless such an Update is accompanied by separate terms supplied by TilliT in which case those terms will govern to the extent provided for.
- (b) The End User acknowledges and agrees that TilliT:
 - (i) is under no obligation to provide any Updates (subject to any express agreement between the End User and the Distributor);
 - (ii) can offer optional paid Updates; and
 - (iii) can provide Updates in such a manner that the Services are unable to be reverted to its previous state.

5. Restrictions

The End User agrees that it will not (and will ensure that its employees, sub-contractors and other agents do not):

- (a) attempt to disrupt the normal operation of the Services, or any infrastructure operated by TilliT or other business activities of TilliT;
- (b) attempt to gain unauthorised access to the Services; or
- (c) use the Services in connection with the actual or attempted contravention of any applicable laws.

6. Support

The End User understands, acknowledges and agrees that:

- (a) TilliT will not be obliged to support the Services, whether by providing advice, training, error-correction, modifications, updates, new releases or enhancements or otherwise; and
- (b) any such requests that TilliT may have must be directed to the Distributor.

7. Third party software and services

The End User acknowledges and agrees that:

- (a) it may be required to use certain third party software (for example, operating systems, or any custom software developed by the Distributor) or services (for example, an internet connection) in order to access or use, or continue to access or use the Services;
- (b) use of third party services may be subject to fees and separate terms and conditions, and you acknowledge that TilliT is not liable for the activities of any such third parties; and
- (c) it must comply with any applicable third party terms of agreement when using the Services.

8. Security

- (a) The End User is solely responsible for its use of the Services, and for supervising, managing and controlling use of the Services by its employees, sub-contractors and other agents.

- (b) The End User must comply, and must ensure that its employees, sub-contractors and other agents comply, with any security regulations, procedures or directions which may be notified by TilliT from time to time in respect of the access and use of the Services.
- (c) Unfortunately, no data transmission or storage can be guaranteed as totally secure. Whilst TilliT strives to protect data, it does not warrant and cannot ensure the security of any data used in connection with the Services.
- (d) The End User must take its own precautions to ensure that the process which it employs for accessing the Services does not expose it to the risk of viruses, malicious computer code or other forms of interference which may damage their devices. For the removal of doubt, TilliT does not accept responsibility for any interference or damage to devices which arises in connection with use of the Services.
- (e) The End User is responsible:
 - (i) for protecting the confidentiality of any passwords, certificates and other access credentials associated with any of the Services; and
 - (ii) for any activities engaged in using those access credentials, whether or not such access is authorised.

9. End User Data

9.1 Licence

- (a) The End User grants to TilliT a perpetual, irrevocable, worldwide, royalty-free, fee-free, sub-licensable licence to use, reproduce, modify, communicate and otherwise deal with any materials or data submitted to or otherwise collected by TilliT as part of providing the Service (**End User Data**) for the purpose of delivering the Service.
- (b) Nothing in this agreement transfers ownership of any intellectual property rights in the End User Data to TilliT.
- (c) The End User warrants that:
 - (i) it is entitled to provide the End User Data to TilliT;
 - (ii) it has all necessary right and title to grant the licence set out in clause 9.1(a); and
 - (iii) the End User Data, and exercise of the licence set out in clause 9.1(a) by TilliT, does not, and will not, infringe the intellectual property rights of any third party.

9.2 Privacy

- (a) TilliT agrees that it will not use or disclose any personal information contained in the End User Data for any purpose except:
- (i) in order to operate the Services and otherwise meet its obligations under these terms;
 - (ii) in exercising its rights under the licence granted at clause 9.1;
 - (iii) as directed by the End User in using the Services;
 - (iv) as otherwise directed by the End User; or
 - (v) with the consent of the individual to whom the personal information relates.
- (b) Where:
- (i) the End User Data contains any personal information; or
 - (ii) the End User otherwise provides TilliT with, or with access to, any personal information in the course of the Services,
- the End User warrants that, under applicable laws:
- (iii) it is entitled to disclose such personal information to TilliT;
 - (iv) TilliT is entitled to collect such personal information; and
 - (v) TilliT is entitled to use and disclose such personal information in accordance with clause 9.2(a).

9.3 Technical and anonymised data

The End User agrees that TilliT may, in addition to any other rights under these terms, collect, store, use, disclose and otherwise exploit:

- (a) technical data about the devices used in conjunction with the Services;
- (b) data about use of the Services or particular functions of the Services;
- (c) any other data in a form that does not personally identify individuals (which may include aggregated or otherwise de-identified versions of End User Data),

for such purposes as TilliT sees fit, including to monitor and improve its products and services, and may continue to do so following termination or expiry of these terms.

9.4 Consents

The End User must obtain any consents (which may include, without limitation, consents for TilliT to access, use, store and disclose End User Data) required in order for:

- (a) the End User to provide the End User Data to TilliT; and
- (b) allow TilliT to deal with the End User Data in the manner permitted by these terms.

9.5 Indemnity

The End User will at all times indemnify and keep indemnified TilliT, and each of TilliT's officers, employees, representatives and agents (**those indemnified**) from and against any claims made against, or loss incurred by, any of those indemnified where such claim or loss arises out of, in connection with, or in respect of any of the warranties given by the End User under clause 9.1(c) or 9.2(b) being false, misleading or inaccurate.

9.6 Retention

TilliT is under no obligation to retain the End User Data, or any other data supplied by or associated with the End User, after cessation of the Services or the expiry or termination of these terms and such data can be irrevocably deleted by TilliT.

10. Term

- (a) The End User may use the Services for such period as specified in its agreement with the Distributor.
- (b) Notwithstanding anything in any agreement between the End User and a Distributor, TilliT may revoke access to the Services at any time if the End User:
 - (i) is in breach of any term of these terms;
 - (ii) being a firm or partnership, is dissolved; or
 - (iii) is overdue any payment to the Distributor in respect of the Services.
- (c) Upon expiry or termination, the End User must cease to access the Services.
- (d) Termination or expiry of these terms pursuant to this clause will not affect any rights or remedies which TilliT may have otherwise under these terms or at law.
- (e) Nothing in this clause limits any right TilliT may have pursuant to this document to modify the Services by way of Update.

11. Warranty

- (a) The End User acknowledges that the Services cannot be guaranteed error free and further acknowledges that the existence of any such errors shall not constitute a breach of these terms.
- (b) TilliT will not be liable for any loss, including special, indirect or consequential damages (such as loss of profits), or claim, arising out of breach of this document or arising out of the supply of defective Services.
- (c) Nothing in these terms excludes, restricts or modifies any condition, warranty, right or liability implied in these terms or protected by law to the extent that such exclusion, restriction or modification would render these terms or any provision of these terms void, illegal or unenforceable. Subject to that, any condition, warranty, right or liability which would otherwise be implied in these terms or protected by law is excluded.
- (d) Without limiting the preceding paragraph, to the full extent permitted by applicable law, TilliT's liability for any term, condition, guarantee or warranty that is implied by law and cannot lawfully be excluded by TilliT, including the consumer guarantees set out in the Australian Consumer Law contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and all similar or equivalent legislation, rules and regulations is limited to (at TilliT's option):
 - (i) in the case of goods – repairing, replacing or supplying equivalent goods, or paying the cost of any of those remedies to you; or
 - (ii) in the case of services (including the Services) – supplying the services again or paying the cost of having the services supplied again.
- (e) Without limiting or affecting any other provision of this document, to the full extent permitted by applicable law, TilliT's maximum aggregate liability to you for any losses you incur or claims you make against us is limited to the amount paid by you to the Distributor in respect of the Services, or, where no such amount is specified, the sum of AUD\$1,000.
- (f) You acknowledge that you have exercised your independent judgment in acquiring the Services and have not relied on any representation made by the TilliT which has not been stated expressly in this document or upon descriptions or illustrations or specifications contained in any document including catalogues or publicity material produced by TilliT.

12. Variation

TilliT reserves the right to amend, revise or replace this document from time to time. Amendments, revisions and replacements will be effective immediately upon posting through the Services or at www.tillitsoftware.com unless a later effective date is specified. Continued use of the Services by the End User following such notification represents its agreement to be bound by the terms of this document as amended,



revised or replaced, and its understanding and acceptance of the amended, revised or replaced document.

13. General

- (a) The benefit of these terms will not be dealt with in any way by the End User (whether by assignment, sub-licensing or otherwise) without TilliT's written consent.
- (b) Failure or neglect by TilliT to enforce at any time any of the provisions of these terms will not be construed or deemed to be a waiver of TilliT's rights under these terms.
- (c) If a provision of these terms is wholly or partly void, illegal or unenforceable in any relevant jurisdiction that provision or part must, to that extent, be treated as deleted from these terms for the purposes of that jurisdiction. This does not affect the validity or enforceability of the remainder of the provision or any other provision of these terms.
- (d) The law of South Australia applies to these terms to the exclusion of any other law, and the parties submit to the non-exclusive jurisdiction of the Courts of South Australia, and any appeals therefrom.
- (e) The End User agrees that it will, at its own expense, do all things and execute all further documents necessary to give full effect to this agreement and the transactions contemplated by it.