TilliT Licence Terms

These terms apply where you (**End User**) have been supplied with the TilliT software (**Software**) by a distributor (**Distributor**) of TilliT Pty Ltd (**TilliT**).

Permission to use the Software is conditional upon you, the customer, agreeing to the terms set out below. This Software is only offered to you on condition that you read and accept all the terms of this licence and wish to become a licensee of the Software. By installing, using or accessing the Software, 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 install, use or access the Software.

1.   Licence

(a)   Pursuant to this licence, the End User acquires a non-exclusive right to use the Software on the terms and conditions set out in this document.

(b)   The End User may make a back-up copy of the program for security purposes. Apart from the foregoing, the End User's right to reproduce or adapt the program is limited to the extent expressly permitted by ss 47B(3), 47C, 47D, 47E and 47F of the *Copyright Act 1968* (Cth).

(c)   The End User is only entitled to use the Software:

   (i)   in the manner, to the extent and for the period specified in its agreement with the Distributor; and

   (ii)   if all fees charged by the Distributor in respect of the Software have been fully paid.

The End User is not permitted to use the Software 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 Software, or permit others to do so.

(d)   This licence extends to any documentation accompanying the Software provided by TilliT. The documentation may not be copied, modified or used in any way not contemplated or expressly authorised by these terms.

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 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 Software in accordance with the terms of this licence;

(c)   to ensure its employees, sub-contractors and other agents who have authorised access to the Software are made aware of the terms of this licence;

(d)   to not provide or otherwise make available the Software 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 Software for or in connection with a service bureau operation;

(f)   to only use the Software, and ensure that its employees, sub-contractors and other agents only use the Software, 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 Software.

3.   Copyright

(a)   TilliT retains all right, title and interest to all intellectual property rights subsisting in the Software.

(b)   The End User acknowledges that the Software and any associated documentation 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 and, without limiting the generality of the foregoing, the End User specifically acknowledges that it may not copy the Software except as otherwise expressly authorised or acknowledged by these terms.

(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 11) will govern any updates that replace or supplement the Software (**Updates**), unless such an Update is accompanied by a separate licence supplied by TilliT in which case the terms of that licence 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 Software is 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 Software, or any infrastructure operated by TilliT or other business activities of TilliT;

(b)   attempt to gain unauthorised access to the Software;

(c)   use the Software 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 obtain, install, update, access, use, or continue to access or use the Software;

(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 Software.

8. Security

(a) The End User is solely responsible for its use of the Software, and for supervising, managing and controlling use of the Platform 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 Software.

(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 Software.

(d) The End User must take its own precautions to ensure that the process which it employs for accessing the Software 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 Software.

9. Term

(a) The End User may use the Software 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 Software 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;

    (iii) destroys the Software and documentation for any reason; or

    (iv) is overdue any payment to the Distributor in respect of the Software.

(c) Upon expiry or termination, the End User or its representative will destroy any remaining copies of the Software and documentation or otherwise return or dispose of such material in the manner directed by TilliT.

(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 Software by way of Update.

10. Warranty

(a) The End User acknowledges that the Software 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 Software.

(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, including the Software (to the extent the Software is considered a good under applicable law) – repairing, replacing or supplying equivalent goods, or paying the cost of any of those remedies to you; or

(ii) in the case of 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 Software, 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 Software 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.

11. 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 Software or at **www.tillitsoftware.com** unless a later effective date is

specified. Continued use of the Software 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.

12. 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.