

# Subscription Agreement

Last Updated: 13 Feb 2025

***This is a legally binding agreement. By clicking the button on the Rally.Fan registration page you accept this agreement and represent that you have the full legal authority to enter into this agreement on behalf of the party identified in the Rally.Fan registration process, and in that capacity, you acknowledge that such party agrees to be bound by the terms and conditions set forth or referenced below and in any addenda to this agreement. Please make sure to read these terms and conditions carefully before accepting.***

This Agreement, which governs the use of the Application (as defined below), is entered into by and between Metacommerce, Inc. (dba Rally.Fan), a Canadian Federal corporation (hereinafter referred to as "Rally"), and the individual or entity identified as the "Customer" during the account registration process (hereinafter referred to as the "Registration").

The terms of this Agreement shall become effective upon the Customer's acceptance of them during the Registration (the "Effective Date"). All information provided by the Customer, or on the Customer's behalf, during the Registration process is hereby incorporated into and forms an integral part of this Agreement.

## 1. Definitions

- a. **"Affiliate"** means, with respect to a party, any person or entity that directly or indirectly controls, is controlled by, or is under common control with such party.
- b. **"Application"** means the hosted software application provided by Rally, accessed at [rally.fan](https://rally.fan), together with any associated software applications, as part of the SaaS Services.
- c. **"Confidential Information"** means all confidential and proprietary information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.
- d. **"Licensed Materials"** means the application and any relevant documentation.
- e. **"NFT"** or non-fungible token, refers to a unique digital asset that represents ownership of a specific item or piece of content. NFTs are stored on a blockchain, which allows for the verification of ownership and authenticity. They are not interchangeable or interchangeable, unlike traditional currency or other types of tokens. NFTs can be used to represent a



variety of items, including digital art, music, videos, and other forms of media.

- f. **"Affiliate Offer"** refers to a promotional link or offer that directs consumers to third-party products or services in exchange for a commission on sales or leads generated through the link.
- g. **"Coaching Services"** refers to one-on-one or group sessions, either live or recorded, provided by the Customer to their clients for the purpose of offering personalized advice, training, or mentorship.
- h. **"Digital Products"** refers to any intangible goods that can be sold and delivered electronically through the Application, including but not limited to e-books, templates, music, videos, software, and digital art.
- i. **"Online Courses"** refers to structured educational content provided by the Customer, which may include text, video, audio, and interactive components, delivered through the Application.
- j. **"Webinars"** refers to live or pre-recorded seminars, presentations, or workshops conducted by the Customer and delivered to their audience through the Application.
- k. **"Loss"** refers to any damages, awards, judgments, losses, liabilities, obligations, penalties, interest, fees, expenses (including, without limitation, attorneys' fees and expenses), and costs (including, without limitation, court costs, costs of settlement, and costs of pursuing indemnification and insurance) incurred by a party as a result of a claim, dispute, or other legal proceeding.
- l. **"Hosting Services"** refers to the hosting and maintenance of the Licensed Materials and Application on servers and infrastructure owned or controlled by Rally. These services include the storage, processing, and management of the Licensed Materials, Application and any related data, as well as the provision of technical support and maintenance to ensure the availability and performance of the Application and Licensed Materials to the Customer pursuant to the Agreement.
- m. **"Services"** refers to the Services provided by Rally under this agreement that are not the Application or Hosting Services, this includes reasonable technical support during business hours pursuant to email requests that are related to the use of the everyday use of the Application.
- n. **"Professional Services"** refers to any services provided by Rally to the Customer that are outside the scope of the Services defined as the Services, Application, and related Hosting Services under this SaaS Subscription Agreement. These may include, but are not limited to, consulting work or other custom development work requested by the Customer. The terms and conditions of any Professional Services shall be set forth in a separate written agreement between the parties. The Customer shall be responsible for paying the Rally's fees for any Professional Services at the rates set forth in such

separate agreement. Rally shall have no obligation to provide any Professional Services unless and until a separate written agreement has been executed by both parties.

- o. “Transaction Fees”** refers to the per transaction revenue-share that Rally receives from each sale made by the Customer through the Application. This applies to all products and services created, offered, or sold using the Licensed Materials. These fees are based on the total value of each transaction processed through the platform.
- p. “Documentation”** refers to any written materials, user guides, help files, or other documentation provided by Rally to the Customer in connection with the Licensed Materials. The Documentation may be provided in electronic form or made available online. The Documentation is intended to assist the Customer in understanding and using the Licensed Materials, and may include instructions for installation, configuration, and operation of the Licensed Materials.
- q. “Account Administrator”** The Account Administrator is the individual designated or identified as such during the Registration process, or at a later date as communicated to Rally by the Customer.
- r. “Customer User”** an employee or independent contractor of a Customer or authorised affiliate of a Customer. An Account Administrator would be considered a “Customer User”.
- s. “Customer Data”** means any data, information or material that is uploaded or submitted by the Customer or Authorised Users to the Application or otherwise provided by the Customer in connection with the use of the SaaS Services.
- t. “Implementation Services”** refers to the professional onboarding services provided by Rally to assist Customers in setting up and configuring the Licensed Materials, including but not limited to, initial setup, customization, and training. These services are designed to help Customers effectively utilize the Application and are provided for an additional fee, as specified in a separate order form. Implementation Services are not included in the standard Subscription Service Fees and must be arranged and paid for separately by the Customer.

## **2. Licence to Customer**

- a.** Subject to the terms and conditions of this Agreement, Rally grants to the Customer a non-exclusive, non-transferable, non-sublicensable licence to access and use the Licensed Materials (as defined above) for the term of this Agreement. The Licensed Materials shall include the Application provided by Rally as part of the SaaS services and any related documentation. The Customer shall not permit any third party to, sell, resell, rent, lease, loan, distribute, transfer, or sublicense the Licensed Materials, or use the Licensed



Materials for the benefit of any third party, or otherwise use the Licensed Materials in any manner not specifically authorised in this Agreement. The Customer is granted a limited, revocable licence to use the Licensed Materials solely for the Customer's internal business purposes. Any use of the Licensed Materials in a manner not in accordance with this Agreement shall be considered a material breach of this Agreement.

### 3. Services

Pursuant to the provisions and limitations contained within this Agreement and any applicable Statement of Work, Rally shall provide the Customer with the following Services for the duration of the term of the Agreement.

- a. **Hosting.** Rally will provide the Hosting Services. The Hosting Services do not include any additional customization, development, or integration services beyond those specifically outlined in this Agreement. The Customer acknowledges and agrees that the Hosting Services are provided on an as-is and as-available basis, and that Rally makes no representations or warranties regarding the availability, security, or performance of the Hosting Services.
- b. **Technical Support.** Subject to the terms of this Agreement, Rally will use commercially reasonable efforts to provide Customer the Services as defined in [Section 1.m](#).
- c. **Application Maintenance.** Rally will provide ongoing maintenance and support for the Application and Licensed Materials, including the identification and correction of any errors or issues that may arise. The Customer is responsible for promptly reporting any errors or issues to Rally and for implementing any necessary updates or fixes as directed by Rally.
- d. **Application Improvements.** Rally may release updates to the application at its discretion, which may include changes, patches, fixes, enhancements to functionality, and/or additional functionality. Rally shall have sole discretion to determine whether to include in the application, as part of the maintenance services under this Agreement, features or functionality not originally specified for the application. Rally is not obligated to disclose or offer such features or functionality to the Customer.
- e. **Supported Use and Environment.** Rally's obligations under this Agreement are contingent upon Customer's access to and use of the Licensed Materials in accordance with the Documentation and the use of devices, browsers, and other information technology that meet the specifications set forth in the Documentation, published on Rally's website, or otherwise provided or made available to Customer by Rally. Rally reserves the right to revise these specifications or implement new ones to address the evolution of such technology, provided that reasonable notice is given to



Customer.

## 4. Payments and Billing

- a. **Subscription Service Fees.** Under this Agreement, all amounts due shall be paid according to the payment method and process specified during the Registration process or as subsequently updated through an Account Administrator login to the application. The Customer hereby authorises Rally to automatically charge or debit their designated payment method for all such amounts, including any amounts due upon renewal of this Agreement. It is the Customer's responsibility to provide complete and accurate billing and contact information to Rally. If the Customer's use of the Services exceeds the capacity set forth in the Registration or requires the payment of additional fees according to the terms of this Agreement, the Customer will be billed for such usage and agrees to pay the additional fees as outlined in this Agreement. Rally reserves the right to change the fees or charges and to institute new fees at the end of the initial service term or current renewal term, with at least 30 days' notice to the Customer (which may be sent via email).

If Rally provides the option to a Customer to be invoiced, full payment for invoices issued in any given month must be received by Rally within thirty (30) days of the registration date as set out during the Customer Registration process. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Services.

- b. **Transaction Fees.** End Users shall pay Customers directly for the purchase of any products or services created and offered using the Licensed Materials. These payments are processed through Stripe (<https://stripe.com/>), and the associated Stripe accounts are solely controlled by the Customer. RALLY HAS NO ACCESS TO OR CONTROL OVER THESE STRIPE ACCOUNTS OR THE FUNDS THEREIN. Customer shall pay Rally the applicable Transaction Fees for all sales made through the Application, in addition to the Subscription Service Fees. Transaction Fees are incurred in addition to, and adjacently of the Subscription Service Fees during the use of the Application and as such are not a replacement for the payment of Subscription Service Fees.
- c. **Payment Processors.** If you are billed by us, you will be required to provide information regarding your credit card or other payment instrument to our third-party payment processors (the "Payment Processors"). Rally currently uses Stripe (<https://stripe.com/>) as its Payment Processor, but reserves the right to change Payment Processors at any time. You will tender payment directly to the applicable Payment Processor, and fees for the Service will be processed by the Payment Processor.

You are bound by the applicable Payment Processor's terms and conditions for the processing of payments, as they may be modified from time to time (collectively, the "Payment Processor Terms"). Information provided to any Payment Processor is governed by the applicable Payment Processor Terms. Stripe's Payment Processor Terms include the Stripe Connected Account Agreement, which is located at <https://stripe.com/connect-account/legal>, and the Stripe Services Agreement located at <https://stripe.com/legal>, as well as Stripe's Global Privacy Policy at <https://stripe.com/privacy>.

Rally is not responsible for the performance or non-performance of any Payment Processor, including Stripe, and disclaims any liability related to such performance.

- d. **Currency.** Unless otherwise stated in this Agreement, all monetary amounts mentioned in this Agreement and the Registration are in lawful currency of the United States of America.
- e. **Cryptocurrency.** The Customer agrees that if they choose to use a Cryptocurrency, such as Ethereum, as a method of payment through the connection of a third-party digital wallet to the Application, Rally will not be held responsible for any resulting losses. The Customer also acknowledges that they are subject to the terms and conditions of the third-party digital wallet and, as a result, Rally will not be held liable for any damages or losses resulting from the use of the third-party wallet service.
- f. **Disputes, Refunds, and Chargebacks:** Rally is not responsible for any disputes, refunds, chargebacks, or other issues arising between the Customer and End Users regarding transactions processed through the Application. This includes, but is not limited to, payments processed via Stripe, cryptocurrencies, or any other third-party payment processor. The Customer acknowledges and agrees that any such disputes shall be resolved directly between the Customer and the End User, and Rally shall have no obligation to intervene or mediate such disputes.
- g. **Credit Card Verification Hold:** As part of the payment process, by providing your payment information you expressly authorize Rally to initiate a one-time, temporary authorization hold of \$1 on your credit or debit card. This hold is solely used to verify that your card is valid and has sufficient available funds for future transactions and does not constitute a permanent charge. The \$1 hold will appear as a pending transaction on your account and will be released promptly once verification is complete, subject to the processing times of your card issuer and our Payment Processor (Stripe). Your continued use of our service constitutes acceptance of this procedure.

## 5. Customer Responsibilities and Restrictions

- a. **Customer Connection to Application.** Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Application, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment").
- b. **Account Administrator.** The Account Administrator will have certain rights within the account, including the ability to cancel the account, delete information from the account, and appoint new administrators. However, it is important to note that the Account Administrator does not have any ownership rights or property interest in the account. All rights to the account belong solely to Rally. If there is a dispute regarding entitlement to access the account, Rally reserves the right to request documentation in order to determine or confirm account ownership. In the event that we are unable to reasonably determine the rightful Account Administrator, Rally reserves the right to temporarily disable the account until the issue has been resolved between the disputing parties. The Account Administrator may appoint a new Account Administrator if the current billing contact is not the appropriate person to manage the account. Ultimately, Rally retains the right to determine the rightful Account Administrator in our sole discretion and may transfer the account to the person we believe is the rightful owner.
- c. **Account passwords and data security.** Customer shall be responsible for maintaining the security of the Application, Customer account, data, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Application with or without Customer's knowledge or consent.
- d. **Compliance with laws and regulations.** Customer represents, covenants, and warrants that Customer will use the Services, Hosting Services, and Licensed Materials only in compliance with all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless Rally against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing
- e. **Content Standards.** The Customer shall not use the Licensed Materials to engage in any illegal, discriminatory, harassing, threatening, or infringing activity. The Customer shall not use the Licensed Materials to transmit any content or material that is harmful, abusive, defamatory, libellous, pornographic, obscene, or otherwise offensive or inappropriate. The Customer shall not use the Licensed Materials to transmit any content or material that violates any third-party rights, including intellectual property rights. The Customer shall not use the Licensed Materials to transmit any content or material that is spam, phishing, or otherwise deceptive or fraudulent. The Customer shall not use the Licensed Materials to transmit any viruses, malware, or other malicious or harmful code or software. The

Customer shall not use the Licensed Materials to interfere with or disrupt the security, integrity, or operation of the Licensed Materials or any third-party systems or networks. The Customer shall not use the Licensed Materials in any manner that exceeds the scope of the licences granted under this Agreement.

- f. **Prohibited uses.** The Customer shall not use the Licensed Materials to directly or indirectly promote, advertise, market or engage in pyramid schemes, multi-level marketing products or businesses, investment opportunities or other services that promise high rewards, money laundering, terrorist financing, or other illicit finance activities, use of the Services to engage with countries or individuals sanctioned by Canada and the United States, carry out any financial activities that require registration or licensing, including creating, selling, or buying securities, derivatives, commodities, options, or debt instruments, create, sell, or buy NFTs or other items that give rights to participate in ICOs or other securities offerings, disseminate false or misleading information, engage in political activities, campaigns, or fundraising, sell online traffic or engagement, or games of chance including gambling, internet gambling, draws, lotteries, sweepstakes, and contests offering a monetary or material prize, or sports or other event forecasting or odds making with a monetary or material prize.

The Customer shall also not engage in any other activities that are deemed illegal or unethical under applicable law, or that Rally, at its sole discretion, considers to be inappropriate or in violation of the principles and standards of the platform.

- g. **Other restrictions.** Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Application or any software, documentation or data related to the Application; modify, translate, or create derivative works based on the Application or any Licensed Materials (except to the extent expressly permitted by Rally or authorised within the Licensed Materials); use the Application or any Licensed for timesharing or service bureau purposes or otherwise for the benefit of a third; or remove any proprietary notices or labels.
- h. **Monitoring.** Although Company has no obligation to monitor Customer's use of the Licensed Materials, Company may do so and may prohibit any use of the Licensed Materials it believes may be (or alleged to be) in violation of the foregoing

## 6. Representations and Warranties

- a. **Representation and Warranty Disclaimers.** Rally shall use reasonable

efforts consistent with prevailing industry standards to maintain the Services in a manner which minimises errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Rally or by third-party providers, or because of other causes beyond Rally's reasonable control, but Rally shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. However, Rally does not warrant that the Services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the Services. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND LICENCED MATERIALS ARE PROVIDED "AS IS" AND RALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

- b. Other Disclaimers.** Rally does not warrant that the Licensed Materials or Services will meet the Customer's requirements or that the operation of the Licensed Materials or Services will be uninterrupted or error-free. The Customer is solely responsible for determining whether the Licensed Materials and Services will meet their needs and for ensuring the accuracy of any Customer Data. In addition, the Customer is responsible for procuring, installing, operating, and maintaining the necessary technical infrastructure for access to and use of the Licensed Materials and Services, except for the Hosting Services provided by Rally. Rally makes no representation or warranty regarding these matters.

## 7. Ownership

- a. Customer Data.** Customer shall own all right, title and interest in and to the Customer Data, as well as any data that is based on or derived from the Customer Data and provided to Customer as part of the Licensed Materials or Services.
- b. Licensed Materials (ie. SaaS Product).** Rally shall own and retain all right, title and interest in and to (a) the Licenced Materials, documentation, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Services or Professional Services, and (c) all intellectual property rights related to any of the foregoing.
- c. Suggestions, Statistical Information, and Joint Efforts.** Customer may suggest ideas or improvements to the Rally platform, and the parties may collaborate to develop new features or technologies. Any such ideas or technologies developed during the term of this Agreement shall be the exclusive property of Rally and may be used, sold, licensed, or otherwise



disseminated by Rally at its sole discretion without notice, attribution, payment of royalties, or liability to the Customer. The Customer acknowledges and agrees that Rally has and retains exclusive and valid ownership of all anonymized statistical information regarding Customer's use of the Rally platform. The Customer assigns to Rally any and all rights, title, and interest in and to any such ideas or technologies, as well as any statistical information. Unless otherwise agreed in writing, the Customer shall not obtain any rights, title, or interest in or to anything created or developed by Rally in connection with or incident to this Agreement.

## 8. Licence to Customer Data

- a. The Customer grants Rally a non-exclusive, transferrable, sublicensable, worldwide, royalty-free licence to use and disclose Customer Data as necessary to perform its obligations under this Agreement, monitor, improve, and correct the performance of the Licensed Materials, develop enhancements to the Licensed Materials, develop new products, create derivative works, and distribute aggregated and de-identified data. The Customer also agrees to allow Rally to grant sublicenses of the Customer Data to third parties. The Customer represents and warrants that it has provided all necessary notices and obtained all necessary consents to allow Rally to process the Customer Data for the above purposes. The Customer will indemnify Rally against any third-party claims arising from a breach of the Customer's representations and warranties in this clause.

## 9. Termination; Breach; Disposition of Data

- a. **Terminations.** Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Registration, and shall be automatically renewed for consecutive periods of one (1) year (collectively, the "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.
- b. **Breach.** In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.
- c. **Disposition of Customer Data.** Upon any termination, Rally will make all Customer Data available to Customer for electronic retrieval for a period of

thirty (30) days, but thereafter Rally may, but is not obligated to, delete stored Customer Data.

- d. **Early Termination for Legal Violations.** Rally reserves the right to terminate this Agreement immediately and without prior notice if the Customer is found to be in violation of local, international, or applicable laws and regulations, particularly in relation to prohibited content or financial activities as outlined in Section 5. This includes, but is not limited to, the promotion, sale, or distribution of illegal content, engaging in money laundering, terrorist financing, or other illicit financial activities. In such cases, all access to the Application and Licensed Materials will be revoked, and the Customer will remain liable for any outstanding fees or charges incurred up to the date of termination.

## 10. Risk Allocation

- a. **Assumption of risk.** The Customer assumes all risks associated with using the platform and the Licensed Materials, including but not limited to potential security vulnerabilities, technical failures, regulatory uncertainty, and financial risks. The Customer understands and acknowledges that the use of the platform and its associated services may involve emerging technologies and practices that are subject to significant regulatory uncertainty and may be illegal in certain jurisdictions. The Customer is solely responsible for determining the legality of its use of the platform and Licensed Materials in its jurisdiction and for complying with all applicable laws and regulations.
- b. **Indemnification.** By agreeing to these Terms and accessing the Service, you agree, to the fullest extent permitted by applicable law, to indemnify, defend, and hold harmless Metacommerce Inc (dba. Rally.Fan), and our respective past, present, and future employees, officers, directors, contractors, consultants, equity holders, suppliers, vendors, service providers, parent companies, subsidiaries, affiliates, agents, representatives, predecessors, successors, and assigns (individually and collectively, the "Rally. Parties"), from and against all actual or alleged claims, damages, awards, judgments, losses, liabilities, obligations, penalties, interest, fees, expenses (including, without limitation, attorneys' fees and expenses), and costs (including, without limitation, court costs, costs of settlement, and costs of pursuing indemnification and insurance), of every kind and nature whatsoever, whether known or unknown, foreseen or unforeseen, matured or unmatured, or suspected or unsuspected, in law or equity, whether in tort, contract, or otherwise (collectively, "Claims"), including, but not limited to, damages to property or personal injury, that are caused by, arise out of or are related to (a) your use or misuse of the Licensed Materials, Service, content, Digital Products, or content linked to or associated with any NFTs (b) any Feedback you provide, (c) your violation or breach of any term of these Terms or applicable law, and (d) your violation of the rights of or obligations to a third party, including another user or third-party, and (e) your negligence or wilful



misconduct. You agree to promptly notify Rally of any Claims and cooperate with the Rally Parties in defending such Claims. You further agree that the Rally Parties shall have control of the defence or settlement of any Claims. THIS INDEMNITY IS IN ADDITION TO, AND NOT IN LIEU OF, ANY OTHER INDEMNITIES SET FORTH IN A WRITTEN AGREEMENT BETWEEN YOU AND METACOMMERCE, INC (DBA. RALLY.FAN).

- c. **Limitations of liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, RALLY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND RALLY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO RALLY FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT RALLY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 11. Marketing

- a. Rally has the right to use the Customer's logos, trade names, and other identifying marks (the "Marks") in its marketing materials and on its website for the purpose of promoting the SaaS services. Rally shall use the Marks in accordance with any applicable guidelines or usage requirements provided by the Customer. The Customer represents and warrants that it has the full legal authority to grant Rally the rights to use the Marks as set forth in this Agreement.

Rally shall not use the Marks in any manner that would infringe upon any intellectual property rights of the Customer or any third party. If Rally becomes aware of any potential infringement, it shall immediately cease all use of the Marks and notify the Customer of the issue.

The Customer shall indemnify and hold Rally harmless from any claims, damages, or expenses arising out of the Rally's use of the Marks in accordance with this Agreement.

## 12. Affiliate Program

- a. **Enrollment and Eligibility.** Participation in the Rally.Fan Affiliate Program (“Affiliate Program”) is entirely optional. To participate, you must register through the dedicated Affiliate Program page at <https://rally.fan/s/affiliate-program> or via your Rally account and be approved by Rally.Fan in its sole discretion. By enrolling, you agree to comply with these terms and any additional guidelines provided through the Affiliate Program.
- b. **Referral Links and Tracking.** Upon successful enrollment, you will be provided with a unique referral link. This link must be used for all Affiliate-related promotions. Rally.Fan will track new customer registrations and transactions initiated through your unique link, and all such referrals will be credited to you.
- c. **Commission Structure and Payments.** For every sale generated by a customer referred through your Affiliate link, you will earn a commission as specified in the Affiliate Program dashboard. Commissions are calculated as a percentage of the transaction fees collected by Rally.Fan from the referred sale. Commission payments will be processed on a bi-monthly basis, subject to a minimum payout threshold, and paid via the designated payment method. You are responsible for any applicable taxes on the commissions received.
- d. **Program Modification and Termination.** Rally.Fan reserves the right to modify, suspend, or terminate the Affiliate Program or any part thereof—including commission rates and payout schedules—at any time without prior notice. In the event of termination, any pending commissions will be paid out in accordance with the Affiliate Program terms in effect at the time of termination.
- e. **Affiliate Conduct.** By participating in the Affiliate Program, you agree to promote Rally.Fan in a truthful and ethical manner and comply with all applicable laws and guidelines. Rally.Fan reserves the right to disqualify any Affiliate for engaging in fraudulent, misleading, or unethical conduct, including practices that may harm Rally.Fan’s reputation or violate any part of this Agreement.
- f. **Relationship of the Parties.** Your participation in the Affiliate Program does not create an employment, partnership, joint venture, or agency relationship between you and Rally.Fan. You are an independent contractor solely responsible for your own marketing and promotional activities.
- g. **General.** Your continued participation in the Affiliate Program constitutes your acceptance of these terms. For further details or updates regarding the Affiliate Program, please refer to <https://rally.fan/s/affiliate-program> or contact our support team.

### **13. Data Processing**

- a. **Collection of technical data to improve service.** Notwithstanding anything to the contrary, Rally shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Licenced Materials and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Rally will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Licensed Materials and for other development, diagnostic and corrective purposes in connection with the Licenced Materials and other Rally offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business.

### **14. Confidentiality.**

- a. **Security of Confidential Information.** Each party (the “Receiving Party”) understands that the other party (the “Disclosing Party”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “Confidential Information” of the Disclosing Party). Confidential Information of Rally includes non-public information regarding features, functionality and performance of the Service. Confidential Information of Customer includes non-public data provided by Customer to Rally to enable the provision of the Services (“Customer Data”). The Receiving Party agrees: (i) to take reasonable precautions to protect such Confidential Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Confidential Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.
- b. **Compelled Disclosure.** In the event that the recipient of Confidential Information is required to disclose such information by law or legal process, the recipient shall give prompt written notice to the disclosing party prior to such disclosure in order to allow the disclosing party to seek a protective order or other appropriate remedy. If a protective order or other remedy is not obtained, or the disclosing party waives the right to seek such remedies, the recipient may furnish only that portion of the Confidential Information that is legally required to be disclosed and shall use its reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the

Confidential Information. The recipient shall be relieved of its obligations under the Confidentiality Agreement to the extent it is required to disclose Confidential Information in accordance with a Compelled Disclosure.

- c. **Non-Use Obligation.** The Customer is prohibited from using the Confidential Information for any purpose other than as specifically authorised under this Agreement. The Non-Use Obligation applies during the term of this Agreement and continues indefinitely after its termination or expiration. The Customer is responsible for ensuring that their employees, agents, and contractors who may have access to the Confidential Information are also bound by the Non-Use Obligation. Any unauthorised use or disclosure of the Confidential Information by the Customer may result in legal action being taken by Rally.
- d. **Copying of Confidential Information.** Both parties agree not to copy or reproduce any Confidential Information except as necessary for the other party to use the Licensed Materials or Confidential Information, respectively, in accordance with this Agreement. Any copies made by either party shall remain the property of the disclosing party and shall contain the same proprietary notices as on the original. Both parties shall maintain accurate and complete records of the use and dissemination of the Confidential Information. Upon termination of this Agreement or upon request by the disclosing party, the receiving party shall return to the disclosing party or destroy all copies of the Confidential Information. Both parties shall ensure that their employees, agents, and contractors who have access to the Confidential Information are bound by the terms of this Agreement and are made aware of their obligations with respect to the Confidential Information.
- e. **Reports of Misappropriation.** In the event that the Customer becomes aware of any misappropriation or unauthorised disclosure of the Confidential Information by Rally, the Customer shall immediately notify Rally in writing and provide sufficient details regarding the misappropriation or unauthorised disclosure. Rally shall use commercially reasonable efforts to remedy the misappropriation or unauthorised disclosure and to prevent any further misappropriation or unauthorised disclosure. If the Customer becomes aware of any unauthorised use or disclosure of the Confidential Information by any third party, the Customer shall immediately notify Rally in writing and provide sufficient details regarding the unauthorised use or disclosure. The Customer shall fully cooperate with Rally in any legal action taken by Rally to enforce its rights under this Agreement and to recover damages for any misappropriation or unauthorised disclosure of the Confidential Information.
- f. **Post-Termination Procedures.** In the event that the Agreement is terminated, the recipient of the Confidential Information shall return or destroy all copies of the Confidential Information in their possession, including any copies stored on electronic devices.

## 15. Other General Provisions

- a. **Notice.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by e-mail; upon transmission unless a receipt of non-delivery is promptly received, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.
- b. **Nature of relationship; Independent Contractors.** Rally shall be considered an independent contractor and the Customer shall not have the authority to assume or create any obligation on behalf of Rally. This Agreement shall not be construed as creating a relationship of employer and employee, principal and agent, partnership, or joint venture between the parties. The Customer acknowledges that Rally may engage subcontractors to perform certain Services under this Agreement, but remains responsible for the performance of all Services.
- c. **Force majeure.** Neither party shall be liable for any delay or failure to perform its obligations under this Agreement if such delay or failure is due to a force majeure event, which shall include acts of God, earthquakes, floods, fires, storms, power outages, internet service failures, terrorist attacks, riots, wars, acts of government, or any other similar events beyond the reasonable control of such party. The party affected by the force majeure event shall promptly notify the other party of the occurrence of such event and shall use commercially reasonable efforts to minimise the impact of such event on the performance of its obligations under this Agreement. If the force majeure event continues for a period of more than thirty (30) days, either party may terminate this Agreement upon written notice to the other party. The provisions of this section shall not excuse the Customer from its obligation to make any payments due under this Agreement.
- d. **Governing Law.** This Agreement shall be governed by the laws of the Province of Ontario without regard to its conflict of laws provisions.
- e. **Jury Trial Waiver.** The parties hereby waive their right to a trial by jury for any and all claims, demands, or causes of action arising out of or in connection with this Agreement or the performance of the Services. This waiver is a material inducement for the parties entering into this Agreement and is binding on the parties and their successors and assigns. The parties acknowledge that they have read and understand this waiver and that they are voluntarily and knowingly waiving their right to a trial by jury.
- f. **Attorney Fees.** In the event that any litigation or legal action arises out of or in connection with this Agreement, the prevailing party in such litigation or legal action shall be entitled to recover all reasonable costs and expenses

related to such litigation or action, including reasonable attorney fees and expenses of counsel. This provision shall apply to any and all disputes, claims, or controversies arising out of or in connection with this Agreement, including, but not limited to, claims for breach of contract, breach of warranty, tort, and any other legal theories.

- g. Injunctive Relief.** The parties acknowledge that any breach of the provisions regarding Confidential Information, proprietary rights, or the limitations on use of the Services contained in this Agreement may cause the other party irreparable harm for which monetary damages would be inadequate. Therefore, the parties agree that in addition to any other remedies available at law, the non-breaching party shall be entitled to seek an injunction or other equitable relief to prevent any such breach or threatened breach, without the necessity of proving actual damages or posting a bond. The parties further agree that the non-breaching party shall be entitled to recover from the breaching party all costs and expenses, including attorneys' fees, incurred in obtaining such equitable relief. This provision shall not be deemed to limit the remedies available to the non-breaching party for any breach of this Agreement.
- h. Assignment.** This Agreement is not assignable, transferable or sublicensable by Customer except with Rally's prior written consent. Rally may transfer and assign any of its rights and obligations under this Agreement without consent.
- i. Successors and assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
- j. No third party beneficiaries.** This agreement does not create any third party beneficiary rights. Only the parties to this agreement shall be entitled to the rights and benefits provided in this agreement.
- k. Survival.** The provisions contained in this Agreement concerning Confidential Information, indemnification, post-termination procedures, and any other provision that, by its nature, is intended to survive the termination or expiration of this Agreement, shall survive and remain in full force and effect following the termination or expiration of this Agreement. These provisions are essential to the protection of the parties' respective interests and are separate and distinct from any other provision of this Agreement.
- l. Entire agreement.** This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.

- m. **Amendment and waiver.** This Agreement may not be amended or modified except in writing signed by both parties. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the party against whom the waiver is sought to be enforced. No waiver of any breach or default will be deemed to be a waiver of any other breach or default, whether similar or dissimilar, nor will any waiver constitute a continuing waiver unless the writing so specifies.
- n. **Severability.** If any provision of this Agreement is found to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired. If any invalid, illegal, or unenforceable provision would be valid, legal, or enforceable if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it valid, legal, and enforceable.
- o. **Headings.** The headings in this Agreement are for convenience only and shall not be used to interpret the terms of this Agreement.