



## TALLYSTONE SOLUTION TERMS AND CONDITIONS

Welcome to Tallystone!

Thank you for visiting our terms and conditions (**Terms**), the most updated copy of which can always be found at [www.tallystone.com](http://www.tallystone.com) (**Website**).

We are Tallystone Australia Pty Ltd (ABN 26 676 704 706) (**'we', 'our' or 'us'**) and we provide an automatic data room where businesses can easily create, execute, organise and share important company information as described on our Website, along with other related products and services (**Tallystone Solution**).

These Terms govern any access to the Tallystone Solution. By accepting these Terms on our Website or the Tallystone Solution, paying for access to the Tallystone Solution or otherwise accepting the benefit of any part of the Tallystone Solution, you agree to be bound by these Terms which form a binding contractual agreement between us and **"you"** or **"your"**, which means as relevant to the context in these Terms:

- an entity that is procuring or has procured the Tallystone Solution under Customer Terms (**Customer**);
- an entity that is invited by a Customer to access the Tallystone Solution via a Stakeholder Account (see Part A – Definitions) (**Stakeholder**); or
- any natural person who is an end user of the Tallystone Solution (**User**).

The remainder of these Terms are divided into the following parts:

- Part A (Definitions) and Part B (General Terms) – which sets out the terms that relate to all usage of the Tallystone Solution
- Part B (Customers) – which sets out the terms that relate to Customers and Customer Accounts

If you are signing up not as an individual but on behalf of your company, your employer, an organisation, government or other legal entity (**Represented Entity**), then **"you"** or **"your"** means the Represented Entity and you are binding the Represented Entity to these Terms. If you are accepting these Terms and using our Tallystone Solution on behalf of a Represented Entity, you represent and warrant that you are authorised to do so.

We may change these Terms from time-to-time by providing reasonable notice to you, and your continued use of the Tallystone Solution following such an update will represent an agreement by you to be bound by the Terms as amended.

In these Terms, capitalised words and phrases have the meanings given to them where they are followed by bolded brackets, or as set out in the Definitions table at the start of these Terms.

Please read these Terms carefully before agreeing to them and accessing the Tallystone Solution.

## PART A DEFINITIONS

Term	Definition
<b>AI Outputs</b>	as defined in clause PART B8.4(b).
<b>AI Services</b>	any and all artificial intelligence or machine learning software, technologies, features, or functionalities, including without limitation generative models, artificial intelligence algorithms or machine learning models, learnings or datasets provided by or used in the Tallystone Solution.
<b>Confidential Information</b>	information of or provided by a party that is by its nature is confidential information, is designated by that party as confidential, or that the other party knows or ought to know is confidential, but does not include information which is or becomes, without a breach of confidentiality, public knowledge.
<b>Connected Google Account</b>	as defined in clause PART B5.1(a).
<b>Connected User</b>	as defined in clause PART B2.2(c).
<b>Customer</b>	as defined in the first page of these Terms.
<b>Customer Account</b>	an account granted to a Customer to access the Tallystone Solution, excluding any User Accounts.
<b>Customer Content</b>	any Materials which are Posted to a Customer Account (including any of its Stakeholder Accounts) or which are otherwise Posted or provided to us by a Customer or its Personnel, including any Intellectual Property Rights attaching to those Materials.
<b>Customer Files</b>	as defined in clause PART B5.1(b)(i).
<b>Customer Terms</b>	any agreement, terms or other similar document in effect between us and an entity, relating to the provision of the Tallystone Solution.
<b>Entity Accounts</b>	as defined in clause PART B2.1(b).
<b>Google Integration</b>	as defined in clause PART B5.1(a).
<b>Hosting Services</b>	as defined in clause PART B5.2.
<b>Intellectual Property Rights</b>	all copyright, trade mark, design, patent, semiconductor and circuit layout rights, trade, business, company and domain names, confidential and other proprietary rights, and any other rights to registration of such rights whether created before or after the date of these Terms both in Australia and throughout the world.
<b>Laws</b>	any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the relevant jurisdiction(s) where a party performs its respective obligations under these Terms or the Tallystone Solution is made or received and includes any industry codes of conduct.
<b>Material</b>	tangible and intangible information, documents, files, reports, formulas, specifications, inventions, data, text, images, videos, graphics, logos, design, icons, sound and other materials in any media whatsoever.
<b>Modifications</b>	as defined in clause PART B3.1(b).
<b>Personal Information</b>	information or an opinion about an identified individual, or an individual who is reasonably identifiable: (a) whether the information or opinion is true or not; and (b) whether the information or opinion is recorded in a material form or not.

<b>Personnel</b>	in relation to a party, its representatives, employees, secondees, agents and subcontractors, including employees and contractors of subcontractors.
<b>Post</b>	submit, post, upload, provide or otherwise make available on or via the Tallystone Solution.
<b>Posted Content</b>	any Tallystone Content which is not provided by us, such as User Content, Customer Content, Customer Files and any such other Materials that are owned or licensed by a third party, including any Intellectual Property Rights attaching to those Materials.
<b>Renewal Date</b>	the date on which a Subscription Period or Renewal Period expires.
<b>Renewal Period</b>	a period equal to the Subscription Period.
<b>Stakeholder</b>	as defined in the first page of these Terms.
<b>Stakeholder Account</b>	any Stakeholder Accounts generated by a Customer that are connected to the Customer Account, excluding any User Accounts.
<b>Subscription</b>	a Customer's licence to the Tallystone Solution and to a Customer Account.
<b>Subscription Fee</b>	the fee payable for a Subscription as specified in a Subscription Plan.
<b>Subscription Period</b>	the term of a Subscription as specified in a Subscription Plan.
<b>Subscription Plan</b>	the package selected by the Customer on our Website, or otherwise specified in any Customer Terms, which determines the fees, inclusions, limitations, features, options or entitlements that makes up a Customer's Subscription, as amended from time to time in accordance with these Terms and the Customer Terms.
<b>Tallystone Content</b>	any Materials which are made available via, on or in relation to the Tallystone Solution, including any Intellectual Property Rights attaching to those Materials.
<b>Tallystone Solution</b>	as defined in the first page of these Terms.
<b>Terms</b>	as defined in the first page of these Terms.
<b>User</b>	as defined in the first page of these Terms.
<b>User Account</b>	an account which a User signs up for in order to access the Tallystone Solution.
<b>User Content</b>	any Materials, which are Posted by a User, including any Intellectual Property Rights attaching to those Materials.
<b>Website</b>	as defined in the first page of these Terms.

## PART B GENERAL

### 1 ELIGIBILITY

- (a) The Tallystone Solution is not intended for unsupervised use by any person under the age of 18 years old or any person who has previously been suspended or prohibited from using the Tallystone Solution.
- (b) By using the Tallystone Solution, you represent and warrant that you have the legal capacity and authority to enter into a binding contract with us and have not previously been suspended or prohibited from using the Tallystone Solution.

### 2 USER ACCOUNTS

#### 2.1 GENERAL

- (a) **(Accounts)** To become a User of the Tallystone Solution, you will be required to sign-up and receive a User Account.
- (b) **(Provide Information)** As part of the User Account registration process and as part of your continued use of the Tallystone Solution, you may be required to provide personal information and details, such as your email address, name, addresses, phone number, photos and video, audio files, profile information, payment details, and other information as determined by us from time to time.
- (c) **(Warranty)** You warrant that any information you give to us in the course of registering for a User Account is accurate, honest and up-to-date.
- (d) **(Acceptance)** Once you complete the User Account registration process, we may, in our absolute discretion, choose to accept you as a registered user within the Tallystone Solution and provide you with an Account.
- (e) **(Term)** Your access to a User Account and these Terms commences on the date you agree to be bound by these Terms (as set out at the beginning of these Terms) and continues until terminated earlier in accordance with clause 13.

#### 2.2 ACCOUNT CONNECTIONS

- (a) Customers may create a Stakeholder Account and invite a Stakeholder to access the Stakeholder Account to connect to the Customer's Customer Account. You acknowledge and agree that Stakeholder Accounts:
  - (i) are sub-accounts to Customer Accounts and are under the control and responsibility of Customers; and
  - (ii) will only remain active so long as the relevant Customer has an active Subscription and doesn't otherwise deactivate the Stakeholder Account or its connection to the Customer Account
- (b) Users may be invited to connect their User Accounts with Customer Accounts and Stakeholder Accounts (**Entity Accounts**) from time to time.
- (c) You acknowledge and agree that if you accept a connection request to an Entity Account (thereby becoming a **Connected User**):
  - (i) your User Content will be shared with the connected Entity Account as applicable in using the Tallystone Solution;
  - (ii) you will then be bound by the terms in Part C, as relevant to your use of a Customer Account;
  - (iii) your access to certain functions and features on the Tallystone Solution will be limited by the Customer's Subscription and the access permissions you are granted; and
  - (iv) you will only utilise the Entity Account in compliance with any restrictions notified to you by the relevant Customer or Stakeholder and us.

### 3 THE TALLYSTONE SOLUTION

#### 3.1 GENERAL

- (a) While your User Account remains active, we grant to you a non-exclusive, revocable, non-transferable and worldwide licence to use the Tallystone Solution and the Tallystone Content for the purpose for which they were designed as described on the Website and in any written Material we provide you.
- (b) We may from time to time, in our absolute discretion, release modifications to the Tallystone Solution, meaning an upgraded, improved, enhanced, changed or new versions of the Tallystone Solution (**Modifications**). Any Modifications to the Tallystone Solution will not limit or otherwise affect these Terms. Modifications may cause downtime or delays from time to time.

#### 3.2 SIGNING

The Tallystone Solution facilitates the creation and execution of electronic documents between the parties to such documents (**eSigning**). You acknowledge and agree that

- (a) eSigning can only be initiated from a Customer Account;
- (b) the Customer has exclusive control over and responsibility for the content, quality, format and configuration of any eSigning and for using and enforcing any controls available in connection with eSigning; and
- (c) we are not a party to any contracts, agreements, obligations, business dealings or transactions which form part of or relate to any eSigning.

### 4 DISCLAIMER

#### 4.1 GENERAL

You acknowledge and agree that:

- (a) Tallystone Content, is general in nature, may not be suitable for your circumstances and does not constitute financial, legal or any other kind of professional advice and we take no responsibility for anything caused by any actions you take in reliance on Tallystone Content;
- (b) it is your responsibility to comply with applicable Laws relevant to your business and use of the Tallystone Solution, including any privacy or corporations Laws; and
- (c) you are responsible for which parts of your Posted Content that other Users or Entity Accounts are permitted to access.

#### 4.2 POSTED CONTENT

The Tallystone Solution contains Posted Content and may include links to third-party websites, services or resources that are beyond our control. We are not responsible for Posted Content and make no representation, warranty or guarantee about the quality, suitability, functionality, legality accuracy, reliability, currency or completeness of Posted Content or any third-party content to which links may navigate, and you hereby waive any claim you might have against us with respect to such services.

#### 4.3 AI SERVICES

- (a) The Tallystone Solution includes AI Services, which are facilitated by integrations to third party artificial intelligence service providers, such as the Anthropic API (the details of which can be found at <https://www.anthropic.com/api>).
- (b) You acknowledge and agree that we do not warrant that any Materials (including responses, suggestions, or other content) generated by using the AI Services (**AI Outputs**) will be complete, accurate, error-free or fit for a particular purpose.

### 5 DATA HOSTING

#### 5.1 CUSTOMER FILES

- (a) Full utilisation of the Tallystone Solution is reliant on a Customer Account being integrated with a User's Google Account (**Connected Google Account**) via an application programming interface (**Google Integration**). Customers are responsible for authorising and maintaining the Google Integration.
- (b) You acknowledge and agree that:
  - (i) any Customer Content which is Posted to a Customer Account (including its Stakeholder Accounts), but specifically excluding any Customer Content related to any account settings, profiles, usage data or digital representations of a User's signature (**Customer Files**) will once Posted, be under the control of the relevant Customer, including in having the ability to share Customer Files with Connected Users;
  - (ii) the Google Integration allows all Customer Files to be stored on the Connected Google Account's Google Drive storage and is not hosted by us;
  - (iii) the Tallystone Solution acts as an interface allowing Customers to manage Customer Files hosted on their Connected Google Account via the Tallystone Solution; and
  - (iv) whilst a Customer maintains their Subscription and where such functionality is enabled in a Customer Account (including its Stakeholder Accounts), Connected Users will be able to retrieve and download their own copies of Customer Files.

## 5.2 OTHER CONTENT

Tallystone Content (other than Customer Files) will be stored using third-party services selected by us (**Hosting Services**), subject to the following terms:

- (a) (**hosting location**) You acknowledge and agree that we may use storage servers to host the Tallystone Solution through cloud-based services, and potentially other locations outside Australia.
- (b) (**service quality**) While we will use our best efforts to select an appropriate hosting provider, we do not guarantee that the Hosting Services will be free from errors or defects or that Tallystone Content will be accessible or available at all times.
- (c) (**security**) We will use our best efforts to ensure that Tallystone Content is stored securely. However, we do not accept responsibility or liability for any unauthorised use, destruction, loss, damage or alteration to Tallystone Content, including due to hacking, malware, ransomware, viruses, malicious computer code or other forms of interference.
- (d) (**backups & disaster recovery**) In the event that Tallystone Content is lost due to a system failure (e.g. a database or webserver crash), we cannot guarantee that any backup will be available, or if available that such a backup will be free from errors or defects.

## 6 YOUR OBLIGATIONS

- (a) You agree to:
  - (i) comply with these Terms at all times and not encourage or permit any other User, Personnel or third party to breach these Terms;
  - (ii) provide us with all documentation, information and assistance reasonably required by us to perform the Services; and
  - (iii) immediately notify us of any misuse or unauthorised use of any Account, password or email, any errors in the Tallystone Solution, any difficulties in accessing or using the Tallystone Solution, or any other breach or potential breach of the Tallystone Solution's security.

- (b) You must not, and must not encourage or permit any User, Personnel or any third party to, without our prior written approval:
  - (i) intimidate, harass, impersonate, stalk, threaten or bully any other User, Customer or Stakeholder via the Tallystone Solution;
  - (ii) use the Tallystone Solution for any purpose other than for the purpose for which it was designed, including you must not use the Tallystone Solution in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity;
  - (iii) copy, reproduce, translate, adapt, vary, modify, tamper, create derivative works from, translate, decompile, reverse engineer or attempt to derive the source code of the Tallystone Solution, Tallystone Content or any parts of either
  - (iv) remove or alter any copyright, trademark or other notice on or forming part of the Tallystone Solution or Tallystone Content
  - (v) use the Tallystone Solution in a way which infringes the Intellectual Property Rights of any third party;
  - (vi) make any automated use of the Tallystone Solution or integrate the Tallystone Solution with third party data or software, other than integrating in accordance with any documentation or instructions provided by us in writing;
  - (vii) sell, loan, transfer, sub-licence, distribute, publish, hire or otherwise dispose of the Tallystone Solution to any third party, other than granting a User and Stakeholder access as permitted under these Terms;
  - (viii) share your User Account or User Account information, including log in details or passwords, with any other person and that any use of your User Account by any person who is not the account holder is strictly prohibited; or
  - (ix) attempt to circumvent any technological protection mechanism or other security feature of the Tallystone Solution, or otherwise compromise the security or integrity of the Tallystone Solution or any network or system.

## **7 POSTING MATERIALS**

### **7.1 YOUR OBLIGATIONS**

In Posting any Materials,

- (a) you must ensure that you share such Material only with intended recipients; and
- (b) you must not and must not encourage or permit any User, Personnel or any third party to Post any:
  - (i) third-party copyrighted material, Confidential Information, sensitive information or commercial secrets which you are not authorised to Post;
  - (ii) inappropriate, defamatory, discriminatory, maliciously false, offensive, explicit, illicit or illegal material or any unsolicited commercial content, junk mail or spam to or via the Tallystone Solution; and
  - (iii) Material which breaches or infringes any applicable Laws.

### **7.2 WARRANTIES**

By Posting any Materials, you represent and warrant (and must ensure that your Personnel make equivalent representations and warranties) that:

- (a) you are authorised to provide the Material;

- (b) all information, documentation and other Material you provide to us for the purpose of receiving the Tallystone Solution is complete, true, accurate and up-to-date at the time it is provided; and
- (c) the Material does not infringe any Intellectual Property Rights, obligations of confidence or any other similar proprietary rights, whether registered or unregistered, anywhere in the world.

### 7.3 REMOVAL

- (a) The Tallystone Solution acts as a passive conduit for the online distribution of Materials and has no obligation to screen Material. However, we may, in our absolute discretion, review and remove any Material from the Tallystone Solution at any time, including if we determine that such Material infringes a third party's Intellectual Property Rights, breaches these Terms or is reasonably likely to.
- (b) If you become aware of any Material on the Tallystone Solution that infringes the Intellectual Property Rights of any person, or is reasonably likely to, please contact us immediately our contact details on the Website.

## 8 INTELLECTUAL PROPERTY AND DATA

### 8.1 OUR RIGHTS

We retain and reserve all rights in any Intellectual Property Rights owned or licensed by us in the Tallystone Content not expressly granted to you.

### 8.2 POSTED CONTENT

- (a) You grant to us (and our Personnel) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence (including the right to sub-licence) to view, use, copy, modify, reproduce, create derivative works from and translate your Posted Content to the extent reasonably required to:
  - (i) provide the Tallystone Solution and for our internal business purposes in improving the Tallystone Solution; and
  - (ii) where such Posted Content is de-identified, anonymised and used in aggregate, and solely for our internal business purposes to improve our products and service, train artificial intelligence algorithms, machine learning models and neural networks.
- (b) If it is determined that you retain moral rights (including rights of attribution or integrity) in any Posted Content, you forever release us from any and all claims that you could assert against us by virtue of any such moral rights.
- (c) You indemnify us against all damages, losses, costs and expenses incurred by us arising in connection with any third party claim that your Posted Content infringes any third party's Intellectual Property Rights or any obligations of confidence.
- (d) You also permit any other User you share your Posted Content with to view, copy, access, store, or reproduce such Posted Content as reasonably required to use the Tallystone Solution for the purpose it was designed.

### 8.3 USAGE DATA

- (a) We may collect, generate, store and use diagnostic and usage-related data, and information, or insights generated or derived from the use and operation of the Tallystone Solution (**Usage Data**).
- (b) We retain ownership of any Usage Data Content and reserve all rights in any Intellectual Property Rights owned or licensed by us in the Usage Data not expressly granted to you and may use it for our internal business purposes, such as to provide support, account management, benchmarking and improvement of the Tallystone Solution. In doing so, we may apply machine learning and other analytics processes to Usage Data. Any outputs from such processes, including the resulting machine learning models, is deemed Usage Data.

#### 8.4 AI SERVICES

- (a) To avoid any doubt, the licence you grant to us under clause 8.2 is inclusive of the AI Services.
- (b) Any AI Outputs, including any Intellectual Property Rights attaching to those Materials, are owned by the relevant Customer to the extent protectable under applicably intellectual property Laws.
- (c) The Customer grants us a non-exclusive, worldwide, perpetual, non-revocable and royalty-free licence to view, use, copy, modify, reproduce, create derivative works from and translate AI Outputs for the purpose of
  - (i) provide the Tallystone Solution and for our internal business purposes in improving the Tallystone Solution; and
  - (ii) where such AI Outputs are de-identified, anonymised and used in aggregate, and solely for our internal business purposes to improve our products and service, train artificial intelligence algorithms, machine learning models and neural networks.

### 9 THIRD PARTY SOFTWARE, TERMS & CONDITIONS

#### 9.1 THIRD PARTY TERMS

- (a) You acknowledge and agree that the terms & conditions of third party suppliers of goods or services (**Third Party Terms**) may apply to your use of the Tallystone Solution from time to time, including Google's service terms relating to any Connected Google Accounts, as updated from time to time.
- (b) You agree to any Third Party Terms applicable to third party goods and services that are used in providing the Tallystone Solution to you, and we will not be liable for any loss or damage suffered by you in connection with such Third Party Terms.
- (c) We will take reasonable steps to notify you of Third Party Terms that apply to the Tallystone Solution, you must immediately notify us if you do not agree to such Third Party Terms.
- (d) You acknowledge and agree that if you do not agree to any Third Party Terms, this may affect our ability to provide you the Tallystone Solution and we will not be liable for any issues in providing you the Tallystone Solution where you do not agree to any Third Party Terms.

#### 9.2 THIRD PARTY SOFTWARE INTEGRATIONS

- (a) You acknowledge and agree that issues can arise when data is uploaded to software, when data is transferred between different software programs, and when different software programs are integrated together. We cannot guarantee that integration processes between the Tallystone Solution and other software programs will be free from errors, defects or delay.
- (b) You agree that we will not be liable for the functionality of any third party goods or services, including any third party software, or for the functionality of the Tallystone Solution if you integrate it with third party software, or change or augment the Tallystone Solution, including by making additions or changes to the Tallystone Solution code, and including by incorporating APIs into the Tallystone Solution.

### 10 CONFIDENTIALITY

- (a) Except as contemplated by these Terms, a party must not, and must not permit any of its Personnel to, use or disclose to any person any Confidential Information disclosed to it by the other party without the disclosing party's prior written consent.
- (b) Each party must promptly notify the other party if it learns of any potential, actual or suspected loss, misappropriation or unauthorised access to, or disclosure or

use of Confidential Information or other compromise of the security, confidentiality, or integrity of Confidential Information.

- (c) The notifying party will investigate each potential, actual or suspected breach of confidentiality and assist the other party in connection with any related investigation.

## 11 PRIVACY

- (a) We collect Personal Information about you in the course of providing you with the Tallystone Solution, to contact and communicate with you, to respond to your enquiries and for other purposes set out in our Privacy Policy which can be found on our Website.
- (b) Our Privacy Policy contains more information about how we use, disclose and store your personal information and details how you can access and correct your personal information.
- (c) By agreeing to these Terms, you agree to our handling of personal information in accordance with our Privacy Policy.

## 12 LIABILITY

- (a) **(Your content)** You release us from all liability in relation to any loss or damage arising out of or in connection with the Tallystone Solution, to the extent such loss or damage is caused or contributed to by information, documentation or any other Material provided by you being incomplete, inaccurate or out-of-date.
- (b) **(Third party breaches)** You acknowledge and agree that we will have no liability in respect of any damage, loss or expense which arises in connection with your, your Personnel's, or any Customer's, Stakeholder's or User's, breach of these Terms, and you indemnify us in respect of any such damage, loss or expense.
- (c) **(Exclusion)** To the maximum extent permitted by applicable law, all express or implied representations and warranties (whether relating to fitness for purpose or performance, or otherwise) not expressly stated in these Terms are excluded.
- (d) **(Limitation of liability)** To the maximum extent permitted by applicable law, our maximum aggregate liability to you in respect of loss or damage sustained by you under or in connection with these Terms or the Tallystone Solution is limited to the total fees paid to us by you in the 12 months preceding the first event giving rise to the relevant liability, or where not applicable, to AU\$100 in aggregate.
- (e) **(Indemnity)** You agree at all times to indemnify and hold us and our Personnel **(Those Indemnified)** harmless from and against any loss (including reasonable legal costs) or liability incurred or suffered by any of those indemnified where such loss or liability was caused or contributed to by you or your Personnel's breach of any of these Terms or negligent, fraudulent or criminal act or omission.
- (f) **(Consequential loss)** Neither party will be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with these Terms or the Tallystone Solution, except to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth) (**ACL**) or any other applicable Laws.
- (g) **(Consumer law)** Nothing in these Terms is intended to limit the operation of the Australian Consumer Law contained in the ACL. Under the ACL, you may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services we provide.

## 13 CANCELLATION OF USER ACCOUNTS

### 13.1 CANCELLATION

- (a) We may, in our absolute discretion, suspend or cancel your User Account for any reason, including for any failure by you to comply with these Terms, by written notice to you.
- (b) You may, in your absolute discretion, suspend or cancel your User Account for any reason by written notice to us.

### 13.2 CONSEQUENCES FOR CANCELLATION

- (a) Upon cancellation of a User Account:
  - (i) you will no longer have access to the Tallystone Solution, your User Account or any Tallystone Content and we will have no responsibility to store or otherwise retain your User Content;
  - (ii) any User Content which also constitutes Customer Content may be retained in the relevant Customer Account; and
  - (iii) you release us in respect of any loss or damage which may arise out of us not retaining any User Content beyond termination.
- (b) Notwithstanding termination or expiry of your User Account, any provisions of these Terms which by its nature would reasonably be expected to survive after termination or expiry, will continue to apply, including clauses 8, 10, 11 and 12 of this PART B.

## 14 DISPUTE RESOLUTION

- (a) A party claiming that a dispute has arisen under or in connection with these Terms must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory relief, unless that party has complied with the requirements of this clause.
- (b) If an issue between the parties arises under these Terms that cannot be resolved day-to-day, a party that requires resolution of a dispute which arises under or in connection with these Terms must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute must make genuine efforts in good faith to participate cooperatively in mediation, at equal shared expense of the parties. The parties will conduct mediation through the Australian Disputes Centre (ADC) and in accordance with the ADC's Guidelines for Commercial Mediation (as current at the time of the dispute), or under such other dispute resolution services and terms mutually agreed by the parties.
- (d) The parties will follow the mediator's recommendations on the extent of mediation required, and when to stop mediation if the issue cannot be resolved. If mediation does not resolve the dispute, any party to the dispute may commence legal proceedings to resolve the dispute.

## 15 NOTICES

- (a) Any notices required to be sent under these Terms must be sent via email using the email address most commonly used by the parties to correspond in relation to these Terms at the time the notice is sent.
- (b) The notice will be considered to be delivered 24 hours after it was sent, unless the sender has reason to believe the email failed to send or was otherwise not delivered or received.

## 16 GENERAL

### 16.1 GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in Queensland. Each party irrevocably submits to the exclusive jurisdiction of the courts of Queensland and courts of appeal from

them in respect of any proceedings arising out of or in connection with these Terms. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

16.2 WAIVER

No party to these Terms may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

16.3 SEVERANCE

Any term of these Terms which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of these Terms is not limited or otherwise affected.

16.4 JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

16.5 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under these Terms without the prior written consent of the other party.

16.6 ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of these Terms.

17 INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(currency)** a reference to \$; or “dollar” is to Australian currency;
- (c) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (d) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (e) **(person)** a reference to “person” or “you” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (f) **(party)** a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (g) **(these Terms)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of these Terms, and a reference to these Terms includes all schedules, exhibits, attachments and annexures to it;
- (h) **(document)** a reference to a document (including these Terms) is to that document as varied, novated, ratified or replaced from time to time;
- (i) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (j) **(includes)** the word “includes” and similar words in any form is not a word of limitation; and
- (k) **(adverse interpretation)** no provision of these Terms will be interpreted adversely to a party because that party was responsible for the preparation of these Terms or that provision.



## PART C CUSTOMERS

### 1 APPLICATION AND CUSTOMER TERMS

- (a) This PART C relates to Customers and Customer Accounts.
- (b) Granting of a Subscription is governed by any Customer Terms entered into between us and a Customer. These Terms are deemed incorporated into the Customer Terms by reference. Unless otherwise expressly stated in these Terms, in the event of any inconsistency between these Terms and any Customer Terms, the Customer Terms will prevail to the extent of such inconsistency.

### 2 TERM

- (a) Your Subscription and these Terms commence on the date specified in your Customer Terms and continues for the Subscription Period and any applicable Renewal Periods, until terminated in accordance with clause 7.
- (b) Unless either party provides written notice to cancel the Subscription prior to the Renewal Date, a Subscription will automatically and indefinitely renew on an ongoing basis for a period equal to the Subscription Period.
- (c) Prior to the expiry of the Renewal Date, we will provide you with reasonable advanced written notice of the agreement renewing and any applicable changes to the Customer Terms or these Terms.

### 3 CUSTOMER ACCOUNT

#### 3.1 GENERAL

- (a) **(Accounts)** To use the Tallystone Solution as a Customer, you will be required to sign-up and receive a Customer Account
- (b) **(Provide Information)** As part of the Customer Account registration process and as part of your continued use of the Website, you may be required to provide information such as your entity name, addresses, contact information, business identification numbers, payment details, and other information as determined by us from time to time.
- (c) **(Warranty)** You warrant that any information you give to us in the course of completing the Customer Account registration process is accurate, honest and up-to-date.

#### 3.2 ACCOUNT OWNER

- (a) A Customer must assign a User on the Tallystone Solution as its agent to manage the Customer's Account (**Account Owner**). By assigning an Account Owner the Customer represents and warrants that the Account Owner has authority to provide us with any required authorisations or requests on behalf of the Customer with respect to the Customer's Account.
- (b) The Account Owner may, without limitation, configure administration settings, change the Customer Account's profile, assign access and issue authorisations, access usage records, assist in third-party integrations, accept notices, disclosures and changes to these Terms. The Account Owner may delegate these privileges to other Users.

#### 3.3 ACCOUNT CONNECTIONS

- (a) Customers may invite Users and Stakeholders to connect to their Customer Account from time to time. Customers acknowledge and agree that in connecting Users and Stakeholders to their Customer Account:
  - (i) Customer Content will be shared to the User or Stakeholder as applicable in using the Tallystone Solution;

- (ii) you are responsible for any actions taken by a Connected User or Stakeholder in relation to your Customer Account; and
- (iii) you are responsible for managing the Stakeholder's or Connected User's level of access to Customer Content and functionality on your Customer Account.

#### 4 YOUR SUBSCRIPTION

- (a) **(Licence)** While a Customer retains a Subscription, the Customer is granted a non-exclusive, non-transferable and revocable licence to use the Tallystone Solution and Tallystone Content and to a Customer Account.
- (b) **(Subscription Plan)** Your Subscription includes the benefits and limitations of your Subscription Plan.
- (c) **(Promos)** We may from time to time offer Customers discounted pricing or free trials **(Promotional Offer)** as part of a Subscription. Unless otherwise specified in the relevant Customer Terms, such Promotional Offers only apply to the original Subscription Period and each Renewal Period will be charged at the original, non-discounted price of the Subscription Plan.

#### 5 FEES AND PAYMENT

##### 5.1 SUBSCRIPTION FEES

- (a) Where the Customer Terms specify a Subscription Fee, you must pay the Subscription Fee to us in the amount and payment period specified in the Customer Terms.
- (b) All Subscription Fees must be paid in advance and are non-refundable for change of mind.
- (c) Unless otherwise agreed in writing, the Subscription Fees are due and payable on a recurring basis for the duration of your Subscription, with the first payment being due on the first day of the Subscription Period and at the beginning of every Renewal Period thereafter.
- (d) We reserve the right to suspend all or part of the Tallystone Solution indefinitely if you fail to pay any Fees in accordance with these Terms.
- (e) Unless otherwise indicated, Subscription Fees do not include GST. In relation to any GST payable for a taxable supply by us, you must pay the GST subject to us providing a tax invoice.
- (f) By agreeing to these Terms, you agree to our handling of refunds in accordance with our Refund Policy which can be found on our Website.

##### 5.2 AUTOMATIC RECURRING BILLING

- (a) Where you have opted for automated billing, your Subscription Fees will continue to be debited at the beginning of each Renewal Period from the payment method you nominated.
- (b) We will not be required to pay any charge back amount if you fail to cancel your Subscription in accordance with these Terms.
- (c) By signing up for a recurring Subscription, you acknowledge and agree that your Subscription has an initial and recurring payment feature, and you accept responsibility for all recurring charges prior to your cancellation of your Subscription.
- (d) We may submit recurring charges without further authorisation from you, until you provide prior written notice that you have terminated this authorisation or wish to change your payment method (and receipt of this is confirmed by us). Such notice will not affect charges submitted before we could reasonably act on such notice.

To terminate your authorisation or change your payment method, please contact us at [contact@tallystone.com](mailto:contact@tallystone.com).

### 5.3 ONLINE PAYMENT PARTNER

- (a) We may use third-party online payment partner (**Online Payment Partner**) to collect Subscription Fees.
- (b) The processing of payments by the Online Payment Partner will be, in addition to these Terms, subject to the terms, conditions and privacy policies of the Online Payment Partner.
- (c) You agree to release us and our Personnel in respect of all liability for loss, damage or injury which may be suffered by any person arising from any act or omission of the Online Payment Partner, including any issue with security or performance of the Online Payment Partner's platform or any error or mistake in processing your payment.
- (d) We reserve the right to correct, or to instruct our Online Payment Partner to correct, any errors or mistakes in collecting your payment.
- (e) We reserve the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard or American Express).

## 6 UPGRADES AND DOWNGRADES

- (a) You may notify us that you would like to upgrade or downgrade your Subscription Plan at any time. If you do, we will:
  - (i) take reasonable steps to promptly provide you with access to the new Subscription Plan; and
  - (ii) upon providing such access, apply the new, relevant Subscription Fees, to the Renewal Period immediately following the period in which your access to the new Subscription Plan was provided, and you will be charged at the new Subscription Fee in every subsequent Renewal Period.
- (b) For the avoidance of doubt, if you choose to downgrade your Subscription, access to the new Subscription Plan and the new Subscription Fees will kick in at the start of the next Renewal Period, unless we notify you otherwise.
- (c) If you choose to downgrade your Subscription, you acknowledge and agree we are not liable, and you release us from all claims in relation to, any loss of content, features, or capacity, including any Customer Content.

## 7 CANCELLING YOUR SUBSCRIPTION

- (a) You may cancel your Subscription for convenience at any time by notice to us. The termination of your Subscription will take effect at the end of the then current Subscription Period or Renewal Period (**Cancellation Period**).
- (b) Any Subscription Fees that would otherwise have been payable during the Cancellation Period will remain payable and, to the maximum extent permitted by law, no Subscription Fees already paid for the Cancellation Period will be refundable.
- (c) We will continue to provide you the Tallystone Solution during the Cancellation Period (including your licence to the Tallystone Solution) and you may retrieve any necessary Customer Content during this time.