

**ATTACHMENT A  
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

**TIBCO SOFTWARE FEDERAL, INC.**

**TIBCO SOFTWARE FEDERAL, INC. LICENSE, WARRANTY AND SUPPORT TERMS**

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**END USER LICENSE AGREEMENT FOR U.S. FEDERAL GOVERNMENT BUSINESS ("AGREEMENT")**

**PLEASE READ CAREFULLY: THIS AGREEMENT IS PROVIDED PURSUANT TO SECTION 12.212 OF THE FEDERAL ACQUISITION REGULATION (FAR) AND IS APPLICABLE TO TIBCO SOFTWARE LICENSES, EQUIPMENT, CLOUD OR HOSTED SERVICES (INDIVIDUALLY AND COLLECTIVELY REFERRED TO AS THE "PRODUCTS") ACQUIRED BY OR ON BEHALF OF UNITED STATES FEDERAL GOVERNMENT DEPARTMENTS, AGENCIES, ADMINISTRATIONS, OR OTHER INSTRUMENTALITIES ("GOVERNMENT" or "GOVERNMENT END USERS"), OR BY CONTRACTORS ON BEHALF OF, FOR TRANSFER OR RESALE TO, OR FOR THE BENEFIT OF GOVERNMENT END USERS (COLLECTIVELY, WITH GOVERNMENT END USERS, "GOVERNMENT CUSTOMER"). THIS AGREEMENT SHALL ALSO APPLY TO ANY MAINTENANCE OR CONSULTING SERVICES ("SERVICES") ACQUIRED FROM TIBCO SOFTWARE FEDERAL, INC. ("TSFI") RELATING TO THE PRODUCTS. NOTWITHSTANDING THE FOREGOING, IF PRODUCTS AND/OR SERVICES ARE BEING ACQUIRED FROM TSFI PURSUANT TO A NEGOTIATED AGREEMENT, THAT NEGOTIATED AGREEMENT SHALL CONTROL.**

1. The following shall govern your use of the Products and Services, except to the extent all or any portion are (a) subject to a separate written, duly executed agreement, or (b) are contrary to applicable Federal law. In the event any provision of this Agreement is contrary to or unenforceable under applicable Federal law, the Federal law shall control. For Government End Users, this Agreement supersedes and replaces any shrink wrap, click wrap, or click through terms ("Automated Terms") that may be presented with Products or Services and any such Automated Terms shall not apply.

2. Definitions. Capitalized terms used but not defined herein shall have the meanings set forth in Appendix A. "Order Form" means any purchase order or similar document, written agreement, or a web store or website order or registration requesting Products or Services. "Purchase Date" means the date the Order Form is accepted by us and in the case of a web store or web site transaction, the date of your download or access of a Product. If proprietary source code is included as part of the standard delivery of a Product and is not subject to open source license terms, use of such source code is controlled by the terms of this Agreement. "Updates" means Product bug fixes, enhancements, and updates, if and when made generally available by us as part of Maintenance. "We" or "Us" refers to TSFI, a subsidiary corporation of TIBCO Software Inc. ("TIBCO"). "You" or "Your" refers to the Government Customer acquiring Products or Services pursuant to this Agreement.

3. Alpha, Beta, Developer Evaluation and Evaluation Licenses. If the Products are provided or accessed at no charge for demonstration or evaluation purposes or for alpha or beta testing, then, subject to the license grant in Section 4 below and to the terms and conditions of this Agreement, (a) use of the Products shall be solely for such purposes, (b) the Products shall not be used or deployed in a production or development environment, and (c) such use shall automatically terminate upon the earlier of (i) thirty (30) days from the date TSFI grants the right to install or access the Product, (ii) TSFI's notice of termination of such no charge use, or (iii) access to the Cloud or the Hosted Services has ended. If the Products are provided or accessed for Developer Evaluation, (a) use of the Products solely shall be for development evaluation purposes, (b) such use shall not be in a Production environment and (c) such use shall automatically terminate upon the earlier of (i) ninety (90) days from the date TSFI grants the right to receive, install or access the Product, (ii) TSFI's notice of termination of such no charge use, or (iii) access to the Cloud or the Hosted Services has ended.

4. License Grant. The Products are the property of TIBCO Software Inc. ("TIBCO") or its licensors and are protected by copyright and other laws. TSFI is a subsidiary of TIBCO. While TIBCO continues to own or have license rights to the Products, TSFI is authorized to and hereby grants you a limited, non-transferable (except as permitted herein), non-exclusive license, subject to the terms and conditions of this Agreement, to use the Number of Units set forth in the Order Form solely for your internal business use.

5. License Term. The term of each license for a Product shall be either perpetual or limited as designated on an Order Form. If a Product is licensed on a limited term basis, then, unless otherwise set forth in an Order Form, the term shall commence on the Purchase Date and have the following duration:

- Alpha, Beta and Evaluation - thirty (30) days
- Developer Evaluation – ninety (90) days
- Hosted Services - one (1) year
- Cloud - one (1) year
- Software purchases on a term limited basis - one (1) year

If you originally registered to download or access a Product for Alpha, Beta or Evaluation purposes, upon re-registration you may be permitted one (1) additional term. On expiration of a limited term, you must immediately cease using and return or destroy all copies of the Products and related Confidential Information.

6. Delivery. Products are delivered electronically, and delivery deemed complete when duly made available to you.

## 7. Equipment Purchase.

A. Purchase. When we issue you a quotation and accept your Purchase Order for the purchase of Equipment, we agree, subject to the terms and conditions of this Agreement, to sell you the Equipment described therein. We transfer all title and risk to the hardware component of the Equipment when we or our agent ships the Equipment. For a feature, conversion or upgrade involving the removal of parts in connection with the Equipment, which parts become our property, or for the replacement of Equipment or components thereof pursuant to the Equipment Maintenance Program Guide, the return of the Equipment or parts forms part of your consideration to us and we reserve all rights under applicable law regarding said Equipment or parts.

B. Equipment Delivery. For delivery of the TIBCO Messaging Appliance™, title is deemed to transfer upon delivery by our agent to our designated freight carrier, FCA Ontario, Canada (Incoterms 2000). For delivery of all other Equipment, title is deemed to transfer upon delivery by us to our designated freight carrier, FCA TIBCO's premises (Incoterms 2000). All freight, insurance and other shipping expenses shall be paid to the freight carrier by us. Any shipping or handling charges to be paid by you shall be as identified on the accepted Purchase Order. Delivery is subject to the availability of Equipment.

8. Hosted Services. We shall use commercially reasonable efforts to make the Hosted Services you have purchased available 24 hours a day, 7 days a week, except for: (a) planned downtime under our direct control (of which we shall give at least 8 hours notice via the Hosted Services and which we shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Pacific Standard Time Friday to 3:00 a.m. Pacific Standard Time Monday), (b) to the extent we are notified by third party service providers of planned downtime (of which we shall provide such notice to you via the Hosted services as soon as we can reasonably do so), or (c) any unavailability caused by circumstances beyond our reasonable control, including, without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, internet service or third party hosting provider failures or delays ("Force Majeure"). Hosted Services are provided in accordance with applicable laws and government regulations.

9. Cloud. Provisioning of the Cloud will be confirmed electronically and delivery deemed complete when such confirmation is made available to you. Provisioning of the Cloud requires an account be established for you in TIBCOCommunity. You agree to and accept the Terms of Use for TIBCOCommunity ([http://www.tibcommunity.com/themes/tibcotucon/resources/html/terms\\_of\\_use.html](http://www.tibcommunity.com/themes/tibcotucon/resources/html/terms_of_use.html)) if you use the credentials to access the TIBCOCommunity site EXCEPT that any provision of the Terms of Use for TIBCOCommunity that is contrary to, or unenforceable against a Government End User under, applicable Federal law shall be of no effect for Government End Users; for Government End Users, Federal law shall apply regardless of any choice of law or venue language in the TIBCOCommunity Terms of Use. Certain Software Products may be provided for installation by you and are provided solely to enable the functionality of the Cloud, and may not be used for any other purpose. You are solely responsible for procuring your own account with the applicable TIBCO- approved third party service provider ("Provider") for the Cloud and for the technical operation of the content of your account.

## 10. Hosted Services and Cloud Restrictions.

A. In connection with your use of Hosted Services or a Cloud, you shall, in addition to the Restrictions below (i) be responsible for your users' compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and lawfulness of and the means by which you acquire and disclose your data, (iii) not store or transmit infringing, libelous, or otherwise unlawful or tortious material or malicious code, nor store or transmit material in violation of third-party privacy rights, (iv) not sell, resell, rent or lease the Hosted Services or Cloud, (v) use reasonable efforts to prevent unauthorized access to or use of the Hosted Services or Cloud, and notify us promptly of any such unauthorized access or use, (vi) not interfere with or disrupt the integrity or performance of any Provider services or third-party data contained there, (vii) not attempt to gain unauthorized access to the Hosted Services, Cloud or their related systems or networks, and (viii) use the Hosted Services or Cloud only in accordance with any applicable Documentation and all applicable laws and government regulations. Hosted Services or the Cloud may be subject to other limitations, such as, for example, limits on disk storage space, on the number of calls or number of users, third party terms of use, etc., specified in the applicable Documentation, web store or web site. In the event that you receive any notice claiming that our content in connection with the Hosted Services, Cloud or any Provider services violates a third party's rights including, without limitation, notices pursuant to the Digital Millennium Copyright Act, you will promptly forward such notice to us, with a courtesy copy to TIBCO's General Counsel.

B. You will not use Hosted Services or the Cloud to promote any illegal activities or post any materials in violation of any law. In addition, in using and accessing Hosted Services or the Cloud, you shall not use any third party software in connection with a Provider's or TIBCO service in any manner that requires, pursuant to the license applicable to such software, that any Provider or TIBCO property or services be: (i) disclosed or distributed in source code form; (ii) made available free of charge to recipients; or (c) modifiable without restriction by recipients. No software or content provided by you or your users in connection with your use of Hosted Services or the Cloud may contain any malicious or hidden mechanism or code for the purpose of damage or corrupting the Hosted Services, Cloud or the Provider service.

C. You are solely responsible for adequate security, protection and backup of your data and content. Except as required by applicable law, we are not responsible for Provider services, unauthorized access to your data or content, or the deletion, destruction, damage, loss or failure to store any of your content or other data that you submit or use in Hosted Services or the Cloud.

## 11. Restrictions.

To the extent consistent with the provisions of FAR 52.227-19 (Commercial Computer Software License), the following restrictions shall apply to Government End Users. Where a restriction is inconsistent with the provisions of FAR 52.227-19, the FAR provisions shall control and the restriction shall not apply to Government End Users. For other customers, the restrictions shall apply.

A. You shall not (a) make more copies than the Number of Units (except for a reasonable number of copies for archival and disaster recovery purposes) or use any unlicensed versions of the Software; (b) use any Software not listed in an Order Form, even if such unlicensed software is made available to you as part of the general delivery mechanism for the Products; (c) provide access to the Products to anyone other than employees, contractors, or consultants who agree in writing to be bound by terms at least as protective of TIBCO as those in this Agreement; (d) sublicense, transfer, assign, distribute to any third party, pledge, lease, rent, or commercially share the Products or any of your rights under this Agreement (for the purposes of the foregoing a change in control of your company is deemed to be an assignment); (e) use the Products for purposes of providing a service bureau, including, without limitation, providing third-party hosting, or third-party application integration or application service provider-type services, or any similar services; (f) use the Products in connection with ultrahazardous activities, or any activity for which failure of the Products might result in death or serious bodily injury to you or a third party; or (g) directly or indirectly, in whole or in part, modify, translate, reverse engineer, decrypt, decompile, disassemble, make error corrections to, create derivative works based on, or otherwise attempt to discover the source code or underlying ideas or algorithms of the Products. You may engage in such conduct as is necessary to ensure the interoperability of the Software as required by law, provided that prior to commencing any decompilation or reverse engineering of any Software, you agree to observe strict obligations of confidentiality and provide us reasonable advance written notice and the opportunity to assist with or conduct such activity on your behalf and at your expense.

B. Any additional license parameters applicable to particular Products are set forth in Appendix B.

12. Proprietary Notices. The Products, Documentation and Materials are proprietary to TIBCO and its licensors and protected by applicable U.S. and international patent, copyright, trademark and trade secret laws. TIBCO and its licensors shall retain ownership in the Products, Documentation and Materials; all derivatives thereof (in whole or part); and any intellectual property or other rights embodied therein. All proprietary notices incorporated in or affixed to any Products, Documentation or Materials shall be duplicated by you on all copies of the Products, Documentation, or Material, as applicable, and shall not be altered, removed or obliterated.

13. Extraordinary Corporate Event. For Government End Users, the rights contained at FAR 52.227-19 shall apply in lieu of the following provision. For customers other than Government End Users, to the extent you or your successors or assigns enter into an Extraordinary Corporate Event after the Purchase Date, this Agreement shall not apply to those additional users, divisions or entities which were added to your organization as a result of the Extraordinary Corporate Event until those additional users, divisions or entities are added to this Agreement by way of a written amendment signed by our respective duly authorized officers.

#### 14. Maintenance.

A. If you acquired Maintenance from a TIBCO authorized third party, Section 14(B) does not apply. THE TERMS OF ANY MAINTENANCE SERVICES OR RELATED WARRANTY SHALL BE AS AGREED BY AND BETWEEN YOU AND THE TIBCO AUTHORIZED THIRD PARTY. WE PROVIDE NO WARRANTY TO YOU WITH RESPECT TO MAINTENANCE SERVICES PROVIDED BY ANY THIRD PARTY.

B. Maintenance, if ordered (or if included in Cloud or Hosted Services), is provided under the policies set forth in the Maintenance Program Guide attached as Appendix C for Products other than Equipment, and at Appendix D for Equipment.

C. Any Updates provided by us or by our authorized resellers or distributors (if applicable) are subject to the terms and conditions of this Agreement. To receive Maintenance, all Products must be properly licensed and Maintenance fees paid. We are under no obligation to provide Maintenance in the event that Maintenance fees have not been paid when properly due and owing.

#### 15. Consulting Services.

A. You may procure installation, configuration, training or other consulting or support services ("Consulting Services") either through a Purchase Order issued against a Consulting Services quotation, or through a work order executed by authorized representative of both parties ("Work Order"). Consulting Services available under this Agreement are limited to those defined as Commercial Items in FAR 2.101, Commercial Item definition at (5) and (6).

B. We hereby grant you a nonexclusive license to use the Materials (and a reasonable number of copies thereof) solely for your internal operations in conjunction with your use of the Products. Materials obtained during your attendance at or from your purchase of virtual training courses, unless otherwise agreed in an Order Form, are limited to the one (1) copy received by each attendee and may not be duplicated.

C. In the event that you are purchasing a license to specific training course content as set forth in an Order Form, the content of each such training course shall constitute a Product for the purpose of this Agreement. Subject to your payment of fees due, you are granted a limited, non-transferable and non-exclusive license to use, modify, translate, create derivative works from, reproduce and distribute the Product solely for your internal business use: provided, however, that the copyright notices and any other legends of ownership are reproduced on each complete or partial copy of such Product. We retain all right, title and interest in the Product, excluding your Confidential Information. All complete or partial copies of the Product in any form shall be subject to the same terms

as the original copy. The term of each license and level of annual Maintenance for the Product shall be as set forth in the Order Form.

#### 16. Limited Warranty.

The following Limited Warranty provisions shall apply to Government End Users to the extent permitted by applicable Federal law, including FAR

12.404(b)(2); to the extent that these limitations are not permitted or are unenforceable under applicable Federal law, they shall be of no force or effect for Government End Users. For all other customers, the following Limited Warranty provisions shall apply.

A. If you obtained Software directly from us, we warrant for a period of thirty (30) days from the Purchase Date that (i) the media on which the Software is furnished will be free of defects in materials and workmanship under normal use; and (ii) the Software will substantially conform to its Documentation. This limited warranty extends to you personally and is not transferable. Your sole and exclusive remedy and the entire liability of TIBCO and its licensors under this limited warranty will be, at our option, to repair or replace (with respect to the affected Software product), or refund the Software license fee. In the event of a refund, this Agreement shall terminate solely with respect to the affected Software product, and you shall immediately cease all use of and return or destroy all copies of such Software.

B. THIS WARRANTY DOES NOT APPLY TO ANY SOFTWARE WHICH (I) IS LICENSED FOR ALPHA, BETA, EVALUATION, TESTING OR DEMONSTRATION PURPOSES FOR WHICH WE DID NOT RECEIVE A LICENSE FEE; (II) HAS BEEN ALTERED OR MODIFIED (UNLESS BY US); (III) HAS NOT BEEN INSTALLED, OPERATED, REPAIRED, OR MAINTAINED IN ACCORDANCE WITH INSTRUCTIONS SUPPLIED BY US; (IV) HAS BEEN SUBJECTED TO ABNORMAL PHYSICAL OR ELECTRICAL STRESS, MISUSE, NEGLIGENCE, OR ACCIDENT; OR (V) IS USED IN VIOLATION OF ANY OTHER TERM OF THIS AGREEMENT.

C. EXCEPT AS SPECIFIED IN THIS LIMITED WARRANTY OR AS OTHERWISE REQUIRED BY APPLICABLE LAW, THE PRODUCTS AND SERVICES ARE PROVIDED "AS IS". ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, SATISFACTORY QUALITY OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. CERTAIN THIRD PARTY SOFTWARE MAY BE PROVIDED TO CUSTOMER ALONG WITH CERTAIN PRODUCTS

THIS THIRD PARTY SOFTWARE IS PROVIDED "AS IS", IS SUBJECT TO THE TERMS OF THE THIRD PARTY LICENSE, AND MAY ONLY BE USED WITH THE PRODUCTS WITH WHICH IT IS PROVIDED TO YOU. SUCH THIRD PARTY SOFTWARE IS PROVIDED SOLELY AS AN ACCOMMODATION TO YOU AND YOU ARE UNDER NO OBLIGATION TO USE SUCH THIRD PARTY SOFTWARE. NO WARRANTY IS MADE REGARDING THE RESULTS OF ANY PRODUCTS OR SERVICES, THAT THE PRODUCTS WILL OPERATE WITHOUT ERRORS, PROBLEMS OR INTERRUPTIONS, THAT ERRORS OR BUGS WILL BE CORRECTED, OR THAT THE PRODUCT FUNCTIONALITY OR SERVICES WILL MEET YOUR REQUIREMENTS. NO TIBCO DEALER, DISTRIBUTOR, AGENT OR EMPLOYEE IS AUTHORIZED TO MAKE ANY MODIFICATIONS, EXTENSIONS OR ADDITIONS TO THIS WARRANTY ON TSFI'S OR TIBCO'S BEHALF.

17. Indemnity. For Government End Users, claims that Products infringe any patent, copyright or trade secret shall be subject to the provisions of FAR 52.227-2 and 52.227-3.

For customers other than Government End Users, if you obtained the Software from us directly, then we agree at our own expense to defend or, at our option, to settle, any claim or action brought against you to the extent it is based on a claim that the unmodified Software infringes any patent issued by the United States, Canada, Australia, Japan, or any member of the European Union, or any copyright, or any trade secret of a third party. We will indemnify and hold you harmless from and against any damages, costs and fees reasonably incurred (including reasonable attorneys' fees) that are attributable to such claim or action and which are assessed against you in a final judgment provided that you promptly notify us in writing of such claim, we have the exclusive right to control such defense and/or settlement, and you provide reasonable assistance (at our expense) in the defense thereof. In no event shall you settle any claim, action or proceeding without our prior written approval. In the event of any such claim, litigation or threat thereof, we, at our sole option and expense, shall (a) procure for you the right to continue to use the Software, or (b) replace or modify the Software with functionally equivalent software. If such license or modification is not commercially reasonable (in our sole reasonable opinion), we may cancel this Agreement with respect to the affected Software product upon sixty days prior written notice to you and refund to you the unamortized portion of the associated license fees paid by you to us based on a five-year straight-line depreciation. This Section states our entire liability with respect to the infringement of any intellectual property rights, and you hereby expressly waive any other liabilities or obligations we have with respect thereto. The foregoing indemnity shall not apply to the extent that (x) any claim is based on or attributable to modifications made by you to the Software, or portions thereof, (y) such claim would have been avoided by use of the then-current release version of the Software, or (z) your continued allegedly infringing activity after being provided with modifications that would have avoided the alleged infringement.

#### 18. Limitation of Liability.

FOR GOVERNMENT END USERS, THE FOLLOWING LIMITATIONS OF LIABILITY SHALL APPLY ONLY TO THE EXTENT PERMITTED UNDER APPLICABLE FEDERAL LAW. TO THE EXTENT THAT THESE PROVISIONS ARE INCONSISTENT WITH APPLICABLE FEDERAL LAW, THEY SHALL BE OF NO FORCE OR EFFECT WITH REGARD TO GOVERNMENT END USERS.

FOR CUSTOMERS WHO ARE NOT GOVERNMENT END USERS, THE FOLLOWING SHALL APPLY:

A. EXCEPT AS PROVIDED UNDER THE INDEMNITY ABOVE; OR IN CONNECTION WITH THE MISAPPROPRIATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY, INCLUDING, WITHOUT LIMITATION, TRADE SECRETS; DAMAGES FOR BODILY INJURY, DEATH, DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY; OR INTENTIONAL OR GROSS NEGLIGENCE (THE "EXCLUDED MATTERS"), IN NO EVENT WILL EITHER PARTY OR TIBCO'S LICENSORS BE LIABLE FOR ANY LOSS OR UNAVAILABILITY OF OR DAMAGE TO DATA, LOST REVENUE, LOST PROFITS, FAILURE TO REALIZE EXPECTED SAVINGS, DAMAGE TO REPUTATION, BUSINESS INTERRUPTION, DOWNTIME COSTS, OR ANY OTHER INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR SIMILAR TYPE OF DAMAGES ARISING OUT OF THIS AGREEMENT, THE USE OR THE INABILITY TO USE THE PRODUCTS, OR THE PROVISION OF ANY MAINTENANCE, CONSULTING SERVICES, EVEN IF A PARTY HAS BEEN ADVISED OR WAS AWARE OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF SUCH COSTS, EXPENSES OR DAMAGES.

B. EXCEPT FOR THE EXCLUDED MATTERS, IN NO EVENT SHALL A PARTY'S LIABILITY TO THE OTHER, WHETHER IN CONTRACT, TORT (INCLUDING ACTIVE OR PASSIVE NEGLIGENCE), BREACH OF WARRANTY, CLAIMS BY THIRD PARTIES OR OTHERWISE, EXCEED THE GREATER OF FIFTY THOUSAND DOLLARS (\$50,000 USD) OR THE PRICE PAID BY YOU UNDER THE APPLICABLE ORDER FORM. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Agreement under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733. Furthermore, this clause shall not impair nor prejudice the U.S. Government's right to EXPRESS remedies provided in the Agreement.

C. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF THE ABOVE-STATED REMEDY OR LIMITED WARRANTY FAILS OF ITS ESSENTIAL PURPOSE. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. TO THE EXTENT ALLOWED BY LOCAL LAW, THESE LIMITATIONS WILL APPLY REGARDLESS OF THE BASIS OF LIABILITY, INCLUDING NEGLIGENCE, MISREPRESENTATION, BREACH OF ANY KIND, OR ANY OTHER CLAIMS IN CONTRACT, TORT OR OTHERWISE.

#### 19. Confidentiality.

For Government End Users, confidentiality obligations shall be pursuant to the Freedom of Information Act and other applicable Federal law, and Sections 19A through 19E, below, shall not apply. TIBCO software Products delivered under this Agreement constitute commercial computer software products as defined in the FAR and are delivered with no greater than the rights identified in FAR 52.227-19; data delivered under this Agreement constitutes Limited Rights data, and was developed at private expense, embodies trade secrets, or are commercial or financial and confidential or privileged. Pursuant to FAR 52.227-14(g) (Alternate II, DEC 2007), these data may be reproduced by the Government with the express limitation that they will not, without written permission of TSFI, be used for purposes of manufacture nor disclosed outside the Government.

For customers other than Government End Users, the following provisions shall apply:

A. "Confidential Information" means any information disclosed by either party, whether or not marked, including, without limitation, the terms of this Agreement; the Products; Materials; individual contact information provided by either party; Product or related performance test results derived by you, including but not limited to benchmark test results; and your Protected Data (as defined in Section B below) and Output. Each party agrees to protect Confidential Information in the same manner as it protects its own Confidential Information (but using no less than a reasonable degree of protection) and shall only disclose Confidential Information to those with a need to know that information and who have agreed in writing to be bound by terms at least as protective as those contained in this Agreement. Information will not be deemed Confidential Information if (i) available to the public other than by a breach of a confidentiality obligation, (ii) rightfully received from a third party not in breach of a confidentiality obligation, (iii) independently developed by one party without use of the Confidential Information of the other; (iv) known to the recipient at the time of disclosure (other than under a separate confidentiality obligation); or (v) produced in compliance with applicable law or court order, provided the other party is given reasonable advance notice of the obligation to produce Confidential Information. Each party agrees to indemnify the other for any damages (including reasonable expenses) the other may sustain resulting from the unauthorized use and/or disclosure of the other's Confidential Information. The parties further agree that money damages would not be a sufficient remedy for a breach of confidentiality. The parties shall be entitled to seek injunctive or other equitable relief without the necessity of posting a bond even if otherwise normally required. Such injunctive or equitable relief shall not be the exclusive remedy for any breach of confidentiality, but shall be in addition to all other rights and remedies available at law or in equity.

B. To the extent we are exposed to individual personal data owned or otherwise held by you during the provision of Hosted Services, Cloud, or Services, which is subject to various data protection laws and/or regulations ("Protected Data"), we agree to treat such Protected Data in accordance with the Customer Privacy and Security Statement set forth at [http://www.tibco.com/customer\\_privacy\\_security\\_statement.jsp](http://www.tibco.com/customer_privacy_security_statement.jsp) (the "Statement"). The policies and procedures set forth in the Statement as well as those set forth in the Data Protection Policy Statement at [http://www.tibco.com/resources/data\\_protection\\_statement.pdf](http://www.tibco.com/resources/data_protection_statement.pdf) are in place to meet our obligations for the protection, integrity and confidentiality of any Protected Data which exceed our standard obligations to safeguard Confidential Information.

C. Confidential Information shall remain the sole property of the disclosing party, and each party acknowledges and agrees that it does not acquire any rights therein. Use by a recipient of Confidential Information for the purposes contemplated under this Agreement, including, but not limited to, any configuration or use by you of Products or Materials shall not affect or diminish the disclosing party's rights, title and interest in and to Confidential Information.

D. We may use any individual contact information provided by you or your users for support, product information and other business to business communications in connection with this Agreement. In the event you or your users wish to opt-out from receiving such communications, you or your users should do so on the web store or website page where you originally submitted provided your information or at <http://forms2.tibco.com/unsubscribe/u/5042/768537d8eeb3af5338448782d1fa356e>. Please note that communications may still be transmitted after the opt-out request has been submitted but before it has been processed.

E. You acknowledge and agree that any feedback, suggestions, comments, improvements, modifications and other information (including any ideas, concepts, "know-how" or techniques contained therein) that you provide to us about our Products or their performance (collectively, "Feedback") shall not be deemed as your Confidential Information and may be used, disclosed, disseminated and/or published by us for any purpose, including developing, manufacturing and marketing products incorporating Feedback, without obligation of any kind to you, and you waive any rights whatsoever in or to all Feedback.

20. Export. Products, Documentation, Materials and related technical data, are subject to U.S. export control laws, including without limitation the U.S. Export Administration Act and its associated regulations and may be subject to export or import regulations of other countries. You agree that you will not nor permit your users to export or re-export the Licensor Software, Documentation and Materials in any form in violation of applicable export or import laws.

21. Government Use. The Products and Services are COMMERCIAL ITEMS AS DEFINED BY THE FEDERAL ACQUISITION REGULATION. Use by the Government is restricted according to the terms of this Agreement. NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THIS AGREEMENT, AND AS REQUIRED BY FAR 12.302(b), THE FOLLOWING PROVISIONS FOUND AT FAR 52.212-4 SHALL APPLY:

- (1) Assignments; (2) Disputes;
- (3) Payment (except as provided in subpart 32.11); (4) Invoice;
- (5) Other compliances; and
- (6) Compliance with laws unique to Government contracts.

22. Entire Agreement. For Government End Users, to the extent permitted by applicable Federal law and regulation, this Agreement constitutes the entire agreement between the parties with respect to the use of the Products and Services, and supersedes all proposals, oral or written, and all other representations, statements, negotiations and undertakings relating to the subject matter hereof. All orders of Products or Services by you to us shall be deemed to occur, with or without reference, under the terms of this Agreement, unless expressly superseded by a signed written agreement between the parties.

For other customers, this Agreement, and any terms which are incorporated by written reference (including written reference to information contained in a URL, Documentation or reference policy) constitutes the entire agreement between the parties with respect to the use of the Products and Services, and supersedes all proposals, oral or written, and all other representations, statements, negotiations and undertakings relating to the subject matter hereof. All orders of Products or Services by you to us shall be deemed to occur, with or without reference, under the terms of this Agreement, unless expressly superseded by a signed written agreement between the parties. Except for additional terms you have agreed to in connection with our web stores or web sites,

none of the terms of the Order Form (other than the product names, Number of Units, level of Maintenance, description of Consulting Services, and fees due in connection therewith) shall apply for any reason or purpose whatsoever, regardless of any statement on any Order Form to the contrary.

Neither the license to use granted in this Agreement nor the obligation to pay license fees are dependent upon the performance by any party of any Consulting Services or the supply of any other software program or product.

23. Termination.

Between TSFI and Government End Users, termination shall be pursuant to FAR 52.212-4(l) (Termination for the Government's convenience) and 52.212(m) (Termination for cause); no other termination rights shall apply, including paragraphs 23(A) through (F). Nothing in the foregoing, however, shall be understood to grant the Government the right to use Products or Services acquired on a term basis beyond the term set forth in the applicable Purchase Order.

For customers other than Government End Users:

A. This Agreement and all Order Forms shall automatically terminate if: (i) either party files for bankruptcy, or otherwise goes into receivership, becomes insolvent or makes an assignment for the benefit of creditors; or (ii) a writ of attachment or execution is levied on the Equipment (where we are lessor) and is not released or satisfied within ten (10) days thereafter, or (iii) where we are lessor or in a Purchase where payment in full to us has not been made, if a receiver is appointed in any proceeding or action to

which you are a party with authority to take possession or control of the Equipment. In all cases, the Equipment shall be promptly returned to us and not be treated as your asset.

B. Maintenance or Consulting Services may be terminated: (i) by either party upon a default of the other, such default remaining uncured for fifteen (15) days from written notice from the non-defaulting party; (ii) upon the filing for bankruptcy or insolvency of the other party, (iii) by either party upon prior written notice at least sixty (60) days prior to the end of any annual Maintenance term; or (iv) by you for Consulting Services, upon ten (10) days prior written notice or (e) by us for Consulting Services upon thirty (30) days prior written notice. Termination of Maintenance or Consulting Services shall not terminate this Agreement.

C. A Cloud will terminate if or when your or our agreement for services with a Provider is terminated or otherwise expires for any reason. In the event of a termination of your Provider services, by Provider, in connection with a Cloud, without cause (where you are not in breach), to the extent you have pre-paid us fees for the Cloud, you may submit written notice requesting a refund, such notice to include evidence of Provider's termination without cause (e.g. a copy of Provider's notice of termination). Following receipt of such written notice, we will refund the pre-paid unearned pro-rata portion, from the date we received your notice, for the remaining Cloud term, or in the case of multiple Cloud purchases, each remaining term. In the event of a termination, for any reason, of TIBCO Provider service accounts upon which we rely to provide Hosted Services or the Cloud, to the extent you have pre-paid us fees for Hosted Services or Cloud to us, we will refund, as of the date of notice of termination from Provider to us, for the unearned pro-rata portion of the prepaid fees.

D. You may terminate this Agreement in its entirety at any time, in regard to Software, by destroying all copies of the Software. We may terminate this Agreement at any time, in regard to Software provided to you for evaluation or alpha/beta purposes. In the case of an evaluation of Equipment, where we exercise our right to terminate the Lease for a reason other than your breach of the Agreement, and you have pre-paid fees for the month in which our termination occurs, we will refund the unearned monthly pro-rated fee to you within thirty (30) days following our receipt of the returned Equipment.

E. If a license, Cloud, or Hosted Services under this Agreement terminates or expires, or upon termination of this Agreement in its entirety for any reason, you shall (i) cease using the Products, Documentation, and related Confidential Information, and (ii) return or notify us in writing within thirty (30) days after termination that you have destroyed such Software, Documentation, related Confidential Information, and all copies thereof, whether or not modified or merged into other materials.

F. Termination of this Agreement, any license, Cloud, or Hosted Services, or any Order Form shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve you of your obligation to pay all fees that have accrued or are otherwise owed by you under this Agreement. Except as set forth in sections entitled "Termination", "Limited Warranty" or "Indemnity", all fees paid under or in connection with this Agreement are non-refundable and no right of set-off exists. The parties' rights and obligations under this section and sections entitled "Limited Warranty", "Indemnity", "Limitation of Liability", "Proprietary Notices", "Confidentiality", "General", "Governing Law" and your warranties in connection with Hosted Services and the Cloud, shall survive the expiration or earlier termination of this Agreement.

24. Open Source Software. If you use any third party software not supplied by us, including any open source software, in conjunction with any Product, you must ensure that such use does not require any of the following, pursuant to the terms of such software: (i) disclosure or distribution of any Product in source code form; or (ii) licensing of any Product for the purpose of making derivative works; or (iii) redistribution of any Product at no charge. For the avoidance of doubt, you may not combine Product with any software licensed under any version of or derivative of the GNU General Public License ("GPL") in any manner that could cause, or could be interpreted or asserted to cause, the Product or any modifications to the Product to become subject to the terms of the GPL.

25. Special Product Provisions. Software products TIBCO BusinessEvents®, TIBCO Collaborative Information Manager™, TIBCO ActiveMatrix® Service Performance Manager and TIBCO® ActiveFulfillment (and each of the foregoing, when included in any Bundle or Embedded/ Bundled Products) are subject to a restricted license and contain third party proprietary code that you may only use in conjunction with the Software and may be subject to additional terms as set forth in Appendix B.

## 26. General.

A. As between TSFI and the Government, interest in connection with this Agreement shall be pursuant to the provisions of FAR 52.212-4(i)(6).

B. As between TSFI and other customers: All payments of fees due shall be made in U.S. dollars, net 30 from Purchase Date or, for any other amounts coming due hereafter, net 30 from our invoice. Fees do not include sales, use, withholding, value-added or similar taxes, and you agree to pay all sales, use, value-added, goods and services, consumption, withholding, excise and any other similar taxes or government charges, exclusive of our income tax. You agree to pay all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts. Except as set forth in the sections entitled "Limited Warranty", "Indemnity" and "Termination" all fees paid under or in connection with this Agreement are non-refundable and no right of set-off exists. A service charge of one and one-half percent (1 ½%) per month will be applied to all invoices that are not paid on time. No delay in the performance of any obligation by either party, excepting all obligations to make payment, shall constitute a breach of this Agreement to the extent caused by Force Majeure.

C. You hereby grant us and our independent auditors the right to audit your compliance with this Agreement and report any results to our licensors. You agree to provide reasonable assistance to ensure a complete and accurate audit by us and our independent

auditors. If any portion of this Agreement is found to be void or unenforceable, the remaining provisions shall remain in full force and effect. All notices related to this Agreement shall be in writing. Notices will be effective if dispatched by facsimile; or electronic mail; by hand; reliable overnight delivery service or first-class, pre-paid mail if sent to the contract address for the intended recipient set forth in the Order Form. A copy of any notice of default, breach or termination shall also being sent to that party's General Counsel.

27. Governing Law. For Government End Users, this Agreement shall be governed by applicable Federal law, including but not limited to the Contract Disputes Act of 1978 as amended, with venue in the Federal courts of competent jurisdiction. For other customers, to the extent permitted by law, this Agreement shall be governed by and construed in accordance with the laws of the State of California, United States of America, as if performed wholly within the state and without giving effect to the principles of conflict of law. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act are excluded from application hereto.

Addenda:

Appendix A	Definitions
Appendix B	Product Parameters
Appendix C	Product Maintenance
Appendix D	Equipment Maintenance

TSFI EULA Appendix A -- Definitions

"Academic Bundle" means a Bundle which is licensed to an accredited education institution solely for educational use, teaching and individual student or faculty non-funded research purposes in Non-Production. Use in Production, or for the purpose of funded research or for any classes offered electronically via the internet or otherwise (i.e.: "on-line" classes) is prohibited. For the purposes of an Academic Bundle, Licensee may provide access to the Licensor Software products by students who are Named Users, subject to such Named Users agreeing to be bound by terms at least as protective of Licensor as the terms of this Agreement.

"Affiliates" means entities, regardless of corporate status, controlled by, controlling or under common control with Licensor or Licensee, respectively, or officers, directors, shareholders, employees or agents of any of the foregoing.

"Broker" means the component within the applicable Site Copy which schedules work for Engines in a GridServer® or FabricServer® environment. GridServer environment means at least one TIBCO DataSynapse GridServer® Broker and a pool of servers with the TIBCO DataSynapse GridServer® Engine executing grid services. FabricServer environment means at least one TIBCO DataSynapse FabricServer® Broker and a pool of servers with the TIBCO DataSynapse FabricServer® Engine managing enterprise applications.

"Bundle" means a collection of Licensor Software, listed in Licensor's quotation or price book, to be sold together under a collective name such as "XXX Bundle" which consists of X, Y and Z. The Licensor Software which comprises a Bundle must be used in accordance with any specific license restrictions imposed in this Agreement and solely in conjunction with the components of the Bundle; provided that a Bundle component may be accessed by or communicate with other Licensor Software separately licensed by Licensee. In no event may the Licensor Software which comprises a Bundle be used on a standalone basis. A "Bundle" is sold at a discount to the cost of licensing the individual components due to the restrictions imposed on the use of the Bundle by this section and any specific license restrictions imposed by this Agreement. If the terms of this Agreement with regard to a Bundle are breached, such breach must be cured within ten (10) days of Licensor notifying Licensee in writing of the breach. In addition to the foregoing, where Bundle is used as the Unit type, Licensee's use is limited to the Number of Units and Unit type for each component which comprises the Bundle, as set forth in the bill of material for such Bundle.

"CICS Region" means a subdivided mainframe address space managed by CICS for resource allocation, resource sharing, and transaction execution, of which the resource definitions include the TIBCO EMS Client for z/OS.

"Cloud" means an internet based computing service offered by a Licensor approved third party, which permits users to make use of a hosted hardware and software environment, which includes, among other components, Licensor Software set forth in an Order Form.

"Concurrent Users" means the number of Authorized Users that are simultaneously logged in to the Licensor Software at any single point in time.

"Connection" means any network link or session established with Licensor software, directly or indirectly to any other entity, including but not limited to software, firmware or hardware. For TIBCO Rendezvous® and TIBCO SmartSockets®, "Connection" means any network protocol link established with such Licensor Software (directly or indirectly) to any other entity, including but not limited to software, firmware or hardware.

For TIBCO ActiveSpaces®, "Connection" means any session established directly or indirectly to a TIBCO ActiveSpaces® Metaspace cluster instance.

For TIBCO DataSynapse Federator™, "Connection" means a web service session established to a TIBCO DataSynapse GridServer® Manager Instance or a TIBCO DataSynapse FabricServer® Manager Instance; for TIBCO DataSynapse™ Analytics or



TIBCO® Cloud Analytics, a database session established to a TIBCO DataSynapse GridServer® Broker reporting database or TIBCO Silver® Fabric Manager reporting database; and for TIBCO® Data Quality Service Engine Named Application, any link or session established directly or indirectly (through any other middleware application) which calls to a named third party software application.

"Consumer Price Index" means (unless otherwise set forth in this Agreement or an Order Form) the United States Department of Labor - Consumer Price Index for All Urban Consumers (CPI-U).

"Connected Processor" means any processor that produces information consumed by the relevant Licensor Software product (excluding processors on devices such as routers, switches, proxies, HTTP or application servers configured to substantially pass-through information or messages to Licensor Software).

"CPU" means a chip that contains a collection of one or more cores on which the program is running. Regardless of the number of cores, each chip counts as one (1) CPU. This definition pertains solely to the TIBCO LogLogic Product Line and does not affect, nor is it affected by, the Processor Unit Type or Processor counting policy.

"Developer" means a Named User of a Licensor Software product other than for use only in Non-Production.

"Development License" for TIBCO Spotfire® Developer or TIBCO Spotfire DecisionSite® Developer means use by a Developer in accordance with the Documentation in Non-Production for the purposes of configuring analyses created with TIBCO Spotfire products and/or extending the TIBCO Spotfire product platform. The Development License includes the right to use resulting developments in conjunction with Licensee's right to use Licensor Software for Production purposes.

"Documentation" means text material that accompanies an item of Licensor Software on delivery, describing how to make use of that software. "Engines" means for GridServer products a single thread that processes tasks or services in a first in, first out (FIFO) queue, and for

FabricServer products a single agent that manages the deployment and performance of an application. Typically, only a single engine runs on

a single cpu/core so that the number of engines in the grid is the same as the number of cpu's/cores in a GridServer or FabricServer environment.

"Enablement License" means for use in connection with and for up to the Number of Units licensed of the TIBCO DataSynapse™ Licensor Software which contains the word "Edition" in the product name, and if a) an Application Enablement License, a license to deploy JavaEE applications, built on the applicable third party application server, or b) for an Enterprise Enablement License, a license to deploy or integrate with the applicable third party application, or in connection with Command Lind, to deploy custom or external applications. Enablement Licenses do not include Engines required for running third party applications or any integration software to mesh or permit the Licensor Software to function with such third party applications.

"Enterprise" means (unless otherwise set forth in an Order Form) an unlimited Number of Units of the Licensor Software, where the Number of Units is identified as Enterprise in the Order Form, to be deployed by Licensee until the Enterprise Term Expiration Date set forth in the Order Form, (the "Enterprise Term"), at which time, the Number of Units then deployed in Production and Non-Production use by Licensee becomes fixed and Licensee may not thereafter deploy additional Units. During the Enterprise Term, Licensee's right to deploy shall not extend to any Extraordinary Corporate Event. Licensee hereby agrees to provide Licensor, within sixty (60) days after the end of the Enterprise Term, written notice of the Number of Units deployed at the end of the Enterprise Term by Unit and License Type. In the event Licensee elects to renew Maintenance (subject to any termination provisions in this Agreement), then during the Enterprise Term and each annual renewal thereafter, Licensor agrees the annual Maintenance fee for the Licensor Software licensed on an Enterprise basis shall not increase by more than the percentage rate change in the Consumer Price Index for the twelve month period immediately preceding each anniversary date of Maintenance.

"Equipment" means a hardware appliance, obtained from or through Licensor, in which Licensor has caused the Licensor Software to be embedded, and which is listed on an Order Form under License Type "Lease" or "Purchase". Equipment shall have the same meaning as Licensor Software where Licensor Software is or has been used elsewhere in this Agreement. Licensor Software embedded in the Equipment is licensed solely to enable the Equipment to function in accordance with its Documentation.

"Extraordinary Corporate Event" means a corporate transaction which results in Licensee divesting business operations and related assets to another or new entity, or acquiring, being acquired by, merged, or otherwise combined with another entity or into another entity's legal or corporate structure (including an acquisition of all or substantially all of the assets of another entity) which, prior to the corporate transaction, was not part of the Licensee or its legal or corporate structure.

"Fixed Partitioning" means a mechanism for allocating processing resources on a multi-Physical Processor machine, such that the Licensor Software is limited to running on a fixed isolated subset of the Physical Processor(s), e.g. physical partitioning and fixed (hard) processor affinity.

"GB RAM" means total number of Gigabyte's of Random Access Memory (RAM) on one or more servers where the Licensor Software is installed or otherwise accessed by Licensee. For the foregoing, server(s) means a physical or virtual computer with measurable amounts of RAM.

"Hosted Services" means online, internet based computing services provided by Licensor.

"Instance" means the smallest functionally-complete copy of Licensor Software. For the avoidance of doubt, the various components of one single Instance may be deployed on a single Server or separately spanning multiple Servers.

For TIBCO Rendezvous®, "Instance" means a TIBCO Rendezvous® daemon, where each daemon is an operating system process with a unique process id.

"License Type" means the environment(s) in which the Licensor Software may be used (including without limitation, Production and/or Non- Production, Cloud or Hosted Services).

"Licensor Software" " means the most current, generally available, object code version (or, in the case of Cloud, a machine and or disk image)

of the Licensor's product on all supported Platforms then currently available, including Documentation and any subsequent Updates (as defined in the Maintenance Program Guide located at <http://www.tibco.com/services/support/default.jsp>) provided under Maintenance. Licensor Software does not include multiple Platforms if the software product is licensed on a Platform specific basis as designated in the Licensor Software product name or listed in an Order Form or purchase order. Licensor Software includes TIBCO Spotfire® Web-Based Training products and excludes TIBCO® Data Quality Postal Directory(ies) as set forth in an Order Form. Where the terms "TIBCO Software", "Spotfire Software", "TIBCO Spotfire Software", or "Software" (in connection with a Licensor click-wrap End User License Agreement, or Licensor acquired company license agreements ) are being or have been used, they shall have the same meaning as Licensor Software.

"Managed Endpoints" means the number of Processors running instances of TIBCO ActiveMatrix BusinessWorks™ or other third party service implementations (e.g. Java or .NET components) that are being managed by TIBCO ActiveMatrix® Policy Manager.

"Materials" means any tangible or intangible information, design, specification, instruction or data (and any modifications, adaptations, derivative works or enhancements) provided by Licensor during the performance of Consulting Services which incorporates, reinforces or is used to apply Licensor's configuration or implementation methodologies, processes and know-how to Licensee's use of the Licensor Software, excluding Output.

"Module" means Licensor Software that is licensed to add functionality or capabilities in conjunction with an underlying Licensor Software product and may only be used in conjunction with the relevant underlying Licensor Software product. So long as Licensee holds a valid license in the underlying Licensor Software product, Licensee may use a reasonable number of copies of the Module to support the same business as the underlying Licensor Software product, but subject to any applicable site, Project or other business limitations or restrictions applicable to the underlying Licensor Software product. Licensee's right to utilize Modules shall terminate automatically upon termination of the license in the underlying Licensor Software product.

"MSU" means Millions of Service Units per hour, based on the then current MSU rating established by IBM for IBM and IBM compatible hardware which is used for software pricing (not necessarily a direct indication of relative processor capacity) as set forth in IBM's generally available Large System Performance Reference.

"Named User" means an identifiable individual, not necessarily named at the time of a license grant, designated by Licensee to access the Licensor Software, regardless of whether or not the individual is actively using the Licensor Software at any given time. An individual shall only be designated as a Named User on the earlier of a) he or she is authorized by Licensee to access the Licensor Software or b) once he or she has accessed the Licensor Software. In the case of TIBCO Formvine®, identifiable individuals will be counted as Named Users in accordance with the TIBCO Formvine® Licensor Software product Documentation. In the case of TIBCO® Nimbus Control, Named Users account types are further defined in the TIBCO® Nimbus Control Licensor Software product Documentation in the section entitled "Summary of User Rights".

"Non-Production" means a non-operational environment into which the Licensor Software may be installed, which is not processing live data, which is not running any operations of the Licensee and which has not been deployed to permit any users to access live data. Non-Production environments include development, hot standby, high-availability, and test environments.

"Number of Units" means the cumulative number of copies of Licensor Software licensed for use by type of Unit, as set forth in this Agreement, an Order Form or in a purchase order, and including, if applicable, the current number of copies as reported by Licensee upon expiration of a Project or Enterprise Term.

"Orders" mean the total number of unique transactions submitted, stored in and counted by the applicable Licensor Software product during a period. Unless otherwise agreed, this period shall equal one (1) year from the Effective Date. The number of Orders shall reset to zero on each anniversary of the Effective Date. In no event shall the total number of Orders during a one (1) year period exceed the Number of Units set forth in the Order Form, unless Licensee purchases additional Units.

"Order Form" means any written order for Licensor Software or services, including, without limitation, a purchase order, Work Order, Statement of Work, Order Form or other form of ordering document delivered to Licensor, which is subject to, and incorporates by reference, the terms and conditions of this Agreement, and to which no other terms shall apply.

"Output" means Confidential Information of Licensee that has been input in the Materials for Licensee's use of the Licensor Software. "Physical Processor" means the smallest physical electronic circuit which is capable of reading and executing computer programs and providing results as output e.g. a CPU (socket), core, or thread.

"Platform" means for each discrete Licensor Software product, the operating system, hardware and/or environments (whether virtual or physical), upon which each product is supported, as set forth in its Documentation, or as specifically identified in the Licensor Software product name.

"Postal Directory" means a copy of the applicable product installed on a single Server.

"Processor" means a licensing Unit type for the Licensor Software, based on the count of Virtual and/or Physical Processors as described in the TIBCO Processor Licensing Policy.

"Processor Bundle" means the Number of Units as determined by the number of Processors on which the Licensor Software licensed as a Bundle is licensed to run.

"Processor Source Locked" means the number of Processors the Licensor Software is installed on multiplied by the number of instances of a source system or database regardless of how many Processors are used by the source system or databases.

"Product Lines" means sets of products and services determined by Licensor from time to time that are (a) attributed to a particular Licensor product family, or (b) made available under separate purchase or license models, in the case of either (a) or (b), as set forth in a Licensor product family's then current list price. Licensor does not permit aggregation of products, services, purchase or license models and cumulative fees paid across separate Product Lines to trigger preferred pricing or discounts.

"Production" means an operational environment into which the licensed Licensor Software has been installed, which is processing live data and which has been deployed so that the intended users of the environment are able to access the live data.

"Project" means (unless otherwise set forth in an Order Form) an unlimited Number of Units of the Licensor Software, where the Number of Units is identified as Project in the Order Form, to be deployed by Licensee until the Project Term Expiration Date set forth in the Order Form, (the "Project Term"), at which time, the Number of Units then deployed in Production and Non-Production use by Licensee becomes fixed and Licensee may not thereafter deploy additional Units. During the Project Term, Licensee's right to deploy an unlimited Number of Units does not extend beyond the scope of the Project set forth in the Order Form, or to any Extraordinary Corporate Event. Licensee hereby agrees to provide Licensor, within sixty (60) days after the end of the Project Term, with written notice of the Number of Units deployed at the end of the Project Term by Unit and License Type. In the event Licensee elects to renew Maintenance (subject to any termination provisions in this Agreement), then during the Project Term and each annual renewal thereafter, Licensor agrees the annual Maintenance fee for the Licensor Software licensed on a Project basis shall not increase by more than the percentage rate change in the Consumer Price Index for the twelve month period immediately preceding each anniversary date of Maintenance.

"Purchase" means when used in connection with "Equipment", the purchase of the hardware appliance, where Licensor transfers title of the hardware appliance to Licensee. The Licensor Software is licensed under the terms of this Agreement and not sold. Licensor (or a third party) owns the Licensor Software.

"Read-only User" means an identifiable individual, not necessarily named at the time of license grant and regardless of whether the individual is actively using the Licensor Software at any given time, designated by Licensee to access the Licensor Software for the sole purpose of searching for and viewing data.

"Record" means a unique data item stored in and counted by the applicable Licensor Software product. The total number of Records shall in no event exceed the Number of Units set forth in the Order Form, unless Licensee purchases additional Units.

"Server" means a single computer performing common services for multiple other machines.

"Server Instance" means a computer with one (1) CPU, unless otherwise agreed in writing, performing common services for multiple other machines.

"Site Copy" means the number of copies of the Licensor Software licensed for use at the physical location of the Licensee entity signing an Order Form or as otherwise specifically designated as the site location in an Order Form.

"Spare" means a unit of Equipment identified by use of the word "Spare" in its product name, which is kept in storage at the same location as Equipment in productive use. In the event Equipment in productive use becomes inoperable, Licensee may set up and configure a Spare for productive use, until the original Equipment becomes operational again, but in no event for a period greater than three (3) months, without first obtaining Licensor's written consent.

"Third Party Software" means third-party software identified by its company and/or product name, the provision of which by Licensor is made solely as an accommodation and in lieu of Licensee purchasing a license to Third Party Software directly from the third party vendor.

"TIBCO Processing Unit" or "TPU" means a Unit for measuring computing power as designated in the applicable TPU Conversion Table located and incorporated by reference at <http://www.tibco.com/software/cloud-instance-type-tpu-conversion-table.jsp> and as set forth in an Order Form.

"TIBCO Processor Licensing Policy" means the document published by TIBCO from time to time which explains how to count Virtual and/or Physical Processors in order to determine the number of Processors.

"Trading Partner" means an entity or individual with whom the Licensee engages in accordance with this Agreement in electronic commerce by means of Licensor Software and, in the case of TIBCO® KPSA, TIBCO® KxDR and TIBCO Kabira® Licensor Software products, an individual with whom Licensee engages to provide services, which may include, electronic commerce and or general service activation and provisioning of wireline and wireless packages for the exchange of data and content.

"Unit" means a license restriction describing the manner in which a copy (or multiple copies) of the Licensor Software may be deployed (including, without limitation, Processor, Named User, Connected Processor, and Processor Source Locked) and is the mechanism used to determine the Number of Units licensed under this Agreement, an Order Form or a purchase order.

"User" means an employee of Licensee who is authorized by Licensee to use the Licensor Software in accordance with this Agreement. The number of Licensee computers on which the Licensor Software is installed shall not exceed (but may be less than) the number of licensed Users.

"Virtualized Environment" means an operating system environment where multiple Virtual Machines can run on a single physical machine or cluster, sharing the physical machine resources. In a Virtualized Environment, a Virtual Processor can run on only one Physical Processor at a time.

"Virtual Machine" means a software implementation of a machine that executes programs like a physical machine. An essential characteristic of a Virtual Machine is that the software running inside of the Virtual Machine is limited to the resources and abstractions provided by the Virtual Machine. The processing capacity of a Virtual Machine is measured in Virtual Processors.

"Virtual Processor" means a simulation of a Physical Processor that is serially time-multiplexed across one or more Physical Processors. Special Provisions Regarding Processor Licensing:

Certain Licensor Software is licensed by the Unit type "Processor." The following describes how to calculate the number of Processor Units which should be licensed in a Virtualized Environment and in all other environments.

#### Calculation

The number of Processor Units of Licensor Software required to be licensed shall be calculated as follows:

1. In a Virtualized Environment, the number of Virtual Processors shall be calculated by following the steps below:

1. For each Virtual Machine running the Licensor Software, the number of Virtual Processors shall be counted in increments of whole numbers. For clarification, the lowest unit of measurement for Virtual Processors is one; any fraction shall be rounded upward to the next whole number.
2. If the number of Virtual Processors of a Virtual Machine can increase or decrease, then for the purpose of counting Virtual Processors, the number of Virtual Processors shall be the maximum whole number of Virtual Processors that could ever be assigned to the Virtual Machine running the Licensor Software.
3. Add the total number of Virtual Processors across all Virtual Machines within the entire Virtualized Environment that runs the Licensor Software.

2. In all other environments (e.g. running on physical machine(s) or if a Virtual Processor can run on more than one Physical Processor at a time), the number of Physical Processors shall be calculated by following the steps below:

1. For each Licensor Software, the relevant partition boundary shall be set:

(a) where the allocation is defined by Fixed Partitioning, to include all Physical Processors that could ever execute the Licensor Software. (b) where the allocation is not defined by Fixed Partitioning, to include all Physical Processors on the physical machine.

2. Count the total number of Physical Processors for the relevant partition boundary for each physical machine, and aggregate the counts across all physical machines within the entire environment that runs the Licensor Software.

3. For all environments, if multi-threading is enabled for the underlying physical cores, then the total count of Physical Processors or Virtual Processors, as the case may be, shall be multiplied by 0.5.

1. If the multi-threading function is disabled, then a multi-threaded core shall be treated as a single-threaded core, in which case, (a) when calculating the number of Processors in a Virtualized Environment, the 0.5 multiplier shall be inapplicable; and (b) when calculating the number of Processors in all other environments, the number of cores instead of threads shall be the number of Processors Units required to be licensed and the 0.5 multiplier shall be inapplicable.

4. Any fraction shall be rounded upward to the next whole number.

The above calculation yields the total number of Processor Units required to be licensed for the Licensor Software.

#### Appendix B – License Parameters

Effective April 1, 2012 – To the extent that TIBCO products contain Java SE, use of the Java SE Commercial Features for any commercial or production purpose requires a separate license from Oracle. "Commercial Features" means those features identified Table 1-1 (Commercial Features in Java SE Product Editions) of the Java SE documentation accessible at <http://www.oracle.com/technetwork/java/javase/documentation/index.html>.

Effective January 20, 2012 – TIBCO Formvine®

The module of the Licensor Software called TIBCO Formvine® Project Tools allows Licensor to create and manage TIBCO Formvine® projects, and to view, edit and export the data gathered through a Formvine® project's online form. Only the number of Named Users listed in an accepted Order Form which includes the Licensor Product named TIBCO Formvine® Project Tools shall be entitled to use the "Project Tools" as defined in the Documentation.

The module of the Licensor Software called TIBCO Formvine® Integration Add-on allows software other than TIBCO Formvine® Project Tools to exchange information with the TIBCO Formvine® Server by way of the server's application programming interfaces ("Formvine® APIs"). Only to the extent that an accepted Order Form includes the Licensor Product named TIBCO Formvine® Integration Add-on, shall Licensee have rights to use software other than the licensed TIBCO Formvine® Project Tools in conjunction with the Formvine® APIs.

Effective December 1, 2011 – The following definition of Processor is being retired and will only apply to contracts entered into on or before November 30, 2011:

"Processor" means a central processing unit ("CPU") on which the Licensor Software is licensed to run. For purposes of counting Processors on multicore chips, the number of Processors is the number of CPUs times the number of cores multiplied by .75.

Effective July 1, 2010 - TIBCO Foresight™ HIPAA Validator® Desktop; TIBCO Foresight™ Community Manager®; TIBCO Foresight™ Instream®; TIBCO Foresight™ Transaction Insight®; TIBCO BusinessConnect™ EDI Protocol HIPAA Edition powered by Instream® ("Editorial Content Products")

The Editorial Content Products contain CPT Editorial Content, which is licensed from the American Medical Association ("AMA"). The AMA holds the copyright to CPT Editorial Content and the registered trademark "CPT". Provision of updated CPT Editorial Content in the Editorial Content Products is dependent on continuing contractual relationship between Licensor and the AMA. The following terms apply to end users of the Editorial Content Products:

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Effective July 1, 2010 – The following Licensor Software products are each licensed for the sole purpose set forth below:

TIBCO® KPSA – Mobile for provisioning and activating telecommunication services and mobile access networks (such as GSM, EDGE, UMTS, GPRS, and HSPDA) each for Licensee's mobile telecommunication subscribers. TIBCO® KPBA – Broadband – for provisioning and activating telecommunication services and broadband access networks (such as DSL, optical fiber, and WiMAX)

each for Licensee's broadband subscribers. TIBCO® KPSA Load Balancer – Mobile – for distributing traffic across TIBCO KPSA – Mobile nodes. TIBCO® KPSA Load Balancer – Broadband – for distributing traffic across TIBCO KPSA – Broadband nodes. TIBCO® KxDR – Mobile – for mediation of service usage detail records ("xDRs"), including but not limited to call and transmission detail records, that are generated by mobile network elements and service platforms serving Licensor's mobile subscribers. TIBCO® KxDR – Broadband – for mediation of service usage detail records ("xDRs"), including but not limited to call and transmission detail records, that are generated by broadband network elements and service platforms serving Licensor's broadband subscribers. TIBCO® KPSA – Order Management – for managing the end-to-end lifecycle of Licensee's customer requests for the delivery of telecommunication products as captured from order entry systems (excluding the provisioning and activation of telecommunication services and mobile or broadband access networks).

Effective May 27, 2010 - Licensor Software products TIBCO BusinessEvents™, TIBCO Collaborative Information Manager™, TIBCO ActiveMatrix® Service Performance Manager, TIBCO® ActiveFulfillment, TIBCO LogLogic® Enterprise Virtual Appliance, TIBCO LogLogic® Compliance Manager, TIBCO LogLogic® Security Event Manager Appliances, TIBCO LogLogic® Log Management Enterprise Appliances (including but not limited to TIBCO LogLogic LX Appliances and TIBCO LogLogic® ST Appliances) and TIBCO LogLogic® Log Management Mid-Market Appliances (TIBCO LogLogic® MX Appliances), (and each of the foregoing when included in a Bundle or as Embedded/Bundled products) are subject to a restricted license and contain third party proprietary code that Licensee or Partner can only use in conjunction with the Licensor Software.

Effective May 1, 2010 – TIBCO DataSynapse™ Analytics is an Embedded/Bundled product, which includes, in part, TIBCO Spotfire® Web Player and TIBCO Spotfire® Professional as bundled Licensor Software. In addition to Embedded/Bundled Products restrictions, Licensee's use of these bundled products in connection with TIBCO Spotfire® Analytics is limited to 25 Named Users of TIBCO Spotfire Web Player, 5 Named Users of TIBCO Spotfire Professional.

Effective February 18, 2010 – All TIBCO iProcess Spotfire® Add-on Web User is licensed solely to increase the number of TIBCO Spotfire® Web Player Named Users included in and for use in connection with the TIBCO iProcess Spotfire® Add-on Bundle. TIBCO iProcess Spotfire Add-on Web User may be used solely in connection with the TIBCO iProcess Spotfire Add-on Bundle.

Effective May 12, 2009 – All TIBCO Spotfire® Application Data Services products shall be used exclusively with TIBCO Spotfire® Analytics Server or TIBCO Spotfire® Server and shall only be accessed via ODBC or JDBC.

Effective June 1, 2007 – TIBCO iProcess™ Decisions Studio and TIBCO iProcess™ Decisions must be used with TIBCO iProcess™.

Effective April 1, 2001 – "Embedded/Bundled Products" – Some Licensor Software embeds or bundles other Licensor Software. Use of such embedded or bundled Licensor Software is solely to enable the functionality of the Licensor Software licensed under this Agreement, and may not be used or accessed by any other Licensor Software, or for any other purpose.

Effective December 24, 2000 – TIBCO BusinessPartner / Effective October 17, 2006 – TIBCO BusinessConnect Remote - Licensee may sublicense to third parties ("Partners") up to the total Number of Units of TIBCO BusinessPartner or TIBCO BusinessConnect Remote, provided that for every such sublicense, the Number of Units Licensee is licensed to use shall be reduced by the same number, and provided further that prior to delivery of TIBCO BusinessPartner or TIBCO BusinessConnect Remote to a Partner, such Partner agrees in writing (a) to be bound by terms and conditions at least as protective of Licensor as the terms of this Agreement, (b) that TIBCO BusinessPartner or TIBCO BusinessConnect Remote be used solely to communicate with Licensee's implementation of TIBCO BusinessConnect, and (c) for such Partner to direct all technical support and Maintenance questions directly to Licensee. Licensee agrees to keep records of the Partners to which it distributes TIBCO BusinessPartner or TIBCO BusinessConnect Remote, and to provide Licensor the names thereof (with an address and contact name) within sixty (60) days of the end of each calendar quarter.

## TSFI EULA Appendix C – Maintenance Program Guide

### 1 Overview

TIBCO is dedicated to the success of our customers by providing timely responses to problems with TIBCO software products. TIBCO's highly skilled support engineers are well versed in TIBCO's software products. TIBCO's support services group is a global organization that uses a "follow-the-sun" model to ensure that support is available whenever it is needed. Support centers are located around the world to support all the TIBCO product lines.

In the event you have contracted for Maintenance Services at the Bronze Level, the supported time zone assigned for Service Hours will be based on the TIBCO software delivery address for your company.

All Equipment Maintenance is subject to the terms of the Equipment Maintenance Program (Appendix D).

### 2 Maintenance Service Levels

#### 2.1 TIBCO Maintenance Service Levels

MAINTENANCE LEVEL	Updates Only	Bronze (includes Updates)	Silver (includes Updates)
Service Hours:	N/A	9am-5pm, Monday-Friday Service hours are based on PST, EST, CST, CET, MST, GMT, GMT+5:30, GMT+8:00, GMT+9:00, DST, AEST time zones. Based on the time zone you are assigned, services hours exclude holidays in the U.S., California, U.K., A.P.A.C. and Japan.	24 Hours/Day, 7 Days/Week
Initial Response:	N/A	Severity 1 & 2: 4 Business Hours	Severity 1 & 2: 4 Hours
Target Resolution:	N/A	Severity 1: 48 Hours Severity 2: 5 Days Severity 3: Next Major Release	Severity 1: 48 Hours Severity 2: 5 Days Severity 3: Next Major Release
TIBCO DirectConnectSM Manager (DCM) Support	N/A	N/A	N/A
Authorized Contacts:	N/A	Unlimited	Unlimited

## 2.2 Spotfire, DataSynapse, and Foresight Maintenance Service Levels

MAINTENANCE LEVEL	Bronze term (includes Updates)	Silver (includes Updates)
Service Hours:	9am-5pm, Monday-Friday Service Hours are based on CET, UTT/GMT, GMT+5:30, GMT+8:00, GMT+9:00, and EST time zones. Based on the time zone you are assigned, services hours exclude holidays in the U.S., Sweden and Japan.	24 Hours/Day, 7 Days/Week
Initial Response:	Severity 1 & 2: 4 Business Hours	Severity 1 & 2: 4 hours
Target Resolution:	Severity 1: 48 Hours Severity 2: 5 Days Severity 3: Next Major Release	Severity 1: 48 Hours Severity 2: 5 Days Severity 3: Next Major Release
Number of Contacts:	Unlimited	Unlimited

## 3 Maintenance

For the purpose of any license or maintenance agreement under which Maintenance is provided, as used below, "Licensor Software," shall include "TIBCO Software," "Spotfire Software" or "Software" as defined in any such agreement. "Customer," as used below, shall have the same meaning as defined for the customer company entity licensed to use the Licensor Software in any such agreement.

### 3.1 Severity Level Definitions

"Severity 1" is an emergency production situation where the Licensor Software is totally inoperable or fails catastrophically and there is no workaround;

"Severity 2" is a detrimental situation (and there is no workaround) where (a) performance degrades substantially under reasonable loads causing a severe impact on use, (b) the Licensor Software is usable but materially incomplete; or (c) one or more mainline functions or commands is inoperable;

"Severity 3" is where the Licensor Software is usable, but does not provide a function in the most convenient manner; and

"Severity 4" is a minor problem or documentation error, which is reasonably correctable by a documentation change or by a future maintenance release from TIBCO.

### 3.2 Scope

TIBCO will use commercially reasonable efforts to resolve matters according to the problem Severity ("Maintenance") level determined by TIBCO. All communications will be in English. Customer will use commercially reasonable efforts to provide: (a) a detailed problem description; (b) a method for repeatedly reproducing the problem; and (c) reasonably continuous access to a Customer authorized contact. During the Maintenance term, Customer authorized contacts as applicable for the Maintenance level selected in Customer's order, and which are registered at TIBCO's support website:

<https://support.tibco.com/esupport/>, may notify TIBCO's Technical Assistance Center of an error, defect, or malfunction in the Licensor Software. Maintenance includes the right to use Updates (as defined below) as replacements for existing copies, whether provided under Maintenance, Warranty or which are provided for any other reason by TIBCO, or TIBCO's their respective authorized resellers or distributors (if applicable); Updates are subject to Customer's license agreement limitations and restrictions. "Updates" means Licensor Software bug fixes, enhancements, and upgrades, if and when made generally available by TIBCO under Maintenance to Customers for a specific Licensor Software product. Subject to the quantity of Licensor Software licensed and payment of any applicable Maintenance fees, Customer's right to use Updates extends to any supported Platform then currently available for each discrete Licensor Software product under Maintenance. Updates may include new or additional Platforms that are deemed (at TIBCO's sole discretion) to have no more than a minimum different in price, features and functionality from previously available Platforms. TIBCO will notify Customer in writing in the event that Maintenance is materially affected by TIBCO licensor(s). TIBCO will provide Maintenance for a release version of the Licensor Software products for at least (a) six months after a new release version is generally available, but in no event for more than (b)(i) two years from the general availability of a Licensor Software release version or (b)(ii) one year from the general availability of a subsequent release version, whichever of (b)(i) or (b)(ii) is later, after which Maintenance shall be discontinued for that release version.

### 3.3 Limits

Customer must purchase the same service level of Maintenance for all quantities of Licensor Software products that it has licensed from TIBCO or any other third party. Unless otherwise stated in an Order Form, each license grant is incremental to all prior license grants and consequently each grant is subject to additional Maintenance, if purchased. For the avoidance of doubt, Maintenance fees are based on cumulative license fees paid. Maintenance does not include support for any non-TIBCO software, custom configuration, product modification, new products and functionality for which TIBCO is charging an additional license fee, services at a Customer site, any work product provided under Consulting Services or for Licensor Software products with non-matching service levels. TIBCO reserves the right to make fixes only to the most current version of the relevant Licensor Software, and may elect, at its discretion, to make fixes generally available for minor release versions or the latest service pack for a supported version.

### 3.4 Perpetual Term Licenses

The initial Maintenance term shall be for one year commencing on the effective date of the applicable Customer order, unless otherwise stated in the relevant Order Form. In the event Customer elects to renew Maintenance (subject to any rights of termination as set forth in a contract with TIBCO), Maintenance will be renewed for successive one (1) year terms and the annual Maintenance fee for the first renewal term shall not increase by more than the percentage rate change in the Consumer Price Index for the 12 month period immediately preceding the anniversary date of Maintenance. Maintenance fees for subsequently acquired Licensor Software will be prorated to expire with the then-current annual Maintenance term.

### 3.5 Limited Term Licenses

The initial Maintenance term shall be for one (1) year commencing on the effective date of the applicable Order Form. During the license term, and in the event the Customer elects to renew Maintenance (subject to any rights of termination as set forth in a contract with TIBCO), Maintenance may be renewed for successive one year terms, and the annual Maintenance fee for the first renewal term shall be equal to the annual Maintenance fee for the initial term.

### 3.6 Reinstatement of Maintenance

Reinstatement of Maintenance is subject to payment of Maintenance fees for any period during which Maintenance had lapsed.

### 3.7 Non-Continuous Coverage

In the event Customer elects not to maintain continuous Maintenance, TIBCO may, at its discretion, refuse to provide any Maintenance to Customer until payment for the period of discontinuity is made current.

### 3.8 Discontinued Support for Prior Release Version

When a prior version goes out of Maintenance, it means that fixes will no longer be generally available for that version. Support will continue to accept problem reports for that prior version, and when feasible, will attempt to provide Customer with reasonable assistance to troubleshoot and resolve the problem. Engineering will only evaluate reported issues in the supported versions of the Licensor Software product.

When a Customer:

- encounters a known defect, which is already corrected in the most current or a supported version of the Licensor Software, the Customer will need to upgrade to the most current or supported version of the Licensor Software to obtain the fix; or
- discovers an unknown defect, engineering will make the fix in the most current version of the Licensor Software and the Customer will need to upgrade to that version to obtain the fix.



Additionally, with typically 12 months prior notice, TIBCO may announce the end of support (i.e. stop accepting SRs) on significantly older versions by publishing a Late Breaking News (LBN) article on the TIBCO Support Web site (<https://support.tibco.com/esupport/>). Even in such a case, access to the knowledge base of the older versions is always available to a Customer currently under Maintenance. A Customer may submit a service request via the TIBCO Support Web to request a product version be included under the TIBCO Extended Support Program.

### 3.9 Product End-of-Life

Notwithstanding 3.2 above, Customers are provided advance written notice (up to twelve months) when Licensor Software is to be retired. This information is published as "Retirement Notices" under the Late Breaking News (LBN) section of the TIBCO Support Web.

### 3.10 TIBCO Extended Support Program

TIBCO is pleased to offer customers extended Maintenance on certain Licensor software product versions. The scope and terms of extended Maintenance:

#### Include

- The ability to submit service requests for eligible product versions.
- TIBCO assistance providing workarounds and existing fixes for issues reported; staging of issues by TIBCO will be on the latest version of eligible product(s).
- Maintenance service level initial response and target resolution times are according to customers' existing Maintenance service level.

#### Exclude

- Enhancements, service packs, or defect corrections
- Support for new platforms (database versions, operating system versions, TIBCO infrastructure products, etc.)
- Back porting of any fixes (including, but not limited to, bug or security fixes) from later product versions
- Partners participating in the TIBCO Partner Network or any other TIBCO Partner program.

Extended Maintenance is subject to eligibility requirements. Please contact your TIBCO Sales Account Executive or the TIBCO Maintenance Renewal team at [renewals@tibco.com](mailto:renewals@tibco.com) for more information and to obtain the then current list of product versions currently supported under extended Maintenance.

TIBCO reserves the right, at its discretion, without notice of any kind, to change products and product versions included in any extended Maintenance product version list. Changes to the extended Maintenance product version list will have no impact during any Maintenance term for which TIBCO Extended Support Program Maintenance fees have already been paid.

### 3.11 Virtualized Environments Support

Although TIBCO does not include all virtualization environments in our product test plans, and subject to there being no more than minimal differences in price, features, functionality and quantity, we will provide Maintenance for Licensor Software in any Virtualized Environment if the following criteria are met:

- The operating system running in the Virtualized Environment is supported by TIBCO for Licensor Software version in question, and
- The Virtualized Environment being used is officially certified and approved by the operating system vendor in question, and
- The Virtualized Environment presents a true image of the native operating system.

TIBCO does not make any claims for the performance of Licensor Software running in a Virtualized Environment nor can we make any recommendations for optimal configuration of the Virtualized Environment in question.

Should it become necessary to engage the Virtualized Environment vendor, it will be the responsibility of the Customer to open a service request with their vendor. TIBCO Support will provide reasonable assistance to the Customer or vendor as it relates to the use and understanding of Licensor Software in the case at hand.

## 4 TIBCO Support Web

It is recommended that the Customer establish and maintain an internal support organization to provide front line support services to their users and that all authorized contacts be trained on the TIBCO software products in classes provided by TIBCO Education, as reasonably required by TIBCO to enable the customer to support licensed TIBCO software products.

Step 1: Identify the assigned contacts within your company. Review your maintenance agreement to see how many contacts are authorized.

Step 2: Register assigned contacts and one management-level individual (for verification and escalation) by sending [an email to support@tibco.com](mailto:an_email_to_support@tibco.com). Be sure to include the name, email address, physical address and phone number of each contact.

All contacts will be registered with our call tracking system and given access to TIBCO Support Web.

Step 3: Have all assigned contacts view the Support Overview Presentation as well as review the "Support Policies" section within TIBCO Support Web.

Additional information about Getting Started can be found at <http://www.tibco.com/services/support/getting-started/default.jsp>.

#### 4.1 Opening a Service Request

There are two ways to report a problem:

- TIBCO Support Web (preferred method). Cases reported online are automatically entered into TIBCO's Call Tracking system and assigned a Service Request (SR) number. TIBCO requires that all Severity 1 cases be followed up with a phone call to our Technical Assistance Center (TAC) to ensure immediate attention to your issue.
- Phone. Each TIBCO customer is assigned a regional Technical Assistance Center (TAC) that they can contact to request support via phone. The support line phone number for each regional TAC in the America's, EMEA and APAC is published on the TIBCO Support Web. A service request will be created in TIBCO's call tracking system and an SR number is provided.

#### 4.2 Processing a Service Request

Once a service request is submitted, the TAC specialist will review, access and assign the appropriate severity level. All severity 3 and 4 calls will be assigned to the appropriate product and workgroup where our technical support engineers will start working on the call on a First in – First out (FIFO) basis. TAC will notify support managers of any SRs that are assigned to Severity 1 or 2, so that they are handled in an escalated manner. The TIBCO Support Engineer will communicate with the customer until the issue is resolved. Depending on the nature of a Service Request, a Service Request can be resolved by a Support Engineer or logged by a Support Engineer as bugs/enhancements with product engineering.

TIBCO support level and responsibilities:

##### - First level (Technical Assistance Center):

- Review Service Requests reported by Web, Email or phone from a customer authorized contact
- Validate customer maintenance status, product entitlement and check for any special handling required.
- Identify type of request, problem definition, configuration, products, product versions and platforms.
- Determine severity of the problem and execute any escalation procedures necessary.
- Direct problems for resolution to workgroups

##### - Second level (Product Support):

- Confirm problem and configuration used by the customer
- Evaluate against known problems or issues
- Stage the problem
- Reproduce problems and provide workarounds
- Escalate to engineering where required to develop patches and fixes
- Keep the SR updated at all times within the Call Tracking system
- Keep the customer Authorized Contact updated on the progress

##### - Third level (Engineering):

- Develop fixes as needed
- Test and verify functionality and performance
- Update the source code control system as needed
- Ensure patches and fixes are incorporated into a future product release

#### 4.3 Escalations

Special procedures apply to Service Request escalations. An escalated issue is generally one of the following:

- No response to a problem reported, within the designated time given by the call response coordinator or technical engineer
- Response times out of severity guidelines
- Customer dissatisfaction with Service Request resolution you've been given

North and South America +1.650.846.5789

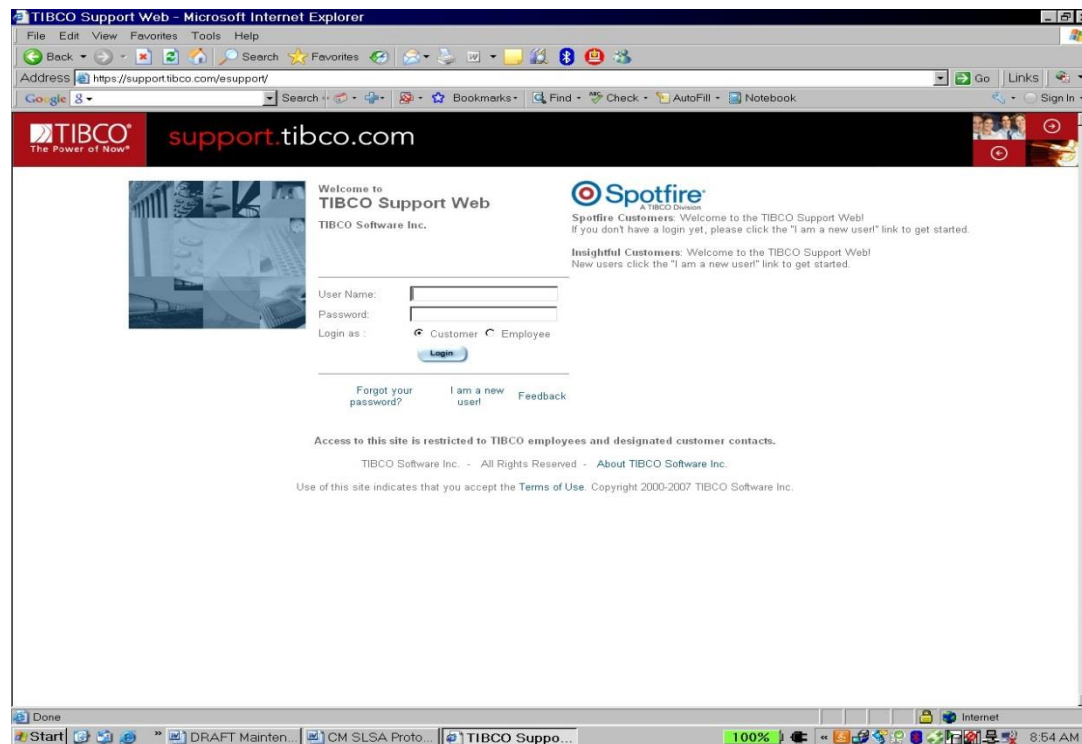
EMEA (Europe, Middle East, and Africa) +44(0).870.909.3889

Asia and Australia +61.2.4379.9322 or 1.800.184.237 (within Australia only)

The above telephone numbers provide access to a TIBCO Support Manager. This phone number is to be used if or when a customer is dissatisfied with the progress of problem resolution, or wants the problem reported brought to the attention of TIBCO's

management. If voicemail is reached, the customer should leave a message containing the company name, a contact telephone number, and estimated severity level for the issue. The voice mail will trigger an immediate page to a Support Manager, who will contact customer at the number left in the message.

#### 4.4 TIBCO Support Web Login



#### 4.5 Creating, Updating and Tracking a Service Request



#### 4.6 User Profile

Authorized contacts are able to change their login password, update their phone numbers, select their time zone and subscribe to Product FAQ's and LBN in this section.

**User Profile**

First Name: First Last Name: Last

User Name: COCCOLA Email Address: test@yahoo.com

Company Name: Test Account for eService Work Phone #: (650) 656-1234

Receive SR Update Notification: Yes

Time Zone: (GMT-08:00) Pacific Time (US & Canada), Tijuana

**FAQ/LBN Subscription**

Add

Please note that subscribing to one product will provide the information published under that product or information published under all products category.

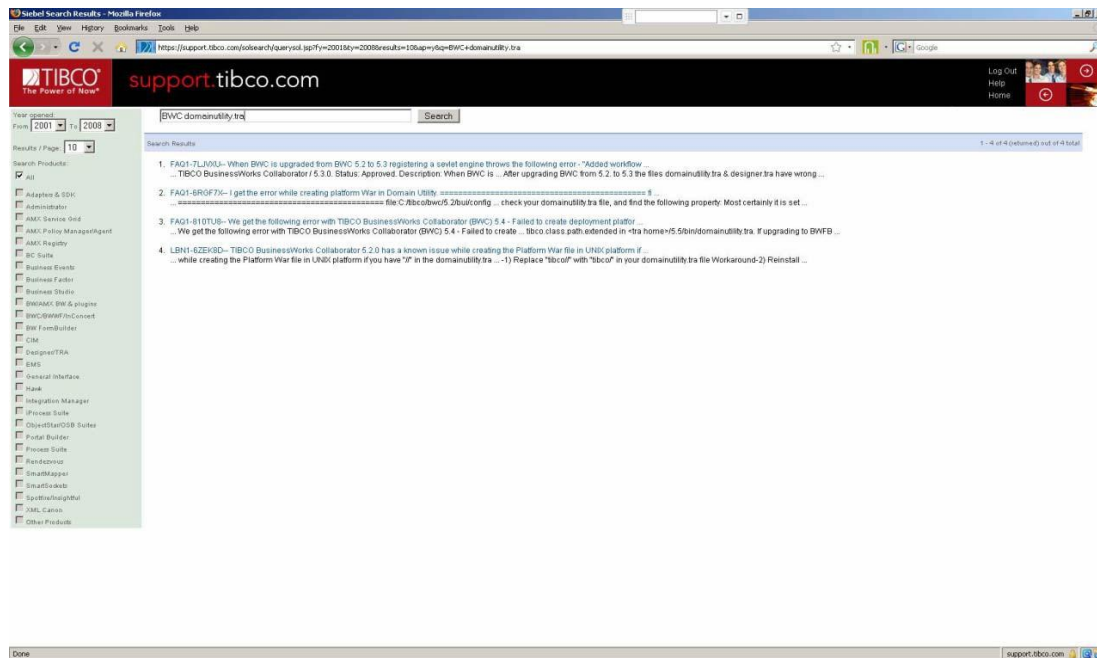
Product LBNs FAQs

#### 4.7 Late Breaking News

**Late Breaking News-Current**

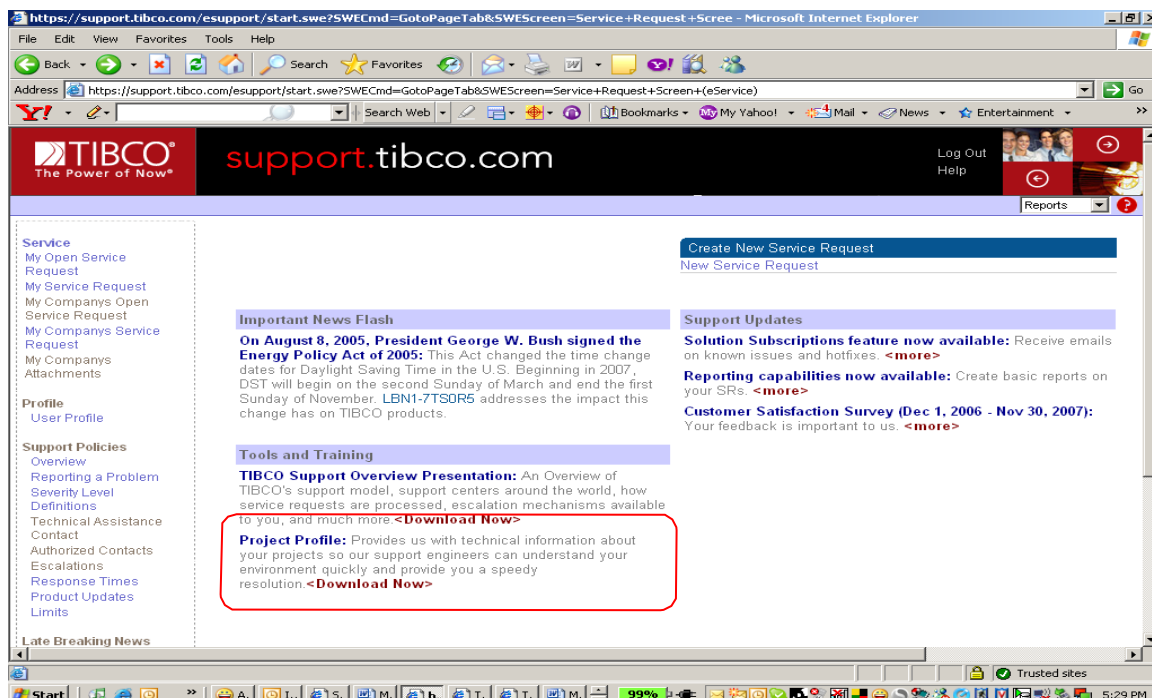
LBN #	Product	Product Version	Abstract	Type	Product Family	Date Posted
LBN1-86UCNQ	TIBCO Adapter for Oracle Applications	5.3.1	TIBCO Adapter for Oracle Applications 5.3.1 Hot Fix 2 now supports Red Hat Linux AS 4.0	Important News	TIBCO Adapters	05/18/2007 04:29:14 PM
LBN1-86W88X	TIBCO BusinessWorks	5.4.0	TIBCO BusinessWorks 5.4.0 Hotfix 4 is available	HotFix Release Announcement	TIBCO ActiveEnterprise	05/18/2007 10:48:46 AM
LBN1-86WKZI	TIBCO BusinessConnect	All	Regular Archiving of BC Tables	Important News	TIBCO ActiveExchange	05/18/2007 10:41:21 AM
LBN1-40ZTFT	TIBCO Enterprise Message Service	4.x.x	All clients connection and/or routed server(s) are dropped without any network related issue.	Known Issue	TIBCO ActiveEnterprise	05/17/2007 09:15:40 AM
LBN1-86KBER	TIBCO BusinessWorks	5.4.0	TIBCO BusinessWorks 5.4.0 Hotfix 3 is available	HotFix Release Announcement	TIBCO ActiveEnterprise	05/14/2007 11:13:57 AM
LBN1-7Z2IBP	TIBCO Designer		Communication problem between Designer 5.5 and XML Canon 3.1 after installing BW 5.4.	Known Issue	TIBCO ActiveEnterprise	05/14/2007 11:06:51 AM
LBN1-86CMQH	TIBCO TRA	5.4.2	TIBCO Runtime Agent 5.4.2 Hotfix 4 is available	HotFix Release Announcement	TIBCO ActiveEnterprise	05/11/2007 11:36:42 AM

## 4.8 Product FAQs



## 4.9 Customer Project Profile

Each customer is encouraged to submit and maintain a detailed project profile that gives details about their TIBCO software implementation.



## 4.10 Additional Features

- Solution Subscription feature: By updating your User Profile, you now have the ability to receive notifications on any FAQ and/or LBN material we publish. This means that you can get the latest information about a known issue or the availability

of hot fixes as soon as it is announced on any product of your choice. Please note that when you subscribe to a product, you will receive information published for that product as well as information published under the 'All Products' category.

- Reporting Capabilities: Generate basic reports on your service requests and download them in .csv or Excel format. This feature and its help function can be found in the upper right hand corner of the Support Web.
- Customer Satisfaction Survey: It is our goal to continuously improve the services we provide and a key part of this process is to hear how we are doing from our customers. The valuable input we receive will help us spotlight areas where we need to focus more attention. Customer Satisfaction Surveys are being conducted using the telephone by our global TAC team. They will contact customers who have recently completed a service request and will collect feedback on satisfaction measured on a 5-point scale (5-very satisfied; 1- Very Dissatisfied). Results will be shared with our support team as well as be made available on the Support Web for our customers to view.
- Authorized contacts can access the TIBCO Support Overview presentation, which provides useful information about TIBCO's support model, support centers around the world, how service requests are processed, escalation mechanisms available, and much more.

## 5 TIBCO Spotfire Customer Support

Spotfire and S-Plus customers can submit technical support requests via the TIBCO Support Web portal. The Support Web site allows customers to create, track, and update your product Service Requests (SRs), Enhancement Requests, Knowledge base, Late Breaking News items and more. Customers with accounts on the TIBCO Support Web may login and submit Service Requests today.

## 6 TIBCO Foresight Customer Support

TIBCO Foresight customers can submit technical support requests via email to [fssupport@tibco.com](mailto:fssupport@tibco.com). Customers may also contact our support group directly by phone at 1.800.669.5006 (U.S. and Canada) or +1 614.791.1600 (Outside U.S. and Canada). The TIBCO Foresight support staff will then assign a tracking number if the email or phone call cannot be answered immediately. This tracking number allows the customer the ability to reference any and all enhancements and fixes targeted for the product.

## 7 Product Download Site

The electronic software delivery service found at <http://download.tibco.com/tibco/> provides confirmed internet delivery and tracking of software and documentation packages to authorized customers. Use of this system requires a secure username and password. This service provides authorized users with a customized portal to access their TIBCO product entitlements. Customers can view products they have purchased (excluding products purchased from a TIBCO web store site), as well as products they have obtained for evaluation purposes (excluding products downloaded or obtained for evaluation from another TIBCO web site). Customers with a current maintenance contract will automatically be entitled to download new releases, product updates and service pack releases, during their active maintenance period. Additional information is available on the TIBCO Support Web at "Product Updates" under the "Support Policies" section. Any software downloaded from this site may only be used in accordance with the terms and conditions of your license agreement with TIBCO Software Inc.

## 8 tibbr® Support

tibbr® Support Customers are entitled to Maintenance Service for tibbr® at the Silver Maintenance Level unless otherwise stated in an Ordering Document, as well as access to the tibbr® Support Program, as described below, irrespective of the service level of Maintenance for any other Licensor Software products which Customer might have licensed and provided that all tibbr® Product Line Licensor Software products licensed by Customer are subject to tibbr® Support.

### 8.1 tibbr® Support Program

This Program is intended to support Customers through the adoption of tibbr® within their organization. As part of this Program, Customers will be supported in their ongoing usage of tibbr® with responses to questions regarding technical issues, usage best practices and how to best implement the product.

The tibbr® Support Program is provided by TIBCO upon Customer's request, subject to availability of resources and on a reasonable effort basis. TIBCO will make reasonable endeavours to meet Customer's requests for assistance but provides no assurance that this service will be delivered on specific dates. TIBCO reserves the right to modify, reduce or increase the tasks included in the Program. Service Requests can be opened either through the TIBCO Support Web or by phone.

## TSFI EULA Appendix D – Equipment Maintenance Program Guide

### 1. Overview

This Equipment Maintenance Program Guide ("Equipment MPG") sets forth the terms and conditions by which TIBCO shall provide, and its customers shall receive, Maintenance for Equipment.

Maintenance services are optional and are available at the Bronze and Silver levels. Software Maintenance is determined by the level of Equipment Maintenance purchased, i.e. Maintenance levels for Equipment Software must be equal to the Maintenance levels for the corresponding Equipment, e.g.

Silver level Equipment Maintenance will include Silver level Software Maintenance for the Equipment

Software.

Maintenance for Equipment Software is subject to the Maintenance Program Guide located at Appendix C ("MPG"). In the event of a conflict between the MPG and this Equipment MPG, where such conflict pertains to Equipment, this Equipment MPG shall prevail.

Solely as used in this Equipment MPG, "Agreement" means this Equipment MPG, the MPG and any agreement currently in effect between Customer and TIBCO related to the Equipment.

## 2. Equipment Maintenance Service Levels

MAINTENANCE LEVEL	Bronze (includes Updates)	Silver (includes Updates)
Service Hours:	9 a.m. -5 p.m., Monday-Friday ("Business Hours") Service hours are based on PST, EST, CST, CET, MST, GMT, GMT+5:30, GMT+8:00, GMT+9:00, DST, AEST time zones. Based on the time zone you are assigned, services hours exclude holidays in the U.S., California, U.K., A.P.A.C. and Japan.	24 Hours/Day, 7 Days/Week
Initial Response:	Severity 1 & 2: 4 Business Hours Severity 3: Next Major Release	Severity 1 & 2: 4 Hours Severity 3: Next Major Release
Target Resolution:	Severity 1: 48 Hours Severity 2: 5 Days Severity 3: Next Major Release	Severity 1: 48 Hours Severity 2: 5 Days Severity 3: Next Major Release
Authorized Contacts:	Unlimited	Unlimited

## 3. Equipment Maintenance Terms and Conditions

3.1. Equipment Maintenance - Scope. This Section 3 applies to Maintenance of Equipment, specifically excluding Maintenance for the TIBCO Messaging Appliance™ ("TMA"), and is subject to Section 5 (Maintenance Exclusions) and Section 6 (Customer Responsibilities) set forth below. TMA Maintenance terms are set forth in Section 4 below.

3.2. Equipment/Component Repair or Replacement Protection. During the Maintenance term, for all Equipment Maintenance levels, and subject to Customer's compliance with the Agreement, TIBCO shall, at its sole option, either repair or replace the covered Equipment or component thereof that TIBCO can confirm is causing an error.

3.3. Contacting Support; Troubleshooting. Upon discovering an error, Customer must promptly first place a call to the designated support number. TIBCO will provide basic telephone technical assistance for installation, product configuration, setup and problem resolution for the Equipment. Prior to scheduling Equipment replacement or repair, TIBCO may ask Customer to provide relevant information, start diagnostic tools and perform other supporting activities outlined in Section 6 below.

### 3.4. On-site Equipment Repair Process.

3.4.1. On-site repair support is available solely for TIBCO LogLogic® Security Event Manager ("SEM") and TIBCO LogLogic® Security Event Viewer ("SEV") Customers in the United States and Europe.

3.4.2. If TIBCO determines that the Equipment or component thereof may be repaired at Customer's location, TIBCO will endeavor to dispatch a TIBCO (or TIBCO-contracted) technician to the Customer's location by the next business day; provided, however, that



Customer must immediately notify TIBCO in writing in advance if the Equipment is located in an area with restricted access which may require a technician with special qualifications. In such instance, TIBCO will use commercially reasonable efforts to locate and contract, if necessary and at Customer's expense, a technician with such special qualifications; provided that Customer understands and agrees that any reasonable delay or failure in procuring such technician shall not constitute a breach of the Agreement.

3.5. Equipment Replacement – Processes and Procedures. Except as otherwise provided in Section 3.4 above, TIBCO will take all commercially reasonable steps to replace the Equipment or component thereof, as applicable; provided that Customers follow the return material authorization ("RMA") procedure described in this Section 3.5. In the event that TIBCO recommends replacement of a component, TIBCO will provide Customer with instructions for the removal of the component and the installation of the replacement component.

3.5.1. Customer must obtain an RMA from TIBCO prior to returning any Equipment to TIBCO.

Customer may request an RMA by telephone (1-800-957-LOGS) or by email at [support@loglogic.com](mailto:support@loglogic.com). Customer must provide the following information related to every Equipment or component thereof to be returned:

- Model number, and serial number, eth0 MAC address or Tag ID of the Equipment, and, if returning an Equipment component, a description of such component;
- Sender's name, telephone, email address and fax number;
- Reason for return, i.e. a description of the error; and
- Ship-to address, including contact name, email address and phone number of the individual to receive the TIBCO replacement Equipment.

3.5.2. If the RMA is received, authorized and processed by TIBCO before 2 PM Pacific Standard Time (USA) or 2PM UK (GMT) Time, TIBCO will ship replacement Equipment: (1) on the same business day where the Equipment or component to be replaced does not require customization; and (2) within forty-eight (48) business hours where the replacement Equipment requires customization. Non-customized shipped replacement Equipment or components will be factory-default/off-the-shelf. Any shipped repaired or replaced Equipment or components may be refurbished or include refurbished components.

3.5.3. TIBCO will ship replacement Equipment for next local business day standard delivery to Customer's location free of freight charges. Unless otherwise specified or agreed upon, factory default/off-the-shelf Equipment will be shipped with the latest Software.

3.5.4. TIBCO will provide Customer with a shipping account number or prepaid shipping label to use for purposes of returning defective Equipment or components. While Customer is not obligated to return defective Equipment or components before TIBCO will ship replacements, Customer is nonetheless required to ensure that the returned Equipment is received by, or is in transit to, TIBCO or its designee within ten (10) business days of Customer's receipt of the replacement Equipment.

3.5.5. TIBCO strongly recommends that Customer keep all original packing material received with the Equipment for use in any Equipment return. If Customer no longer has the original packaging, Customer may request that TIBCO send them replacement packaging at Customer's cost. Customer shall also be wholly responsible for any damage or loss of the Equipment in transit; TIBCO recommends that Customer procure sufficient insurance before shipping Equipment to TIBCO.

3.5.6. Customer acknowledges that Customer-returned Equipment shall become the property of TIBCO upon delivery to TIBCO.

3.6. Keep Your Hard Drive Option: For an annual additional fee, Customers may purchase an option to "Keep Your Hard Drive," entitling Customer to retain the defective hard drive(s). Subject to compliance with instructions provided by TIBCO, Customer may extract and retain or destroy the original hard drives from the Equipment. In no instance may Customer transfer, connect or otherwise use any drive(s) from returned Equipment in the replacement Equipment; doing so will result in Customer's breach of the Agreement, and will void TIBCO's warranty obligations.

3.7. Extended Support: Extended support for Equipment is available, subject to Section 3.10 of the MPG (TIBCO Extended Support Program).

#### 4. TMA Maintenance Terms and Conditions

4.1. TMA Maintenance – Scope. This Section 4 applies solely to the TMA, and is subject to Section 5 (Maintenance Exclusions) and Section 6 (Customer Responsibilities) set forth below.

4.2. TMA Replacement Protection. During the Maintenance term, and subject to Customer's compliance with the terms and conditions of the Agreement, under Silver Equipment level Maintenance, TIBCO will provide a permanent replacement of the TMA. Certain features, such as interface standards, product footprint and mobility, firmware and software compatibility may not be available.

4.3. Contacting Support; Troubleshooting. When experiencing a problem, Customer must first place a call to the designated support number. TIBCO will provide basic telephone technical assistance for installation, product configuration, setup and problem resolution for the TMA. Prior to scheduling advance replacement of the TMA, TIBCO may ask Customer to provide relevant information, start diagnostic tools and perform other supporting activities outlined in this Section 4 and in Section 6 below. Customer will be required to provide a credit card number or purchase order number.



4.4. TMA Replacement – Processes and Procedures. If the problem cannot be resolved remotely, TIBCO will replace the failed TMA provided that Customers follow the procedure described below.

4.4.1. Prior to returning the failed TMA, Customer must:

- a) perform all steps for self-test and trouble-shooting specified in the operating manual for the TMA;
- b) provide to TIBCO, in writing, the model number, serial number, current failure symptoms, pertinent failure history and ship-to address (if applicable).

4.4.2. Promptly following completion of Customer's obligations under Section 4.4.1, TIBCO or its authorized third party will ship the replacement TMA to Customer's location free of freight charges. The replacement TMA will be shipped in a suitable container and include instructions for returning the failed TMA. Packaging instructions and a prepaid shipping label for the return of the failed TMA will be included in replacement TMA shipping container. At TIBCO's discretion, TIBCO or TIBCO's authorized third party provider may elect to collect failed TMA at your location.

4.4.3. The replacement TMA will be a new or a refurbished TMA.

4.4.4. To return the failed TMA, Customer must:

- a) unless Customer will deliver the failed TMA to TIBCO in person, package the failed TMA carefully in the original shipping container, or a shipping container that prevents the TMA from being damaged while in transit to TIBCO or TIBCO's authorized third party provider.
- b) ship the failed TMA to TIBCO or TIBCO's third party provider (as directed by TIBCO) within three (3) business days of receipt of the replacement TMA and obtain a prepaid insurance receipt to be retained by Customer as proof of shipment to TIBCO.

4.4.5. If TIBCO or TIBCO's third party provider does not receive the failed TMA within fifteen (15) days of Customer's receipt of the replacement TMA, TIBCO reserves the right to institute any available legal action related to the failure to return the TMA.

4.4.6. The returned TMA shall become the property of TIBCO or TIBCO's third party provider upon receipt.

4.5. Support Limitations:

4.5.1. At TIBCO's sole discretion, Maintenance will be provided using remote diagnosis and or other service delivery methods. Other service delivery methods, in lieu of shipping replacement Equipment, may include the overnight shipment of parts specified as Customer replaceable by TIBCO. TIBCO will determine the appropriate delivery method required.

4.6. The following services are specifically excluded from TMA Maintenance:

- Diagnosis or Maintenance at the Customer site.
- Set-up and installation of the replacement TMA or replacement parts at the Customer site.

5. Maintenance Exclusions

5.1. Third Parties. Customer acknowledges and agrees that TIBCO may subcontract Maintenance services for the Equipment, in TIBCO's sole discretion, to a third-party authorized provider; TIBCO will remain responsible for ensuring that the Equipment Maintenance obligations under this Agreement are fulfilled.

5.2. Equipment Maintenance specifically excludes:

- Recovery of the operating system, other software, parameters and data.
- Troubleshooting for interconnectivity or compatibility problems.
- Services required due to failure of Customer to incorporate any system or software fix, repair, patch, or modification provided to the Customer by TIBCO.
- Services required due to failure of the Customer to take avoidance action previously advised by TIBCO.
- User preventative maintenance.
- Damage caused by failure of Customer to follow manufacturer's recommended maintenance or operating specifications, or caused by Customer's misuse, negligence or abuse.
- Damage caused by environmental causes at Customer's location, such as poor ventilation, improper storage, power failures or surges.
- Damage due events outside of TIBCO's control, including fire, flood, act of god, war or nuclear incident or terrorism.
- Data, business interruptions, obsolescence, cosmetic damage, rust, change in color, texture or finish, wear and tear, gradual deterioration or any damage that does not affect the Equipment functionality.
- Fraud or theft.

- Alteration or modification of the Equipment in any way, not specifically directed in writing by TIBCO; repairs or alterations made by an unauthorized technician or user; damages caused by combination of Software with third party hardware or software.
- Transit or relocation of Equipment by Customer, including any damages occurring while in transit or related to such relocation, and services accompanying or related to transit or relocation of the Equipment.

## 6. Customer Responsibilities

Customer will be required, upon TIBCO's request, to support resolving any problem reported under Maintenance remotely by:

- Providing all information necessary for TIBCO to deliver timely and professional remote support and/or to enable TIBCO to determine the level of support eligibility.
- Starting self tests and/or other diagnostic tools and programs.
- Performing other reasonable activities to help TIBCO identify or resolve the problem.
- Customer must acknowledge receipt of replacement Equipment by signing freight carrier air bill at time of delivery.
- Customer is responsible for installing all replacement Equipment (or components thereof) in a timely manner.
- Customer is solely responsible for backing up all copies of its Licensed Software and data.
- Customer shall restore software and data on the Equipment after the repair or replacement.
- Customer is responsible for the installation of any software not provided by TIBCO with the Equipment and insure all software installed on the Equipment is appropriately licensed and compatible with the Equipment.
- Where Customer is not a Government End User, Customer acknowledges that in the event that diagnosis by TIBCO reveals that the error is not caused by the Equipment that TIBCO may charge Customer the then-current GSA Schedule rate for such diagnosis.
- In the event of that the Equipment or TMA is retired, Customer may need to upgrade its Equipment or TMA in order to ensure performance of the applicable Software.

## 7. Equipment End of Life and End of Sale:

As part of the normal product lifecycle, TIBCO will announce the date of which an Equipment will become End of Life ("EOL") which such announcement will also include a date for the End of Sale ("EOS") of such Equipment. For clarity, this Section 7 applies to EOL of Equipment only, specifically excluding TMA. An EOL means that TIBCO will no longer provide Maintenance for such Equipment. EOS means that such Equipment will not be available for purchase.

TIBCO shall EOL an Equipment three (3) years following the EOS date, at which point all Maintenance services for such Equipment shall terminate.

TIBCO Software Inc.  
Terms of Use for United States Federal Government Users

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- b. you do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- c. victimizes, harasses, degrades or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age or disability;
- d. infringes on any patent, trademark, trade secret, copyright, right of publicity or other proprietary right of any party;
- e. constitutes unauthorized or unsolicited advertising, junk or bulk e-mail (also known as "spamming"), chain letters, any other form of unauthorized solicitation or any form of lottery, gambling, survey or illegal or unauthorized schemes;
- f. contains software viruses or any other computer code, files or programs that are designed or intended to disrupt, damage or limit the functioning of any software, hardware or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of any third party;
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