

Cloud Software Group

Consulting Services Terms

1. Company may provide Customer with Consulting Services as part of an Order.
2. Consulting Services are deemed accepted upon delivery.
3. If Company bills Customer for Consulting Services, such Consulting Services will be performed on a time-and-materials basis ("T&M"). A T&M work day is eight hours of Consulting Services performed during regular business hours (8am – 5pm local time, Monday through Friday), excluding a federal, local, or bank holiday, which is observed by Company or Customer. If applicable, daily rates are calculated as follows: (a) up to four hours at 50% of the daily T&M rate and (b) over four and up to eight hours per day at 100% of the daily T&M rate. Each hour over eight hours in a single day will be charged on a pro-rata basis (the daily rate divided by eight hours to determine the charge per hour). Company staff will be entitled to home (or equivalent) visits every weekend. The total fees stated in an Order cover labor costs for Consulting Services only and do not include Expenses that Company will invoice separately subject to the Agreement. "Expenses" means meals, lodging, travel, and other reasonably necessary out-of-pocket expenses or other project related costs (such as hardware and software, which may be acquired by Company on behalf of Customer to support the project implementation, with Customer's prior written approval).
4. Customer shall not be entitled to a refund or credit for any Consulting Services purchased on a prepaid basis or purchased in conjunction with Software or Cloud Services that are not utilized within the time period stated in an Order.
5. Company will use commercially reasonable efforts to perform the Consulting Services described in connection with an Order and does not guarantee that such Consulting Services will be completed within any particular time frame.
6. Company owns all intellectual property rights to all Materials and all derivatives thereof. Company grants Customer a non-exclusive, royalty-free, world-wide, non-transferable license to use the Materials, including a reasonable number of copies, solely (i) for Customer's internal business and (ii) as necessary for use with the Products. The copyright notice and other legends of ownership must be reproduced on each copy of such Materials (in whole or in part). Whole or partial copies of the Materials in any form is subject to the same terms as the original copy.
7. Customer must not use any third party software, including any open source software, in conjunction with any Materials, that causes the Materials to become subject to any third party license applicable to such third party software or require the public disclosure or distribution of any Materials or the licensing of any Materials for the purpose of making derivative works.
8. In order to support Consulting Services and if applicable, Customer shall provide Company with the following without charge: (a) design documents needed to support the provision of Consulting Services; (b) office space, phones, facilities, and network connectivity and computer systems for on-site Company personnel or on-site Company training; (c) timely access to Customer business experts and project team members to identify and resolve business or technical issues; and (d) necessary software licenses for Products referenced in an Order and any third party licenses for development tools as needed to support the scope of work set out in an Order.
9. Materials are licensed "as is" and are not eligible for Maintenance. Company makes no other express, implied, or statutory warranties, including all warranties of merchantability, fitness for a particular purpose, or non-infringement, for any Materials delivered in connection with the Consulting Services. Further, Customer must ensure that the Software made available to Company during the course of performing Consulting Services, including for deployment, implementation, or installation, is covered by Customer's stated license

entitlement and Company's performance of Consulting Services is not a representation that Customer's deployment is compliant with Customer's license entitlements.

10. Company may suspend any or all Consulting Services upon ten days written notice to Customer.
11. Content provided during training courses are Materials for the purpose of this Agreement. Materials from education or training services are limited to one copy for each registered attendee. Training services are charged the full daily rate regardless of the number of hours worked. For the TIBCO Business Unit, limitations and restrictions in connection with prepaid training courses and education services are stated at <http://www.tibco.com/services/educational/training-restrictions-limitations.jsp>.