



Partner Terms

The parties agree that the terms and conditions set out under <https://terms.tibco.com/#master-terms> (the "Master Terms") shall be incorporated into and form an integral part of the Agreement. The term "Customer" in the Master Terms means "Partner" for the purposes of the Agreement.

1. Partner Terms Definitions

- 1.1 "End User" or "End Users" means third parties who acquire the right to use the Software.
- 1.2 "End User License Agreement" or "License Agreement" means a written agreement with an End User that sets forth terms and conditions for the End User's internal use of the Software.
- 1.3 "Lead Form" means an opportunity registration form that is published by Licensor from time to time and available to Partner on Licensor partner portal or on request.
- 1.4 "Marks" means trademarks, service marks, trade names, logos and other similar proprietary rights, whether registered or unregistered, and all applications and registrations therefore.
- 1.5 "Qualified Lead" means a sales opportunity that satisfies all of the following: (a) Information regarding the lead is submitted by Partner to Licensor via the applicable Lead Form; (b) the lead is not a current Licensor customer; (c) Licensor has not engaged in Significant Sales Activity with the lead within 180 days prior to the date Partner submits the Lead Form to Licensor; (d) the lead is given solely and exclusively to Licensor (and specifically not to any other competitor or similar software vendor); and (e) Partner arranges and attends a formal meeting to introduce Licensor to decision-making personnel at the lead within 30 days of Licensor accepting the Lead Form.
- 1.6 "Significant Sales Activity" means substantial sales efforts that include: product demonstrations, meetings with executive level personnel, proof of concept presentations, or project scope meetings and other activities of similar consequence, and specifically not simple phone contacts or responses to a request for proposal
- 1.7 "Territory" means the geographic and/or vertical markets set forth in an Order Form or Partner Registration Form in which Partner may exercise the rights granted to Partner under the Agreement, and unless otherwise set forth in an Order Form or Partner Registration Form, excludes United States Government End Users and prime contractors acquiring the Software on behalf of United States Government End Users.
- 1.8 "Website" means <https://www.tibco.com/resources/other/tibco-partner-program-guide-partner-edition> which links to the applicable partner program and requirements.

2. Partner Program

- 2.1 Licensor appoints Partner, and Partner accepts a non-exclusive appointment, as a Licensor Partner in the tier(s) and type(s) for the level in the Territory (if applicable) as described at the Website and set forth in an Order Form or Partner Registration Form, with all of the rights granted to a Partner under the Agreement.
 - a) For Distributor Partners, Reseller Partners and VAR Partners, the additional terms stated at <https://terms.tibco.com/#reseller-var> shall apply.
 - b) For Developer Partners and Solution/Technology Partners, the additional terms stated at <https://terms.tibco.com/#developer-technology> shall apply.
 - c) For OEM Partner (including ISV and SaaS Customers) these Partner Terms govern Partner's usage of TIBCO Software, training materials, and Documentation for demonstration and training purposes. The terms stated at <https://terms.tibco.com/#oem-terms> or <https://terms.tibco.com/#saas-customer-terms> (or the separately executed Agreement between the parties) governs Partner rights and obligations with respect to Development and distribution of the Software.

- 2.2 Partner hereby agrees that it shall abide by the terms of the applicable program requirements in effect and as published on the Website for the term of the Agreement. Partner agrees to achieve and maintain compliance with the minimum standards set forth on the Website and agrees to participate in periodic reviews by Licensor to ensure compliance. In the event the Agreement is renewed for a subsequent term, the then current program requirements in effect on the Website shall apply.

3. License

- 3.1 Demonstration/Testing/Training: Licensor hereby grants to Partner a non-transferable, non-exclusive, limited, annual term license, within the Territory, to use the Software, a machine image provided to Partner by Licensor that includes the Software, and any materials made available pursuant to the Website solely for: (i) demonstration of the Software to prospective customers (other than any competitors of Licensor), (ii) internal testing purposes to determine the suitability of the Software for Partner's prospective customers, and (iii) training purposes for Partner's personnel, in accordance with the terms and conditions of the Agreement. The internal use license stated in the Master Terms does not apply to Partner and no right to use, copy, duplicate, or display the Software is granted, except as expressly provided herein.

4. Scope

- 4.1 Partner shall not (directly or indirectly, in whole or in part), nor contractually permit any End User to: (a) lease, rent, loan or commercially share (including time-share or electronically transmitting over a network to a third party) or otherwise use the Software for purposes of providing a service bureau; (b) use any Software which is not listed in an Order Form or Partner Registration Form even if such unlicensed software is made available to Partner as part of Licensor's general delivery mechanisms; (c) use Production versions of third party products embedded in Software, if any, for any use other than the intended use of the Software; (d) combine the Licensor products with programs licensed under any version of the GNU General Public License or GNU Affero General Public License (collectively, "GPL") in any manner that could cause, or be interpreted to cause, the Software or any modification thereto to become subject to the GPL or create any obligations or rights as set forth in Section 8.6; (e) transfer or assign possession or allow use of any copy of Software to another party other than as specifically permitted under the Agreement; (f) use or access any embedded or bundled component of Software on a stand-alone basis where such embedded or bundled component is provided to Partner for the sole purpose of enabling the functionality of such Software; (g) release the results of benchmark testing using the Software; and (h) modify, translate, reverse engineer, decrypt, decompile, disassemble, create derivative works based on, or otherwise attempt to discover the Software source code or underlying ideas, techniques or algorithms, including the review of data structures or similar materials produced by the Software. Partner 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, Partner agrees it shall observe strict obligations of confidentiality and provide Licensor reasonable advance written notice and the opportunity to assist with and/or conduct such activity on Partner's behalf and at Partner's expense. If proprietary source code is included as part of the standard delivery of the Software and is not subject to open source license terms, use of such source code shall be governed by the terms of the Agreement.

5. Marks

- 5.1 Licensor Marks: Licensor grants to Partner a non-transferable, non-exclusive, worldwide, limited annual term license to use and display Licensor's Marks, solely for purposes related to the performance of this Agreement. Partner may use authorized copies of the TIBCO Partner Logo during the term of this Agreement. Partner may not use the corporate TIBCO logo, except for on Partner's dedicated partner marketing website that must clearly identify that Partner is acting as a TIBCO Partner and that shall not mislead customers to think that Partner is an exclusive or preferred TIBCO Partner. Partner is not permitted to use the corporate TIBCO logo outside of the aforementioned context. Partner shall at all times use the Licensor Marks in accordance with the terms and conditions of Licensor's Trademark Usage Guidelines published at http://www.tibco.com/multimedia/trademark-guidelines_tcm8-5248.pdf which is subject to change at Licensor's discretion. Partner shall not modify, stylize, translate or combine any Licensor Mark with other trademarks, service marks, domain names, logos or source indicators without the prior written approval of a duly authorized officer of Licensor, which may be withheld in its sole discretion. If at any time Licensor determines that any advertising or promotional materials used by Partner fail to meet the specifications and quality standards of Licensor, and that such failure may impair or diminish the goodwill associated with the Licensor Marks, Licensor may give written notice thereof to Partner, whereupon Partner shall promptly correct such failure or cease to use such materials. Partner shall not register any Licensor Marks, domain names, or social media account names that incorporate or include, in whole or in part, any Licensor Marks (or any trademarks confusingly similar to any Licensor Marks) in any jurisdiction, whether with a governmental agency, domain registrar or social media provider, and shall not challenge, directly or indirectly, the same. All use of Licensor Marks by Partner shall inure to the benefit of Licensor.
- 5.2 Partner Marks: Licensor may, in its discretion, refer to Partner in advertising and promotional materials in connection with the sales and promotion of Licensor products and services. Permitted uses of the name or logo of Partner and/or the name or logo of Partner's products include: (i) lists of Licensor Partners, (ii) general marketing materials listing all Licensor partners, (iii) framing and displaying at Licensor offices, (iv) reproducing in a professionally prepared graphic for display at

sales and promotional events, and (v) display as a link to Partner's website on Licensor's public website. Partner hereby consents to Licensor's display of Partner's logo on Licensor's website portals and/or Licensor internal presentations, and as otherwise set forth in this section. Partner shall provide Licensor with digital files and artwork of Partners logo for purposes set forth in this section. All use of Partner Marks by Licensor shall inure to the benefit of Partner.

- 5.3 Each party agrees that in no event shall a Mark be used in any disparaging, unlawful, or derogatory material or in a manner that may diminish or otherwise damage the goodwill or jeopardize or render less valuable a party's Marks or any associated goodwill. Each party will comply with the branding criteria and the quality control standards and trademark and trade name usage guidelines that are provided by a party in writing from time to time and in the case of Licensor's Marks as published on its public website. Nothing contained in the Agreement shall be deemed to grant either party any right of ownership, goodwill, title or interest in the other party's Marks.
6. Lead Programs
 - 6.1 Partner may refer Qualified Leads to Licensor by submitting a Lead Form to Licensor. Only Qualified Leads that are transmitted by Partner on a Lead Form and received by Licensor before the termination of the Agreement, and which subsequently result in the execution of a license agreement for a Licensor product within six (6) months of the date the Lead Form was executed and accepted by Licensor, will be eligible for a referral credit.
 - 6.2 Following Licensor's receipt of a Lead Form, Licensor will accept or reject the Qualified Lead within ten (10) business days. Licensor's failure to respond constitutes a rejection of the Lead Form.
 - 6.3 Upon execution of an End User License Agreement between Licensor and the applicable End User, acceptance of the Licensor products by the End User, and receipt of payment by Licensor from the End User and in the case of referral credits, when Licensor recognizes such payment for accounting purposes as a corporate license or Subscription booking, Partner shall earn the referral credit as agreed and as set forth in the Lead Form.
 - 6.4 Referral Credit: A referral credit shall be equal to a percentage of the net recognizable license revenue from license fees received by Licensor from the End User for the Software or, in the case of a Cloud Service, the initial annual contract value of the Subscription fee paid by the Customer as (1) mutually agreed upon and as set forth in the Lead Form or (2) as described in the Website. Notwithstanding the foregoing, and unless otherwise agreed by the parties in a properly executed Lead Form, in no event shall the referral credit for any Qualified Lead exceed \$150,000.00. All referral credits are net of unrecoverable sales, trade discounts, rebates, commissions or royalties to third parties, sales or value added taxes, goods and services, consumption, withholding, excise and any other similar taxes, import duties and similar governmental charges, and shipping charges (including customs duties), but excluding any taxes imposed on Licensor's income. There will be no referral credits paid on Maintenance, Consulting Services, or other services provided by Licensor. In the event that either party must team with a third-party on a Qualified Lead in order to complete the transaction, the referral credit made available by Licensor to each Partner may be reduced proportionately. Any reductions made will be on a pro-rated amount based on the percentages originally agreed to for each referring party.
7. Partner Warranties and Indemnity
 - 7.1 Partner represents and warrants that it shall (i) employ reasonable professional standards in performance of its right and obligations under the Agreement and the Order Form or Partner Registration Form, and (ii) avoid deceptive, misleading or unethical practices that may be detrimental to Licensor or the Software. **PARTNER FOR ITSELF AND ON BEHALF OF ITS EMPLOYEES AND AGENTS REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE U.S. FOREIGN CORRUPT PRACTICES ACT OF 1977 (AS AMENDED), THE TIBCO PARTNER CODE OF BUSINESS CONDUCT AND ETHICS POLICY LOCATED AT <http://static.tibco.com/resources/tibco-partner-code-business-conduct-ethics.pdf>, AND ANY SIMILAR LAWS IN THE COUNTRIES WHERE PARTNER IS PERFORMING UNDER AN ORDER FORM OR PARTNER REGISTRATION FORM, AND ALL APPLICABLE LOCAL ANTI-BRIBERY LAWS AND SHALL NOT PARTICIPATE IN, OR PROVIDE INFORMATION THAT COULD BE CONSTRUED TO FURTHER, ANY ECONOMIC OR OTHER TYPE OF BOYCOTT NOT SANCTIONED BY THE UNITED STATES GOVERNMENT AND APPLICABLE LOCAL LAWS.**
 - 7.2 Partner represents and warrants it has the corporate power and authority to enter into the Agreement.
 - 7.3 Partner shall defend and indemnify Licensor against all cost and damages (including reasonable attorney's fees) with respect to any suit, matter, claim, allegation or proceeding relating to: (a) any action brought against Licensor by End Users of Partner or other persons relating in any way to Partner's activity hereunder, (b) the Software which has been altered, modified or otherwise changed by Partner, (c) any representations or warranties made by Partner to a third-party regarding

the Software, other than as provided in the Documentation or approved by Licensor in advance in writing, or (d) any violation by Partner of the United States Foreign Corrupt Practices Act or any similar laws in countries where Partner performs under the Agreement, provided that Licensor: (i) promptly notifies Partner in writing of such claim, and (ii) gives Partner full control, authority, information and assistance (at Partner's expense) for the defense of same and for all negotiations for any settlement or compromise.

8. Term and Termination

- 8.1 The Agreement starts on the Effective Date as set forth in the initial Order Form or Partner Registration Form and, unless terminated per the terms of the Agreement, remains in effect through the end of the then current calendar year. Subject to Licensor's review of Partner's participation in the partner program in the preceding year, Licensor may decide to renew the Agreement for additional one (1) year periods, which may include changing the partnership category for the subsequent Term (such determination(s) shall be at Licensor's sole discretion), subject to payment by Partner of the applicable annual fees (if any). Licensor may terminate the Agreement on thirty (30) days written notice to Partner.
- 8.2 Licensor may discontinue any Software or Maintenance on sixty (60) days written notice to Partner or such shorter period to which Partner may agree (such agreement not to be unreasonably withheld), provided that Licensor shall continue to make such Software and support available to Partner during the notice period.
- 8.3 Upon termination of the Agreement or a license granted under the Agreement, Partner shall (i) cease using the applicable Software, Licensor Mark and related Confidential Information of Licensor, and (ii) return or deliver to Licensor a written certification signed by a corporate officer of Partner within thirty (30) days after termination that Partner has destroyed, the Software, Documentation, related Confidential Information of Licensor, and all copies thereof, whether or not modified or merged into other materials.
- 8.4 Termination of the Agreement does not (i) terminate an End User license grant or (ii) relieve the parties from their prior and continuing obligations under an Order Form or Partner Registration Form or the Agreement, including without limitation all payment obligations relating to any End User License Agreement entered by Partner prior to such termination. The terms of the Order Form or Agreement survives as necessary to facilitate Partner's remaining Maintenance obligations for any End User's remaining annual Maintenance period, which has been pre-paid to Licensor prior to termination, provided that termination was not a result of a material breach of the Order Form or Partner Registration Form or the Agreement by Partner.

9. General

- 9.1 Partner shall not make any representations or warranties regarding the Software other than as provided in the Documentation.
- 9.2 Partner shall appoint an employee who will be a single contact and shall be responsible for managing the relationship contemplated herein. This contact shall coordinate communication with Licensor and promote the success of Partner in the marketplace.
- 9.3 Partner shall have no authority, express or implied, to assume or create any obligation on behalf of Licensor and shall have no authority to represent Licensor in any other capacity than as expressly herein provided. The Agreement shall not be interpreted to create an agency or consignment relationship, and neither party is a partner, employee, agent or joint venture partner of, or with, the other. The rights and obligations of Partner under the Agreement are personal to Partner. Unless specifically agreed to in writing by Licensor, Partner shall not be entitled to use any agents or third parties for any obligations hereunder.
- 9.4 Partner shall maintain complete and accurate files and books and records of account with respect to all of its activities hereunder and all transactions relating to the Software. Such records will be maintained for a period of at least two years after termination or expiration of the Agreement.
- 9.5 If a Licensor audit as permitted under the Agreement reveals that there is a discrepancy of greater than five percent (5%) of any amount due to Licensor, then Partner shall be responsible for the cost of the audit, plus interest to be accrued as of its original due date on the amount of the discrepancy.
- 9.6 If Partner uses open source software or any other third party software not supplied by Licensor in conjunction with the Software, Partner must ensure that its use does not: (a) create, or purport to create, obligations of use with respect to the Software; or (b) grant, or purport to grant, to any third party any rights to or immunities under Licensor's intellectual property or proprietary rights in the Software.

- 9.7 If the European Union's General Data Protection Regulation (EU/2016/679) (GDPR) applies to Protected Data of third parties that Partner submits to Licensor in accordance with a sales opportunity registration program, then the Licensor's Controller to Controller Data Processing Exhibit located at <https://terms.tibco.com/#controller-to-controller-addendum> apply.
- 9.8 Notwithstanding anything to the contrary in the Master Terms, the Partner shall not assign or sublicense this Agreement and any rights or obligations hereunder, without Licensor's prior written consent. Licensor may assign, novate, or otherwise transfer, this Agreement or any rights or obligations arising under it as required for its business needs or requirements in its sole discretion. This Agreement will be binding upon and inure to the benefit of the parties hereto, their successors and assigns.