

SOFTWARE TERMS

- 1. Software.** These software terms (“**SW Terms**”) set out the terms and conditions applicable to the software identified in the Order Form (the “**Software**”) and form part of the Agreement. The SW Terms take precedence over this Agreement terms in relation to the Software. “**Software**” means the software, firmware or similar intangible materials and any related documentation (including any technical or legal requirements) specifically provided with an Offering or specifically referenced in this Agreement, but excluding marketing materials, customer correspondence and similar collateral (“**Documentation**”), data files, modules, libraries, electronic data, models, components and elements made available by Tridium and includes any updates, upgrades, error corrections, changes or revisions delivered by Tridium to Buyer under this Agreement. Software is an Offering under this Agreement.
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- 3. Acceptable Use.** Except as expressly permitted in writing by Tridium, Buyer will not (and will not authorize, encourage or cooperate with any third party to): (a) copy (except for backup purposes), modify, sublicense, rent, lease, loan, timeshare, use in the operation of a service bureau, sell, distribute, disclose, publish, assign, grant a security interest in, encumber or transfer the Software or any license rights in any manner; (b) use the Software in a manner inconsistent with the Software Use Rights; (c) create derivative works or separate the component parts of the software; (d) input, upload, transmit or otherwise provide to or through the Software, any unlawful, injurious or malicious information, materials or code; (e) perform, publish or release any penetration or vulnerability assessments, benchmarks or other comparisons of the Software; (f) create, benchmark or gather intelligence for a competitive offering; or (h) disclose keys or login information required to use the software to any third party, circumvent any license management, security devices, access logs, or other software protection measures of the Software, modify, tamper with, or disassemble keys, or merge the Software into any other software; (i) alter or remove any proprietary rights notices or legends on or in the Software; or (j) permit any use of the Software by any third party or non-licensed entity, including contractors. Any violation of the restrictions in this Section will constitute a material breach of this Agreement. There may be measures in the Software to prevent unlicensed or illegal use of it, and/or that report to Tridium metrics related to its use.
- 4. Support.** Tridium may offer technical support in its sole discretion or as agreed in writing. Buyer is solely responsible, and Tridium has no liability, for: (a) selection, securing, installation, configuration, access and use of Software, including verification of results obtained from Software and taking appropriate measures to prevent loss or theft of Buyer data; (b) operating, controlling and maintaining equipment, infrastructure and connectivity required to use the Software; and (c) applying patches, bug fixes, upgrades and updates of the Software or Third Party Materials. Tridium is not responsible for any injury or damage to any persons or property resulting from use of Software. Buyer will take precautions, establish procedures and post notices to ensure that persons and property are not harmed in the event of an error, malfunction or unexpected operation of the Software. Tridium disclaims all responsibility and liability for any problems, unavailability, delay or security incidents arising from or related to: (i) conditions or events reasonably outside of Tridium’s control; (ii) cyberattack; (iii) the public internet and communications networks; (iv) data, software, hardware, services, telecommunications, infrastructure or networking equipment not provided by Tridium, or acts or omissions of third parties Buyer retains; (v) Buyer or its Users’ negligence or failure to use the latest version of the Software or follow published Documentation; (vi) modifications or alterations not made by Tridium; (vii) loss or corruption of data; (viii) unauthorized access via Buyer’s credentials; or (ix) Buyer’s failure to use commercially reasonable administrative, physical and technical safeguards to protect Buyer’s systems or data or follow industry-standard security practices.
- 5. IP.** Except for those expressly granted in this Agreement, Tridium and its Affiliates and licensors own and reserve all intellectual property rights in and to the Software, the Documentation and all of their derivative works, modifications and improvements. The Documentation and Software operation constitute Tridium Confidential Information.
- 6. Warranty.** Tridium warrants that as of the date of delivery by Tridium, the Software will materially operate according to the then-current applicable Documentation. If within 90 days of such date Buyer documents and notifies Tridium that the Software does not meet this warranty, then Tridium will, at its option, either (a) correct the defect or error in the Software, free of charge, (b) make available to Buyer satisfactory substitute software or (c) if none of the foregoing is in Tridium’s opinion commercially reasonable, refund to Buyer all payments made as license fees for such Software after Buyer certifies in writing that it has returned or deleted all copies of the Software in its possession. This section sets out Tridium’s sole obligation and exclusive liability, and Buyer’s sole remedy, for any breach by Tridium of the foregoing warranty.
- 7. Limitation.** LIABILITY FOR BREACH OF SECTIONS 2 (LICENSE) OR 3 (ACCEPTABLE USE) ARE NOT SUBJECT TO THE LIMITATION ON LIABILITY SET OUT IN SECTION 10 OF THE GTCS.
- 8. Third-party Flow-downs.** Tridium may provide third party materials, including software, in connection with the Software as stated in the Order Form (“**Third Party Materials**”) and which may be governed by different terms (“**Third Party Terms**”). If there are no Third Party Terms, Buyer’s use will be (a) subject to the same terms as the Software and (b) solely in

connection with Buyer's use of such Software. Buyer is solely responsible for determining, obtaining and complying with all Third Party Terms. Tridium has no responsibility for, and makes no representations or warranties, regarding (i) any Third Party Materials or Buyer's use of Third Party Materials, and (ii) Third Party Terms or Buyer's compliance with Third Party Terms.