TIBCO® Mashery Definitions

"Administrative Dashboard" means the UI used to declare and manage API policies, developer community communication, view reporting and analytics.

"Agreement" means the (i) Master Terms, (ii) Supplemental Terms (iii) other documents posted on Licensor's website which are expressly incorporated therein by reference and (iv) Order Forms.

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

"API" means a Web Service requiring separately configured and distinct application services deployed on Licensor's platform ("distinct" in that it requires its own reporting system or configuration, developer access key database, inbound or outbound URL, and/or community site instance, or is served by or under a separate legal entity, company business unit, publishing group, product brand or application.

"API Gateway" means a high performance application programming interface ("API") switch running in one data center with its own configuration and administrative domain but sharing the API call capacity and API analytics service of an exchange.

"Authorized User" means Customer's employees, contractors, or consultants who have agreed in writing to be bound by terms at least as protective of Licensor as those in this Agreement.

"Cloud Services" means a combination of computing tools and support services which is provided by Licensor as an online, internet-based service and may include components for on-premises deployment.

"Confidential Information" means any information disclosed by either party, whether or not marked, including, without limitation, the provisions of the Agreement, the Software, Materials, individual contact information provided by either party or related performance test results derived by Customer, including but not limited to benchmark test results, Protected Data and Output.

"Connection" means any network link or session established with Software, directly or indirectly to any other entity, including but not limited to software, firmware or hardware.

"Consulting Services" means installation, configuration, training or other professional or support services.

"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).

"Contact" means a Customer contact person who interfaces with TIBCO's support personnel.

"Customer Application" means the ISV Customer or SaaS Customer software or hardware set forth in an Order Form.

"Data Record" means data that is received by Licensor from the Customer, Customer's authorized vendor, Affiliates, or other designees that is populated from information provided by Customer or Shopper as a result of transactions (such as from point-of-sale or e-commerce systems), events (such as a website or kiosk log-in), information associated with custom data attributes as specified by Customer, or responses to Customer's custom questions in the Subscription service.

"Dedicated" means a named Customer contact person who interfaces with TIBCO's support personnel.

"Delivery Date" means (i) for Equipment and Software that is loaded on the Equipment, delivery is when the Equipment is initially delivered to a common carrier of TIBCO's choice; (ii) for physical delivery of Software without Equipment, delivery is the date on which the Software, as contained in a physical media format, is initially delivered to a common carrier of TIBCO's choice, unless stated otherwise; (iii) for Software electronic delivery, the date on which the Software and license keys, if applicable, are initially made available to Customer electronically.

"Documentation" means text material that accompanies an item of Software, as updated by Licensor from time to time, describing how to make use of that software.

"Embedded/Bundled" means Software which embeds or bundles other Software. Use of such embedded or bundled Software is solely to enable the functionality of the Software licensed under this Agreement, and may not be used or accessed by any other Software, or for any other purpose.

"Enterprise" means (unless otherwise set forth in an Order Form) an unlimited Number of Units of the Software, where the Number of Units is identified as Enterprise in the Order Form, to be deployed by Customer 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 Customer becomes fixed and Customer may not thereafter deploy additional Units. During the Enterprise Term and thereafter, Customer's right to deploy shall not extend to any Extraordinary Corporate Event. Customer 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.

"Environment" means for TIBCO Cloud Bus™, a single TIBCO Silver® Fabric Manager Instance and all of the TIBCO Cloud Bus components managed by the TIBCO® Silver Fabric Manager Instance. A TIBCO Cloud Bus Environment includes one Non-Production Environment for development and testing purposes and one Production Environment. The Non-Production Environment may not be used for hot standby, disaster recovery or high availability. A TIBCO Cloud Bus Enterprise or TIBCO Cloud Bus Enterprise Plus Production/Non-Production Environment includes one Non-Production Environment for disaster recovery and one Production Environment. For TIBCO® Cloud MDM, "Environment" means a single TIBCO Silver Fabric Manager Instance and all of the TIBCO® Cloud MDM components managed by the TIBCO Silver Fabric Manager Instance. For TIBCO Mashery®, "Environment" means a single tenancy within the TIBCO Mashery multi-tenant service.

 "Error" means a material failure of the Licensor Software to conform to its functional specifications described in the Documentation that is reported by Customer to and replicable by Licensor.

"Exchange" means a Cloud Service that includes two (2) fully redundant and fault tolerant Production API Gateway instances, one (1) Non-Production API Gateway, one (1) API Analytics Service and a base capacity of 1,000 API Calls per second. A minimum capacity of 1,000 API Calls per second must be maintained on the redundant gateway upon failure of primary gateway. The aggregate capacity of API Calls must be fault tolerant across all available fault tolerant Production API Gateways.

"Extraordinary Corporate Event" means a corporate transaction which results in Customer 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 Customer or its legal or corporate structure.

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

"Instance" means a single tenancy of the Mashery API management platform. Each single tenancy includes on Administrative Dashboard and one Developer portal.

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

"Licensor" means the TIBCO Affiliate identified in an Order Form, or otherwise in the Licensor Chart located at http://www.tibco.com/multimedia/purchase-order-guidelines_tcm8-5446.pdf

"Licensor Software" means the object code version (or, in the case of certain Software Services a machine and or disk image) of the Licensor's product on all supported Platforms then currently available, including Documentation and any subsequent Updates provided under Maintenance. Licensor Software excludes Third Party Software.

"Location" means for TIBCO Mashery®, a single network point-of-presence that processes API traffic.

"Maintenance" means the provision of Updates and technical support services to resolve defects according to problem severity pursuant to current support and severity levels set forth in the Service Level Guide. If not otherwise set forth in an Order Form the support level that applies to the Software shall mean the lowest level available from Licensor for the applicable Software.

"Master Terms" means the Software license and services terms located at https://terms.tibco.com/posts/859129-terms.

"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 Customer's use of the Software, excluding Output.

"Named Contact" means a named Customer contact person who interfaces with Licensor's support personnel.

"Non-Production" means a non-operational environment into which the Software may be installed, which is not processing live data, which is not running any operations of the Customer 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 for each Order Form the entitlement to the Software and for multiple Order Forms, collectively, the cumulative entitlement to each of the Software and/or Software Services as designated and/or defined in applicable Order Forms, and including, if applicable, the current number of deployed Units as reported by Customer upon expiration of a Project or Enterprise Term.

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

"Orders" mean the total number of unique transactions submitted, stored in and counted by the applicable 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 Customer purchases additional Units.

"Output" means Confidential Information of Customer that has been input in the Materials or which is accessed and used as part of, or through Customer's use of the Software Services, including, but not limited to, data files, images, hyperlinks and written text that Customer or Customer's users, create, transmit, submit or display for Customer's use of the Software or Software Services.

"Perpetual" means the right to use the Software for an indefinite period of time, unless applicable law renders a perpetual license invalid, in which case, "Perpetual" shall mean the right to use the Software for a period of ninety-nine (99) years from the Order Form Effective Date.

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

"Production" means an operational environment into which the licensed 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 Software, where the Number of Units is identified as Project in the Order Form, to be deployed by Customer 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 Customer becomes fixed and Customer may not thereafter deploy additional Units. During the Project Term and thereafter, Customer'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. Customer 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.

"Protected Data" means individual personal data to which Licensor is exposed during the provision of services relating to Software products that is protected by various acts, legislation and directives relating to privacy and security requirements for its protection and processing, both in the United States and elsewhere in the world.

"Purchase Order" means any document issued by Customer (other than an Order Form) requesting Software or any Licensor services.

"QPM" means the number of API Queries that can be handled in one calendar month.

"QPS" means the number of API Queries that can be handled in one second.

"Query" means a request for information from any Web Service or API that is managed through an Administrative Dashboard.

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

"Service Levels Guide" means the document describing the support and severity levels located at https://terms.tibco.com/posts/1145198-tibco-mashery-service-levels-guide.

"Software" means collectively Licensor Software and Third Party Software.

"Software Services" means Cloud Services and/or Hosted Services and the right to use the Software, unless otherwise set forth in an Order Form, for the Term.

"Subscription" means the on premise license to use the Software set forth in an Order Form and identified as Subscription, together with the right to receive Maintenance and which includes the right to use Updates during the Subscription Term.

"Supplemental Terms" means additional product or service-specific terms and conditions that are set forth in one or more supplemental terms incorporated by reference in the Terms or the applicable Order Form or the additional license requirements and notices, if any, contained in the Documentation.

"Term" means the duration of the Term License, Subscription, Maintenance and/or Software Services, as applicable, as set forth in the Order Form, including renewal terms if any.

"Term License" means an on premise license to Software with optional Maintenance, where Maintenance fees are in addition to the Software license fees.

"Third Party Software" means third-party software, including Documentation and Updates (if Maintenance is made available by Licensor for Third Party Software) identified by its company and/or product name, the provision of which by Licensor is made solely as an accommodation to and in lieu of Customer purchasing a license for Third Party Software directly from the third party vendor.

"Unit" means a license restriction describing the manner in which a copy (or multiple copies) of the 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.

"Updates" means Software bug fixes, enhancements, and upgrades, if and when made generally available by Licensor under Maintenance. Updates may include new or additional Platforms that are deemed (at Licensor's sole discretion) to have no more than a minimum difference in price, features and functionality from previously available Platforms.

"Web Service" means a URL to which a request for information is sent by a third-party application and for which content, data or application component(s) are retrieved.

"Work Order" means an Order Form under which a Customer acquires Consulting Services from Licensor and which has been signed by customer.