



Equipment Terms

These Equipment terms are incorporated by reference into the Master Terms.

1. **Lease.** If Customer is leasing Equipment, Customer shall procure and continuously maintain and pay for (a) all risk insurance against loss of and damage to the Equipment for not less than the full replacement value of each Unit, naming Licensor as loss payee and (b) public liability and property damage insurance policies insuring against third party personal and property damage in respect to the use and operation of the Equipment in an amount not less than 1,000,000 USD for each occurrence. Such insurance policies will name Licensor as an additional named insured and a loss payee and provide that there shall be no recourse against Licensor for payment of premiums or other amounts with respect thereto. The insurance must be in such form and with such company or companies as reasonably acceptable to Licensor. Customer shall provide Licensor a certificate evidencing such insurance and hereby appoints Licensor as Customer's attorney-in-fact to make claim for, receive payment of, and execute and endorse all documents, checks or drafts received in payment for any loss or damage to the Equipment under any such insurance policy.
2. **Title.** Licensor transfers all title to the hardware of the Equipment once Licensor or Licensor's agent ships the Equipment. Notwithstanding the foregoing, Licensor reserves, and Customer consents to Licensor's reservation of a purchase money security interest in the Equipment until Licensor receives the fees set forth in an Order Form. For a feature, conversion, or upgrade involving the removal of parts in connection with the Equipment, which parts becomes Licensor's property, Licensor reserves, and Customer consents to Licensor's reservation of a purchase money security interest in the Equipment until Licensor receives payment of all the amounts due and the removed parts. Customer authorizes Licensor to file appropriate documents to permit Licensor to perfect its purchase money security interest.
3. **Software.** Customer shall use Software embedded in the Equipment solely to enable the functionality of the Equipment stated in the Documentation and such embedded Software is licensed pursuant to the Master Terms. The term of Software embedded in Leased Equipment is stated in the Order Form. The term for Purchased Equipment is either (a) Perpetual or (b) the period that Customer uses of the Equipment, whichever is shorter.
4. **Equipment Evaluation.** Unless otherwise stated in an Order Form, the initial term of a Lease for evaluation purposes is 45 days from the Order Form Effective Date. During the evaluation Term (a) the Software is provided "AS IS" without Maintenance or any warranties or indemnities and (b) Customer shall not use or deploy the Equipment in or on a Production or development environment. Such use automatically terminates upon the earlier of (i) 45 days from the Order Form Effective Date, or (ii) Customer's receipt of notice of termination from Licensor..
5. **Physical Delivery.** Delivery is deemed to occur upon delivery by Licensor or its agent to Licensor's designated freight carrier, FCA California, U.S.A. (Incoterms 2000). Customer will be invoiced for shipping and handling charges. Delivery is subject to the availability of Equipment.
6. **Proprietary Notices.** Lease Equipment is, and will at all times remain, Licensor's sole and exclusive property. Customer has no right, title, or interest to the Lease Equipment, except as expressly stated in the Agreement. Customer shall keep the Lease Equipment free and clear of all levies, liens, and encumbrances, and immediately notify Licensor in writing of any circumstances with respect to the location of the Equipment that adversely affect Licensor's ownership interests. Customer shall not install, attach, mount, or otherwise house the Lease Equipment in a manner that would render it a fixture under applicable law within the jurisdiction that the Lease Equipment is located.
7. **Renewal.** So long as no event of default has occurred and is continuing hereunder, Customer may renew an Equipment Lease annually (excluding a Lease for evaluation purposes), for a 1 year term, subject to payment of the annual Lease renewal fee. If Licensor does not receive payment for the lease renewal thirty 30 days prior to the Initial Term anniversary date, the existing Lease term will terminate at the end of the Lease, in accordance with terms of the Agreement.
8. **Termination.** Order Forms for Equipment automatically terminate if: (a) a writ of attachment or execution is levied on the Equipment (where Licensor is a lessor) and is not released or satisfied within 10 days thereafter, or (b) where Licensor is a lessor or in a Purchase where payment in full to Licensor has not been made, if a receiver is appointed in any proceeding or action to which Customer is a party with authority to take possession or control of the Equipment. In all cases, Customer shall promptly return Equipment to Licensor and not be treated as an asset of Customer. In the case of an evaluation of Equipment, where Licensor exercises its right to terminate the Lease for a reason other than Customer's breach of the Agreement, and Customer has pre-paid fees for the month in which Licensor's termination occurs, Licensor will refund the unearned monthly pro-rated fee to Customer within 30 days following Licensor's receipt of the returned Equipment.
9. **Return of Equipment.** Customer shall return Equipment in good repair, condition and working order (ordinary wear and tear resulting from proper use thereof excepted), by delivering the Equipment to Licensor's designated carrier. Customer is responsible for (a) all costs associated with de-installation of Equipment, and (b) returning the Equipment in accordance with the Equipment Return Guidelines available at http://www.tibco.com/resources/equipment_return_guidelines.pdf.
10. **Maintenance for Equipment** is described at http://www.tibco.com/assets/blt37cd68fa6bc6f6ed/equipment-maintenance-program-guide_tcm8-16160.pdf.