TIBCO B2B Code of Business Conduct and Ethics

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Purpose

This TIBCO B2B Code of Business Conduct and Ethics (the “Policy”) helps ensure that TIBCO Business Partners (as defined below) comply with legal requirements and TIBCO standards of business conduct. All Business Partners are expected to uphold these standards in day-to-day activities, comply with all applicable policies and procedures, and ensure that all Business Partner employees, agents and downstream suppliers are aware of, understand and adhere to these standards.

TIBCO Software Inc., its subsidiaries and affiliates (collectively, “TIBCO”) are committed to continuously reviewing and updating our policies and procedures. Therefore, this Policy is subject to modification. In the event of conflicts between this Policy and future modifications, the latest modification will control.
1. TIBCO Business Partners

TIBCO Business Partners are:

- Contractors, service providers, cloud providers, hosting providers, suppliers and vendors, or other third parties hired by TIBCO as independent contractors, to provide products (including data products) and/or services;

- Marketing partners that generate interest in TIBCO products and/or services, and/or referral sales of TIBCO products, product licenses, and/or services;

- OEMs (original equipment manufacturers) that bundle and/or embed TIBCO products as components into their own products; and

- Resellers, including value-added resellers, distributors, and systems integrators that sell TIBCO products, product licenses, and/or services.

To create a mutually beneficial business relationship, TIBCO recognizes that a Business Partner must be confident that it will be treated lawfully and in an ethical manner. TIBCO’s policy is to comply with all applicable legal and regulatory requirements and to practice the highest ethical standards in conducting its business. TIBCO requires its Business Partners to conduct their business in the same manner.

2. Introduction

Ethical business conduct is critical to TIBCO’s business. As a TIBCO Business Partner, you are responsible for respecting and adhering to this Policy. Many of these practices reflect legal or regulatory requirements. Local laws may in some instances be less restrictive than the principles set forth in this Policy. In those situations, Business Partners shall comply with the Policy, even if the conduct would otherwise be legal under applicable laws. If local laws are more restrictive than the Policy, Business Partners shall comply, at a minimum, with more restrictive, applicable local laws.

3. Applicable Laws

Business Partners must comply with all applicable laws, regulations, rules and regulatory orders. Business Partners with operations outside of the United States must comply with laws, regulations, rules, and regulatory orders of the United States, including the Foreign Corrupt Practices Act and the U.S. Export Control Act, the UK Bribery Act of 2010, and all applicable local laws.

Where a Business Partner’s services to, or activities with TIBCO involve Processing the Personal Data of European Union (“EU”) Residents (as those terms are understood in the context of the EU General Data Protection Regulation (“GDPR”)), the Business Partner must comply with all provisions of the GDPR. Business Partner’s Processing of EU Personal Data constitutes a representation to TIBCO that Business Partner is in compliance with the GDPR, and Business Partner agrees to promptly certify that compliance to TIBCO in writing upon
TIBCO’s reasonable request. By providing EU Personal Data to TIBCO, Business Partner certifies that it has the consents of the Data Subjects and/or other documented, legitimate basis as recognized by the GDPR to provide that Personal Data. Upon TIBCO’s reasonable request and without undue delay, Business Partner shall make available for inspection and copying the consents associated with the Personal Data being provided or an explanation of the legitimate basis being asserted under the GDPR.

Where a Business Partner’s services to, or activities with TIBCO involve processing of, or providing non-EU personal data to TIBCO, Business Partner’s processing or supplying of that personal data constitutes its representation to TIBCO that Business Partner is in compliance with all laws applicable to the processing and/or supplying of that personal data, including applicable laws addressing data subject consent. Upon TIBCO’s reasonable request and without undue delay, Business Partner shall provide TIBCO with written certification of its compliance with applicable data protection laws and make available for inspection and copying the data subject consents, as applicable, to the personal data being provided.

Each Business Partner must acquire appropriate knowledge of the legal requirements relating to its duties sufficient to enable it to recognize potential dangers and to know when to seek advice from its own legal counsel. Violations of laws, regulations, rules, and orders may subject Business Partner, its agents, or employees to criminal or civil liability, as well as legal or other action by TIBCO. TIBCO shall not be liable for a Business Partner's failure to know and abide by applicable legal obligations.

In addition to complying with mandatory legal obligations, TIBCO expects its Business Partners to make good faith efforts to implement practices that are consistent with, and in furtherance of globally-recognized initiatives and conventions in the areas of human rights, justice in the workplace, environmental protection and sustainability, and corporate social responsibility (for example, the United Nations Universal Declaration of Human Rights; the standards and conventions of the International Labour Organization). TIBCO may request a statement from Business Partners describing their efforts in this area which, absent special circumstances, will not occur more than once annually. Absent undue burden, Business Partners will cooperate promptly with such requests.

4. Communications

Business Partners are not authorized to speak on behalf of TIBCO or its affiliates on any matter. Business Partner spoken statements regarding TIBCO products and services must be truthful and accurate and written statements regarding TIBCO products and services made in connection with Business Partner’s partner activities must be authorized in writing in advance by TIBCO. Under no circumstances may Business Partner’s statements include any TIBCO confidential information, absent TIBCO’s express, prior written consent, which may be withheld in TIBCO’s sole discretion.

5. Equal Opportunity, Non-Discrimination and Anti-Harassment

As a company that is committed to the letter and spirit of equal opportunity in the workplace, TIBCO is committed to providing a work environment that is free of discrimination and
harassment and that provides equal opportunity with respect to all activities concerning its employees. In keeping with this commitment, TIBCO desires to only enter into Business Partner relationships with parties that similarly are committed to ensuring work environments that foster equal employment and that are free of discrimination and harassment. Business Partners, therefore, are required to prohibit harassment of any kind (including verbal, physical, visual, and sexual harassment) or discrimination, including harassment or discrimination on any of the following bases: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition (including genetic characteristics), marital status, sex, age, sexual orientation, veteran status, or any other characteristics protected by law. Business Partners additionally must provide a workplace free from retaliation against employees who, in good faith, report incidents of harassment, perceived harassment, or discrimination.

6. Due Diligence

TIBCO and its affiliates will not enter into Business Partner transactions without engaging in a due diligence review of the Business Partner to ascertain the Business Partner’s suitability for participation in the proposed transaction or relevant TIBCO program. Such reviews may include thorough investigations into the history, capabilities, financial health, relationships, character, and reputation of the potential Business Partner and its principals. TIBCO will conduct all background investigations in compliance with applicable law. Failure of the Business Partner to cooperate with TIBCO’s due diligence efforts may result in a decision by TIBCO to abstain from entering into a contractual relationship or transaction with the Business Partner. Business Partner should not assume that a business transaction or relationship will be approved until such time as Business Partner has been informed that the due diligence review has been successfully completed; doing so is at Business Partner’s sole risk.

Furthermore, TIBCO reserves the right to require recertification of Business Partners through the due diligence process. Absent cause, such recertification will occur no more than once annually. Business Partners are required to cooperate fully in the recertification process; failure of a Business Partner to cooperate in a recertification review, or the discovery of adverse changes in a Business Partner’s business or legal reputation through a recertification review, may result in TIBCO’s cancellation of its relationship with the Business Partner, in TIBCO’s sole discretion.

7. Confidentiality and Intellectual Property

Business Partners are required to comply fully with the terms and conditions of the Business Partner’s agreement(s) with TIBCO regarding the confidentiality and protection of TIBCO assets, confidential information and intellectual property, and that of its licensors, customers and other third parties.

8. Financial Records

Accurate and reliable financial and business records are of critical importance to TIBCO. Business Partners must not have or make any false or inaccurate entries in the accounting books or records relating to TIBCO or provided to TIBCO. Business Partner records must be retained in accordance with contractual obligations and all applicable laws and regulations.
9. Prohibition of Inducements

As a company subject to the U.S. Foreign Corrupt Practices Act, the UK Bribery Act of 2010, and other laws governing inducements, and as a company committed to the highest ethical standards in its pursuit of business, TIBCO, along with and its affiliates, will do business only with companies that share this commitment. Therefore, under no circumstances may Business Partners offer to pay, make payment, promise to pay, or issue authorization to pay any money, gift, or anything of value to any person or entity where such offer or payment may be perceived as intended, directly or indirectly, to improperly influence any business decision, any act or failure to act, any commitment of fraud, or opportunity for the commission of any fraud. Business Partners worldwide are required to comply with the U.S. Foreign Corrupt Practices Act, the UK Bribery Act of 2010, and all applicable local anti-bribery laws. In the event that any TIBCO employee or agent approaches, or has approached, Business Partner for the purpose of soliciting Business Partner's participation in giving or receiving an improper inducement, Business Partner is required to notify TIBCO immediately through TIBCO’s whistleblower reporting portal at www.ethicspoint.com or by calling the EthicsPoint Hotline at 1-866-384-4277.

10. Antitrust and Competition

Many countries have laws and regulations, usually referred to as antitrust or competition laws, prohibiting the unlawful restraint of trade. These laws typically prohibit agreements or actions that unreasonably restrain trade, are deceptive or misleading, or unreasonably reduce competition with no beneficial effect to consumers. These laws are designed to protect consumers and competitors against unfair business practices and to promote and protect healthy competition. TIBCO Business Partners are required to strictly adhere to all such laws and regulations.

11. Export and Import Controls/Anti-Boycott Legislation

A number of countries maintain controls on the destinations to which products or software may be exported. Some of the strictest export controls are maintained by the United States against countries, individuals, and organizations that the U.S. government considers unfriendly or as supporting international terrorism and/or other illegal activities. The U.S. regulations are complex and apply both to exports from the United States and to exports of products from other countries, when those products contain components or technology of U.S. origin. Software created in the United States is subject to these regulations even if duplicated and packaged abroad. In some circumstances, an oral presentation containing technical data made to foreign nationals in the United States may constitute a controlled export. Similarly, countries frequently impose controls on the importation of goods and technologies. TIBCO Business Partners are required to be knowledgeable of, and strictly adhere to, all applicable export and import control laws and regulations.

Furthermore, Business Partners shall not participate in, or provide information that could be construed to further, any economic or other type of boycott not permitted by the United States government and applicable local laws.
12. Lobbying

If engaging in lobbying communication with any member or employee of a legislative body or with any government official or employee in the formulation of legislation, a Business Partner must make clear to such government official or employee that the Business Partner is speaking on its own behalf and must not create any perception that the Business Partner is speaking on behalf of, or is representing, TIBCO or its affiliates. Absent the express, prior written consent of TIBCO’s General Counsel, lobbying efforts by a Business Partner on behalf of TIBCO are strictly prohibited.

13. Government Contracts

Distributors or resellers to the United States Federal government who wish to be TIBCO Business Partners must enter into the appropriate agreement with TIBCO’s affiliate, TIBCO Software Federal, Inc. (“TSFI”). U.S. Federal government sales by distributors or resellers that are not TSFI channel partners shall not be fulfilled. For Business Partners that have entered into TSFI channel partner agreements, along with OEM Business Partners and systems integrators whose territory includes the United States Federal government, it is TIBCO’s policy that said Business Partners comply fully with all applicable laws and regulations that apply to government contracting. Business Partners are required to disclose if they have been declared ineligible for United States Federal contracts for any reason, including, but not limited to, violations of Executive Order 11246; Section 503 of the Rehabilitation Act of 1973, as amended 29 U.S.C. Sec. 793 (“Section 503”); and/or the affirmative action provisions of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. Sec. 4212 (“Section 4212”).

All Business Partners operating under government contracts at any level of government must strictly adhere to all terms and conditions of such contracts and all applicable local, municipal, state, territorial, federal, foreign or other government laws and regulations which apply to such contracts.

14. Supplier Diversity

TIBCO welcomes diversity in its Business Partners in order to develop the most innovative and highest quality channels for the placement of TIBCO products and services into the marketplace. Business Partners, therefore, may be asked to identify whether they have received classification by the United States Federal or other government as a:

- Small Business Concern
- Small Disadvantaged Business
- Woman-Owned Small Business
- Veteran-Owned Small Business
- Disabled Veteran-Owned Small Business
- HUBZone Small Business Concern
- Enterprise Zone Business
- Minority Business Enterprise
- Woman Business Enterprise
- Historically Black College/University
- Minority Educational Institution
15. Industrial Espionage

It is TIBCO’s policy to lawfully compete in the marketplace. This commitment to fairness includes respecting the rights of our competitors and abiding by all applicable laws in the course of competing. TIBCO expects its competitors to respect TIBCO’s rights to compete lawfully in the marketplace, and TIBCO must respect the right of a competitor equally. Business Partners may not steal or unlawfully use the information, material, products, intellectual property, or proprietary or confidential information of anyone including suppliers, customers, other Business Partners or competitors of TIBCO.

16. Conflict of Interest

A conflict of interest describes any circumstance that could cast doubt on a Business Partner’s ability to act with total objectivity with regard to the sale of TIBCO products and services. In the event a Business Partner feels there may exist a conflict of interest or potential conflict of interest with TIBCO or any TIBCO employee(s), all pertinent details should be reported to TIBCO’s Legal Department. Business Partners must report any situations where a current employee, officer, director or principal of Business Partner is a current employee of TIBCO or is a direct family member of a TIBCO employee. A direct family member includes a parent, sibling, spouse or partner, or child, including, in each instance, where such relationship is created through marriage (e.g., a brother-in-law, a mother-in-law, a step child, etc.).

17. Compliance

TIBCO will take appropriate action against any Business Partner whose actions are found to violate these policies or any other policies of TIBCO. Disciplinary actions may include immediate termination of the business relationship by TIBCO at its sole discretion. Where TIBCO has suffered a loss, it may pursue its remedies against the individuals or entities responsible. Where laws have been violated, TIBCO and Business Partners will cooperate fully with the appropriate authorities.

18. Independent Contractor

TIBCO Business Partners are independent contractors, whose relationship with TIBCO and its affiliates is established exclusively by the terms of the relevant contract between the parties. Business Partners are not, and may not describe themselves as, agents, representatives, or employees of TIBCO or its affiliates. Under no circumstances may Business Partners suggest a relationship with TIBCO or its affiliates other than that as an independent contractor.
19. Violations and Reporting

Violations of this Policy can create significant liability for TIBCO, for you as a Business Partner, and for your agents and employees. Part of your job and ethical responsibility is to help enforce this Policy and promptly report any violations and any conduct believed in good faith to be an actual, apparent, or potential violation by calling the EthicsPoint Hotline at 1-866-384-4277 or by making a submission on-line, at www.ethicspoint.com. In each instance, the intake service will process your report and forward it to appropriate TIBCO personnel for investigation. Reports will be handled as confidentially as possible. Reprisal, threats, retribution, or retaliation against any person who has in good faith reported a violation or a suspected violation of law, or against any person who is assisting in any investigation or process with respect to such a violation, is prohibited.

20. Superseded Policies

This Policy replaces and supersedes the following policies:

- TIBCO Partner Code of Business Conduct and Ethics
- TIBCO Service Provider Code of Business Conduct and Ethics Policy
- TIBCO Supplier Code of Conduct