**Tealium Reseller**

**Terms and Conditions**

1. **Scope**

These Tealium Reseller Terms and Conditions (the "Terms and Conditions") form part of the Reseller Master Services Agreement ("RMSA") by and between Tealium Inc., ("Tealium") and Reseller (as identified in the RMSA – Part A referencing these Terms and Conditions). These Terms and Conditions will apply to Reseller's use and resale of the Services and to all Service Orders that are entered into by Tealium and Reseller. To the extent there is any conflict or inconsistency between the terms of a Service Order and the terms of these Terms and Conditions, the terms of the Service Order will control solely with respect to such conflict or inconsistency.

1. **Definitions.** Capitalized terms in the RMSA will have the following meanings:
	1. "Additional Usage Fee" or "Overage Fee" means the fee or fees identified on the applicable Service Orders that will apply if Reseller or Customer's use of the Services exceeds the Authorized Usage Level.
	2. "Attribute" means a unique characteristic of a Visitor or a particular visit to Customer’s Authorized Domain that collects in the Tealium customer data platform. Examples of Attributes include visit duration, favorite product, active browser, badged visitor, exit URL, and date of purchase. Attribute limitations will be specified in the applicable Service Order.
	3. "AudienceStream Connector" means an optional Tealium provided feature within the AudienceStream Service enabling Customer to transmit designated AudienceStream provided data to a selected recipient.
	4. "Authorized Domain" means a domain owned or administered by Reseller or Customer.
	5. "Authorized Usage Level" means the maximum number of Sessions, Events, Attributes or other usage units (as specified on the applicable Service Order) that can be initiated using the Services without incurring an Additional Usage Fee.
	6. “Cloud Connector” means a server-to-server connection between Tealium servers and a Customer-selected vendor’s servers as implemented in connection with the Tealium Cloud Delivery Service. “Connector Call” means an Event data transmitted from a Tealium server via a Cloud Connector.
	7. "Authorized Tealium Service" means the Services that Reseller is certified to resell within the Territory as a result of Reseller completing and maintaining certification for each Authorized Tealium Service as specified in the Reseller Certification Standards set forth in Exhibit A.
	8. "Code" means any and all HTML code and JavaScript that Tealium provides to Reseller or Customer in conjunction with the Services. The Code will be deemed part of the Services and the Tealium Technology, as such Technology is defined below.
	9. "Confidential Information" means any information disclosed by one party to the other in writing and marked "confidential" or disclosed orally and, within ten (10) business days of disclosure, reduced to writing and marked "confidential" and information which is not marked as "confidential" which should, under the circumstances, be understood to be confidential by a person exercising reasonable business judgment. Without limiting the foregoing, Tealium Technology will be deemed to be the Confidential Information of Tealium.
	10. “Data Retention Period” means the period of time event related or audience related data will be retained in a Customer-selected Tealium data storage Service. If a specific Data Retention Period is not specified on a given Service Order, the applicable Data Retention Period will be one (1) month from the data collection date.
	11. "Customer" or "End-User" means the customer of the Reseller with whom the Reseller forms a contractual relationship for purchase and use of Services.
	12. "Discount" or "Reseller Discount" has the meaning set forth in Section 3.1 of RMSA – Part A.
	13. "Event" means any call made to Tealium's data collection servers, or any row of data uploaded to Tealium by or on behalf of Reseller or a Customer using Tealium's omnichannel capability, or any Connector Call or other API call made to Tealium by or on behalf of Customer.
	14. "Fees" means Tealium’s price for Services to be provided under and specified in a Service Order. Fees will be derived from Tealium’s then current price list but will be dependent upon and may vary based upon the Services to be provided under and the project associated with each particular Service Order.
	15. "Pages" means web or mobile pages on Reseller’s or a Customer website or mobile application to which the Code has been added.
	16. "Price" or "Service Order Price" means the Fees for any particular Service Order less the then applicable Reseller Discounts.
	17. "Service Order" means the documents for placing orders hereunder that are entered into between Reseller and Tealium from time to time, including addenda and supplements thereto. Service Orders will be completed using the form shown in Attachment 1 to RMSA Part A and each completed and fully executed Service Order will be deemed incorporated herein by reference.
	18. "Services" has the meaning set forth in Section 1.1 of RMSA – Part A.
	19. "Session" means a discrete visit to an Authorized Domain by a Visitor where the Visitor does not leave the Authorized Domain and no more than thirty (30) minutes of inactivity between two (2) consecutive Visitor actions on the Authorized Domain occurs.
	20. "Technology" means any proprietary technology, including internet design, content, software tools, hardware designs, algorithms, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), know-how, trade secrets, and any related intellectual property rights throughout the world and any derivatives, improvements, enhancements, or extensions of such technology conceived, reduced to practice, or developed during the term of this RMSA by the owner of such technology.
	21. "Territory" has the meaning set forth in Section 1.2 of RMSA – Part A.
	22. "Visitor" means an individual who accesses Pages on which the Services are implemented.
	23. "Visitor Profile Data" means Tealium provided non-personally identifiable data concerning Visitors associated with Tealium’s AudienceStream Service.
	24. "Visitor Profile Term" means the trailing period of time in which a Visitor must visit Pages in order to be included in a given set of Visitor Profile Data. If a specific Visitor Profile Term is not defined on a given Service Order, the applicable Visitor Profile Term will be defined to be the four (4) month period immediately preceding the time of measurement.
2. **Reseller Appointment Terms**
	1. **Covenants and Representations.**

(a) Covenants of Reseller. Reseller will: (1) comply with the terms and conditions of this RMSA and with all applicable Tealium procedures and policies provided to Reseller that further define the resale and use of the Services, (2) identify and register Customers in accordance with the terms hereof, (3) be responsible for Customers’ compliance with the terms and conditions of this RMSA, (4) prevent unauthorized access to or use of the Services and notify Tealium promptly of any such unauthorized access or use of which Reseller is aware, (5) use the Services and assure Customers use the Services only in accordance with applicable laws, regulations and Tealium’s Acceptable Use Policy ("AUP") set forth in Exhibit B (attached hereto and incorporated herein by this reference), and (6) operate as technical support desk for Customers and act as the first point of contact for all technical queries relating to implementation of the Services. Reseller will not, and will not allow Customers or third parties to: (i) make the Services available to anyone other than Customers; (ii) share, sell, resell, rent or lease the Services other than as set forth herein; or (iii) access the Services for purposes of monitoring their availability, performance, or functionality, or for any other benchmarking or competitive purposes. Reseller further covenants that it will remain in full compliance with the Reseller Certification Standards set forth in Exhibit A (attached hereto and incorporated herein by this reference) and if any job requires that any aspect of the Services, such as Code implementation, be performed on Reseller’s or Customer’s premises, Reseller will supply or require that Customer supplies Tealium personnel with such reasonable information, resources, and assistance as Tealium may request. Reseller will notify Tealium of all custom extensions built by Reseller for integration into the Services ("Custom Extensions") and will provide such cooperation as Tealium may reasonably request in the event Tealium elects to test any such Custom Extensions. In addition, Reseller agrees that upon Tealium's written request, it will grant to Tealium a perpetual, royalty-free, worldwide right and license to distribute Custom Extensions, both directly and through subdistributors, in future releases of the Services.

(b) Representations of Reseller. Reseller hereby represents that: (1) it has sufficient personnel and resources to promote, support and resell the Services; (2) it will perform its duties and obligations hereunder in a diligent and businesslike manner and refrain from any activity or action that may damage Tealium's reputation or the reputation of the Services; (3) it will use its best efforts to promote the Services; (4) it will not build a solution that competes with the Services during the term of this RMSA and for a period of two (2) years after the termination or expiration of this RMSA; and (5) at all times during the Term, it will remain in compliance with the Reseller Certification Standards set forth in Exhibit A and such updated versions of the Reseller Certification Standards as Tealium may release from time to time at its sole discretion.

* 1. **Authority**. Subject to the terms of this RMSA, Tealium engages Reseller to solicit and contract with Customers in the Territory. Reseller acknowledges and agrees that (a) this RMSA does not grant Reseller exclusive rights in any territory and (b) Customers will only receive access to the Services after Tealium and Reseller execute a Service Order that identifies the Customer. Each party represents that it has all requisite power and authority to enter into and perform this RMSA, and that it has no agreement with any third party or commitments or obligations which conflict in any way with its obligations hereunder.
	2. **Limits on Reseller Authority**. Without Tealium's prior written approval, Reseller will not (a) incur any expenses or obligations in the name of Tealium or (b) except as otherwise provided in this RMSA, publish any printed material regarding the Services or Tealium's business**.**
	3. **Reservation of Certain Rights**. Tealium may remove, modify, abridge, or discontinue any Service(s), at any time and at Tealium’s sole discretion. Tealium will not be liable to Reseller for any loss, damage, or penalty arising from or on account of any said modification, abridgment, or discontinuance; provided, however, that Tealium will use commercially reasonable efforts to notify Reseller of its intent to discontinue said Service a minimum of sixty (60) days prior to the effective date of said discontinuance. Tealium will have no liability for deficiencies or delays in delivery of the Services resulting from the acts or omissions of Reseller, its agents, or employees, or Customers, or performance of the Services in accordance with Reseller’s instructions.
1. **The Services; Reseller Assistance**
	1. **The Services.** During each applicable Service Term (as such term may be defined in one or more Service Orders executed by the Parties), Tealium will provide the Services to Reseller or Customers. Reseller will at all times ensure that either (a) Customers' use of the Services does not exceed their respective Authorized Usage Levels or (b) if Customers' use of the Services exceeds their respective Authorized Usage Levels, Reseller will pay the Additional Usage Fee invoiced by Tealium according to the terms of the applicable Service Order. Each Service Order will become part of this RMSA upon execution by the Parties.
	2. **Tealium Support**. Subject to Reseller's continuing compliance with the Reseller Certification Standards, Tealium agrees to provide Reseller with technical support in the form of reseller knowledge base access and scheduled certified reseller training.
	3. **Fees and Payments.** Tealium agrees to supply the Services to Reseller in exchange for the Fees set forth in each Service Order less the specified Reseller discounts, if any, set forth in Section 3 of RMSA - Part A (the Service Order Price). Tealium reserves the right to amend the specified Reseller discounts (set forth in Section 3 of the RMSA - Part A) at any time and at its sole discretion. Reseller has sole discretion to set the prices it charges Customers. Reseller will pay the Service Order Price(s) set forth in each Service Order within 30 days of invoice. Failure to so pay will constitute a material breach of this RMSA. Any payment not received when due will accrue interest on the outstanding amount at a rate of one percent (1%) per month or the highest rate allowed by applicable law, whichever is lower. Reseller will be solely responsible for billing and collecting applicable fees from Customers. Reseller will pay to Tealium all expenses incurred by Tealium in exercising its rights to payments under this RMSA, including, but not limited to, reasonable attorneys’ fees and the fees of any collection agency retained by Tealium. Reseller will pay all taxes and similar fees imposed on the delivery of the Services, except for taxes on Tealium’s net income in the United States. Except as expressly otherwise provided, all fees due hereunder are non-refundable and are not contingent on any additional services or products to be provided by Tealium. If Reseller is late in paying fees that are due, Tealium may, without terminating this RMSA, deny or otherwise suspend the Services until Reseller makes the overdue payments.
2. **Intellectual Property Ownership**. Tealium, or its licensors, will, at all times, retain all right, title and interest in and to: (a) all Technology that Tealium makes, develops, conceives or reduces to practice, whether alone or jointly with others, in the course of performing the Services; and (b) all worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications and other proprietary rights related to the Tealium Technology. All suggestions, enhancements requests, feedback, recommendations or other input provided by Reseller or Customers or any other party relating to the Services will be owned by Tealium. Neither this RMSA nor its performance transfers from Tealium to Reseller or Customer any Tealium Technology. Neither this RMSA nor its performance transfers from Reseller to Tealium any Reseller Technology, and all right, title, and interest in and to Reseller Technology will remain solely with Reseller. Tealium reserves all rights not expressly granted under this RMSA, and there are no implied rights granted by Tealium hereunder, whether by estoppel or otherwise.
3. **Restrictions**. Reseller will not do or attempt to do, or permit any Customer or other third party to do or attempt to do, any of the following: (a) make the Services, including its content or documentation, or any portion thereof available for use or access to or by any third party; (b) modify, reverse engineer, disassemble, decompile, reproduce or create derivative works from or in respect of the Services, Tealium Technology, or any component thereof; (c) use or access the Services or any part thereof in order to (i) develop a competitive or similar product or service or (ii) otherwise copy any ideas, features, functions or graphics of the Services, or the underlying software; (d) interfere with or disrupt or attempt to interfere with or disrupt the integrity or the performance of the Services or any information or materials therein; or (e) gain or provide unauthorized access to the Services or its related systems or networks. Reseller will use the Services only for purposes of marketing the Services and providing related training and support to Customers. Other than as required for such marketing, training, or support activities, Reseller will not use the Services for its own internal business operations.
4. **Confidentiality**
	1. **Obligations.** During the Term, each party may have access to certain non-public information of the other party, which information a reasonable person would consider confidential given the nature of the information and the circumstances of disclosure or which is otherwise marked or identified as "confidential" or "proprietary" by the disclosing party. Each party agrees that it will (a) hold the other party’s Confidential Information in confidence using the same standard of care as it uses to protect its own confidential information of a similar nature, but in no event less than reasonable care; (b) not disclose the Confidential Information of the other to any third party without the other’s prior written consent, except as expressly permitted under this RMSA; (c) limit access to the other’s Confidential Information to those of its employees or agents having a need to know who are bound by confidentiality obligations at least as restrictive as those set forth herein; and (d) use the other party’s Confidential Information solely to perform its obligations or receive its benefits under this RMSA. Notwithstanding the foregoing, (i) either party may make disclosures as required or requested by a court of law or any governmental entity or agency, including but not limited to disclosures required by the Securities and Exchange Commission of the United States or any similar authority in any other country, provided that, to the extent permitted under applicable law, such party provides the other with reasonable prior notice to enable such party to seek confidential treatment of such information; and (ii) either party may disclose the terms and conditions of this RMSA solely to potential investors, acquisition partners and its legal counsel and accountants in connection with a proposed financing or acquisition, provided that each such third party is bound by confidentiality obligations at least as restrictive as those set forth herein. The obligations set forth in this Section will apply during the Term set forth in Section 10.1 and will continue for a period that will end five (5) years after the expiration or termination of this RMSA.
	2. **Exclusions**. The restrictions on the use and disclosure of Confidential Information will not apply to any Confidential Information, or portion thereof, which (a) is or becomes publicly known through no act or omission of the receiving party; (b) is lawfully received from a third party without restriction on disclosure; (c) is already known by the receiving party at the time it is disclosed by the disclosing party, as shown by the receiving party’s written records; or (d) is independently developed by the receiving party without reference to the disclosing party’s Confidential Information, as shown by the receiving party’s written records. This Section will not preclude a receiving party from using any of its general knowledge, skills and experience, as well as any ideas, concepts, know-how and techniques developed as part of its ordinary and customary business, provided such use is without reference to or use of the disclosing party's Confidential Information.
	3. **Injunctive Relief**. Each party acknowledges that a breach or threatened breach of this Section would cause irreparable harm to the non-breaching party, the extent of which would be difficult to ascertain. Accordingly, each party agrees that, in addition to any other remedies to which a party may be legally entitled, the non-breaching party will have the right to seek immediate injunctive or other equitable relief in the event of a breach of this Section by the other party or any of its employees or agents. Upon termination of this RMSA, the each party will promptly either return or destroy all Confidential Information of the other party.
5. **Representations and Warranties; Disclaimer**
	1. **Warranties.** Each party warrants that it has the right and power to enter into this RMSA and an authorized representative has executed this RMSA. Tealium warrants that the Services will be performed in a professional and workmanlike manner in accordance with recognized industry standards. Reseller must notify Tealium of any warranty deficiencies within sixty (60) days after performance of the relevant Services in order to receive warranty remedies. Regarding any Services provided by Tealium that are advisory, no specific result is assured or warranted by Tealium.
	2. **Reseller Warranties.** Reseller will comply with all applicable local, state, federal and foreign laws in its use of the Services. Reseller represents and warrants that with respect to its and its Customers’ use of such Services under this RMSA, that it will not provide any medical information, criminal history, race, ethnicity, national origin, information about sexual orientation or activity, political opinions and religious beliefs ("Sensitive Information") or any personal information whose unauthorized disclosure or use could reasonably entail enhanced potential risk for the data subject ("Highly Sensitive Information") including Social Security number, national insurance number, passport number, driver’s license number, or similar identifier, or credit or debit card number, and/or financial or medical account authentication data, such as passwords or PINs to Tealium nor will it require Tealium to process any such Sensitive Information or Highly Sensitive Information.
	3. **Warranty Disclaimer.** EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN SECTION 8.1 ABOVE, THE SERVICES ARE PROVIDED SOLELY ON AN "AS IS," AND "AS AVAILABLE BASIS" WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, TEALIUM EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE; NONINFRINGEMENT; AND THAT THE OPERATION OR USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.
6. **Limitation of Liability; Indemnification**
	1. **Limitation of Liability.**

(a) EXCEPT FOR LIABILITY ARISING FROM A BREACH OF SECTIONS 3.1 (RESELLER COVENANTS AND REPRESENTATIONS), 3.3 (LIMITATIONS ON AUTHORITY), 4.3 (PAYMENTS), 5 (INTELLECTUAL PROPERTY OWNERSHIP), 6 (RESTRICTIONS), 7 (CONFIDENTIALITY), 8.2 (RESELLER WARRANTIES), AND 9.2 (INDEMNIFICATION); NEITHER PARTY’S AGGREGATE LIABILITY FOR CLAIMS ARISING OUT OF THIS RMSA OR ITS PERFORMANCE HEREUNDER, WHETHER IN CONTRACT, TORT, WARRANTY, OR OTHERWISE, WILL EXCEED THE AMOUNT OF FEES PAID OR PAYABLE BY RESELLER TO TEALIUM UNDER THIS RMSA DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM.

(b) NOTWITHSTANDING ANY PROVISION OF THIS RMSA TO THE CONTRARY, NEITHER PARTY WILL BE LIABLE FOR ANY LOSS OF DATA, LOSS OF BUSINESS PROFITS, DEPRECIATION OF STOCK PRICE, BUSINESS INTERRUPTION, OR OTHER SPECIAL, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO THE SERVICES, OR OTHERWISE UNDER THIS RMSA, HOWEVER CAUSED AND REGARDLESS OF THEORY OF LIABILITY. THIS LIMITATION WILL APPLY EVEN IF SUCH PARTY HAS BEEN ADVISED OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

**9.2. Indemnification**. Reseller will indemnify and defend Tealium, its subsidiaries and affiliates, and its and their directors, officers, employees and agents (the "Tealium Indemnified Parties") from and against all losses, liabilities, damages, costs, fees, and expenses (including reasonable attorneys’ fees) arising from or related to any claim that alleges that Reseller or its Customer have used the Services in a way that violates applicable law, regulation, or the RMSA (a "Claim"). Reseller's indemnification obligations set forth in this section are conditioned upon Reseller being notified promptly in writing of the action (provided that failure to provide such prompt notice will not relieve Reseller from its liability or obligation hereunder, except to the extent of any material prejudice as a direct result of such failure) and having sole control of the defense and all negotiations for its settlement or compromise (provided, however, that Reseller must obtain the prior written consent of Tealium before settling a Claim against Tealium to the extent that said settlement fails to fully release Tealium from liability for the Claim or includes an admission of guilt by Tealium). At Reseller’s request, Tealium will provide Reseller with information and assistance (at Reseller's expense) for the defense of such a Claim including any settlement.

1. **Term and Termination**
	1. **Term.** The term of this RMSA (the "Term") begins on the Effective Date and continues until the expiration of all the Service Terms of all Service Orders executed hereunder unless earlier terminated in accordance with this RMSA.
	2. **Service Terms.** Each Service Order will provide for a service term (a "Service Term"). At the end of the Service Term of any Service Order, unless either party gives written notice to the other party of its intention not to renew at least ninety (90) days before the end of a Service Term, the Service Term will automatically renew for successive twelve (12) month periods. Termination of one Service Order will not affect the term of any other Service Order.
	3. **Termination for Breach.** Either party may also terminate this RMSA upon written notice to the other party, (a) for any material breach by the other party if such breach is not cured within thirty (30) days following written notice of such breach from the non-breaching party; (b) if the business of the other party is adjudicated bankrupt or said other party enters into voluntary or is entered into involuntary bankruptcy proceedings or similar proceedings under state law; (c) if the other party becomes insolvent or makes an assignment for the benefit of creditors; or (d) if the business of the other party terminates.
	4. **Effect of Termination**. Upon expiration or termination of this RMSA, Reseller will (a) provide Tealium with all outstanding reports and payments due Tealium; (b) cease marketing the Services; (c) assign to Tealium all rights (including but not limited to rights to provide support under support agreements), if any, to existing and prospective Customers; (d) report to Tealium in reasonable detail the status of all pending Service Orders, and relationships with existing and prospective Customers; and (e) return to Tealium all promotional and other materials and other information of Tealium in any form (proprietary or otherwise) in Reseller’s possession or under its control. Reseller and Tealium will cooperate to effect an orderly transition of the Customers to Tealium for the remainder of their respective Service Terms. Any payment obligations of Reseller, and the provisions of Sections 2, 3.1(b)(4), 4.3, 5, 6, 7, 9, 10.4, 10.5, and 11-21 inclusive will survive termination or expiration of this RMSA.
	5. **Liability on Termination**. Neither Party will be liable to the other for any loss or damage arising from or as a result of the nonrenewal or termination of this RMSA in accordance with its terms. Reseller hereby waives any and all compensation or damages relating to or arising from, directly or indirectly, such termination and agrees that it will have no rights to damages or indemnification of any nature, specifically including any commercial severance pay related to loss of future profits, expenditure for promotion of the Services, or payment of goodwill or other commitments in connection with the business and goodwill of Reseller.
2. **Notices**. All notices permitted or required under this RMSA will be in writing, and will be deemed effective when: (a) delivered by personal delivery, (b) confirmed by the recipient, for notices delivered by electronic mail or facsimile transmission, or (c) three (3) days after being sent by certified or registered mail (return receipt requested) or overnight courier. Notices will be sent to the addresses set forth in this RMSA or such other address as either party may specify in writing.
3. **Publicity and Co-Marketing.** During the Term, Reseller agrees that Tealium may refer to this RMSA in a press release and use the Reseller's logo on its web site and in other promotional material for the limited purpose of identifying Reseller as a user of Services. If requested by Tealium, Reseller will participate at its expense in one or more annual Tealium user conferences.
4. **Law and Venue**. This RMSA will be construed and enforced in accordance with the laws of the State of California without regard to its conflict of laws principles; provided, however, that the Uniform Computer Information Transactions Act will not apply even if adopted as part of the laws of the State of California. The Parties expressly disclaim the application of the United Nations Convention on the International Sale of Goods to this RMSA. Except for any action for injunctive or other equitable relief (which may be brought at any time in any court of competent jurisdiction), exclusive venue for any dispute will be San Diego County, California, and each party agrees to personal jurisdiction in such venue, and waives any objection thereto.
5. **Severability; Waiver**. If any term or provision of this RMSA is held to be invalid or unenforceable by any court of competent jurisdiction, such provision will be construed to effectuate to the greatest possible extent the Parties’ expressed intent, and the remainder of this RMSA will not be affected and will remain valid and enforceable. The failure of either party to exercise or enforce any right or provision of this RMSA will not constitute a waiver of such right or provision, and any waiver granted by a party in one instance does not constitute a waiver for other instances.
6. **Independent Contractors**. The relationship between the Parties is solely that of independent contractors, and neither party will have any authority to bind or commit the other and each party agrees not to assume, create or enter into any obligation, agreement or commitment on behalf of, or for the account of the other in any manner. Nothing in this RMSA will be deemed or construed to create a joint venture, partnership, employment, or agency relationship between the Parties for any purpose.
7. **Assignment.** Neither this RMSA nor any of the rights or duties arising out of this RMSA may be assigned by Tealium or Reseller without the prior written consent of the other Party, such consent not to be unreasonably withheld; except that Tealium may, without such consent, assign this RMSA and its rights and duties arising out of this RMSA to the transferee, or other successor in interest, in connection with the sale or transfer of all or substantially all of its assets or in connection with any merger, acquisition, re-organization or consolidation. Any attempted assignment in violation of the foregoing will be void.
8. **Attorneys’ Fees**. In the event legal action of any kind is instituted arising out of the RMSA, the substantially prevailing party will be entitled to recover reasonable attorney's fees from the non-prevailing party.
9. **Headings**. The headings used for the sections of this RMSA are for information purposes and convenience only and in no way define, limit, construe or describe the scope or extent of the sections.
10. **Entire Agreement**.This RMSA constitutes the complete and entire agreement between the Parties with regard to the subject matter hereof, and supersedes and replaces any prior or contemporaneous agreements between the Parties regarding such subject matter. No oral or written representation that is not expressly contained in this RMSA is binding on Tealium or Reseller. Except as expressly set forth herein, no amendment to this RMSA or any Service Order will be binding on either party unless in writing and signed by both Parties.
11. **Third Party Beneficiaries**. This RMSA does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties.
12. **Force Majeure.** Neither party will be liable for any breach of the RMSA, other than any default in payment obligations, for any delay or failure of performance resulting from any cause beyond such party’s reasonable control ("Force Majeure"), including but not limited to the weather, unavailability of utilities or communications services (including access to the Internet), civil disturbances, acts of civil or military authorities, or acts of God.

**EXHIBIT A**

**RESELLER CERTIFICATION STANDARDS**

**1. Sales & Marketing**

Reseller will require at least two (2) individuals within its sales and marketing organizations to participate in Tealium Sales and Marketing certification training and any ongoing training as provided from time to time by Tealium for each Authorized Tealium Service. Said individuals will be responsible for training Reseller’s sales and marketing team to ensure all team members involved in the sales and marketing of the Services are capable of representing Reseller’s offering of the Services.

**2. Deployment & Service Support**

Reseller will designate at least two (2) individuals within their project deployment, services and customer support organizations that will be required to successfully complete the Tealium Service Deployment and Support Certification for each Service that Reseller desires to maintain Authorized Tealium Service designation. Tealium may require recertification from time to time, as Services enhancements are made generally available.

Reseller will demonstrate that it maintains sufficient resources to adequately support the delivery of the Services to Reseller’s customers without causing undue service deployment and support delays.

Tealium may revoke Reseller’s Authorized Tealium Service status in whole or on a service-by-service basis in the event Reseller fails to demonstrate its ability to properly deploy and support the Services within the Territory at its sole discretion.

**Exhibit B**

**Tealium Acceptable Use Policy**

This Acceptable Use Policy (this "Policy") describes prohibited uses of the web services offered by Tealium Inc. and its affiliates (the "Services"). The examples described in this Policy are not exhaustive. By using the Services, you agree to this Policy. If you violate the Policy or authorize or help others to do so, we may suspend or terminate your use of the Services.

**No Illegal, Harmful, or Offensive Use or Content**

You may not use, or encourage, promote, facilitate or instruct others to use, the Services for any illegal, harmful or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful, or offensive. Prohibited activities or content include:

* Illegal Activities. Any illegal activities, including advertising, transmitting, or otherwise making available illegal gambling sites or services or disseminating, promoting or facilitating child pornography.
* Harmful or Fraudulent Activities. Activities that may be harmful to others, our operations or reputation, including offering or disseminating fraudulent goods, services, schemes, or promotions (e.g., make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming), or engaging in other deceptive practices.
* Infringing Content. Content that infringes or misappropriates the intellectual property or proprietary rights of others.
* Offensive Content. Content that is defamatory, obscene, abusive, invasive of privacy, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts.
* Harmful Content. Content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots.

**No Security Violations**

You may not use the Services to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a "**System**"). Prohibited activities include:

* Unauthorized Access. Accessing or using any System without permission.
* Interception. Monitoring of data or traffic on a System without permission.

**No Network Abuse**

You may not make network connections to any users, hosts, or networks unless you have permission to communicate with them. Prohibited activities include:

* Monitoring or Crawling. Monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled.
* Intentional Interference. Interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques.
* Avoiding System Restrictions. Using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions.

**No E-Mail or Other Message Abuse**

You will not use any System to facilitate the distribution, publishing, or sending of unsolicited mass e-mail or other messages, promotions, advertising, or solicitations (e.g. "spam"), in violation of any law or regulation.

**Our Monitoring and Enforcement**

We reserve the right, but do not assume the obligation, to investigate any violation of this Policy or misuse of the Services. We may:

* Investigate violations of this Policy or misuse of the Services; or
* Remove, disable access to, or modify any content or resource that violates this Policy or any other RMSA we have with you for use of the Services.

We may report any activity that we suspect violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Our reporting may include disclosing appropriate customer information. We also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Policy.

**Reporting of Violations of this Policy**

If you become aware of any violation of this Policy, you will immediately notify us and provide us with assistance, as requested, to stop or remedy the violation. To report any violation of this Policy, please contact us at legal@tealium.com.