

**SAAS EVALUATION AGREEMENT
FOR NIAGARA CLOUD SUITE 90-DAY TRIAL**

This SaaS Evaluation Agreement (“**Agreement**”) sets out the terms and conditions of your evaluation, trial, or beta testing use (referred to collectively as “**Evaluation**”) of the software-as-a-service offering(s) (“**Offering**”) provided to you by Tridium and confirmed in writing by Tridium. This Agreement is accepted by clicking the “I Agree” button on the Niagara Cloud Suite 90-Day Trial enrollment page or by accessing or using the Offering. As used herein, “**Tridium**”, “**we**”, “**us**” or “**our**” means Tridium, Inc. or its Affiliate(s) who make the Offering available to you. “**You**” or “**your**” means collectively the other entity(ies) accepting or assenting to this Agreement. “**Affiliate**” means any entity that controls, is controlled by, or is under common control with, another entity. An entity “controls” another if it owns directly or indirectly a sufficient voting interest to elect a majority of the directors or managing authority or otherwise direct the affairs or management of the entity.

1. Use. Subject to payment of agreed fees (if any) and compliance with the terms of this Agreement and any additional terms of access and acceptable use, we will provide you solely for Evaluation of the Offering and internal business purposes: (a) remote access to the Offering through means we provide; and/or (b) a personal, revocable, non-exclusive, non-assignable, non-transferable (except to Customer Users as detailed below) license to: (i) download, install, use, and/or access software we provide solely to operate the Offering; and (ii) use Offering documentation as reasonably required in connection with its evaluation use (collectively, “**Use Rights**”). You may not resell Use Rights or permit third parties (except Affiliates) to exercise Use Rights or make copies of the Offering (except for back up purposes) unless agreed in writing. You shall not use, grant any other person or entity the right to use, or take any action that would assist any other person or entity in using the Offering in connection with: (a) reverse engineering, making machine code human readable or creating derivative works or improvements; (b) interfering with their operation or security; (c) gathering intelligence for a competitive offering; (d) infringing another’s intellectual property; (e) employing them in hazardous environments requiring fail-safe performance where failure could lead to personal injury (including death) or damage; or (f) any use that would reasonably be expected to cause liability or harm to us or a third party.

As part of your Evaluation, you are permitted to provide limited evaluation and beta access for use (which includes establishing user credentials) of the Offering to end customers who already have an existing on-premises Tridium Niagara license, updated to our latest release version, and with whom you have onboarded with us with a Niagara solution identity within our approved CRM tool (each such end customer an “**Customer User**”). Your Offering access and any license shall automatically terminate if you do not provide the Offering to at least one (1) Customer User within 30 days from the Effective Date of this Agreement. Customer User access is limited to view access only. You shall: (i) require that all of your employees and Customer Users comply with the terms of this Agreement; (ii) not provide any Offering administration rights to any Customer User (as such rights are limited to you); and (iii) not loan, rent, lease, give, transfer, publish, or otherwise make available the Offering to any party.

2. Fees. The access and any license granted under this Agreement are not subject to any fees, except as provided in a mutually agreed proposal. Prices are exclusive of taxes, commissions, import duties or other similar taxes or fees. Fees are invoiced in advance with invoices payable within 30 days of invoice date. Payments are in USD (unless agreed by us in writing) and must be made in accordance with the “Remit To” field on each invoice.

3. Term. The term of this Agreement commences on the date you indicate your acceptance by clicking the “I Agree” button on the Niagara Cloud Suite 90-Day Trial enrollment page or by accessing or using the Offering and terminates 90 days following provision of your access credentials to the Offering (“**Term**”). Either party may terminate at any time upon written notice. Upon termination: (a) you and your Customer Users must delete and stop using the Offering; and (b) if requested by disclosing party, destroy all Confidential Information and certify the same in writing; except for automatically generated backup copies. Those portions of this Agreement that by their nature should survive, survive termination or expiration. The Offering may automatically cease to function at the expiration of the Evaluation Term.

4. IP. All right, title and interest, including all intellectual property rights (including copyrights, trademarks and patents), proprietary rights (including trade secrets and know-how), and moral rights (including rights of authorship and modification) throughout the world (“**IPR**”) in and to the Offering and all of their derivative works, modifications and improvements, are retained by us or our licensors and are our confidential information. If you provide any suggestions, comments or feedback regarding the Offering, you hereby assign to us all right, title and interest in and to the same without restriction. You shall not remove, modify or obscure any IPR notices on the Offering.

5. Data. You retain all rights over data and other information that you make available in relation to, or which is collected from your devices or equipment by, the Offering (“**Input Data**”). You hereby grant to us and our Affiliates the right to duplicate, analyze, modify and otherwise use Input Data to provide, improve and develop the Offering and related products and services. You have sole responsibility for obtaining all consents and permissions (including providing notices to users or third parties) and satisfying all requirements necessary to permit our use of Input Data.

6. Confidentiality. All non-public, confidential or proprietary information disclosed by a party to the other party in performance of this Agreement (“**Confidential Information**”) shall be protected using the same degree of care, but no less than reasonable care, as the recipient uses to protect its own Confidential Information and shall not, without the written consent of the disclosing party, be used or disclosed except for the purpose of this Agreement and only by the receiving party’s Affiliates, employees and service providers who are bound to substantially similar obligations of confidentiality and have a need to know. Each Party will be responsible for any breaches of the confidentiality obligations by its Affiliates, employees or service providers. Receiving party will keep Confidential Information confidential for 5 years from disclosure. Except as set out in this Agreement, information will not be Confidential Information unless (a) marked “CONFIDENTIAL” or similar at disclosure; (b) disclosed orally or visually but identified as confidential at disclosure and designated as confidential in writing in 30 days of disclosure summarizing the Confidential Information sufficiently for identification

or (c) should reasonably be understood to be confidential given the nature of the information as sensitive and non-public. Confidential Information excludes information that: (a) was already known to recipient without restriction; (b) is publicly available through no fault of recipient; (c) is rightfully received by recipient from a third party without a duty of confidentiality; or (d) is independently developed. A party may disclose Confidential Information when compelled to do so by law if it provides (if permitted) prior notice to the other party and reasonable opportunity to contest or limit disclosure. The internal operation and performance of Offering are our Confidential Information.

7. Privacy. We may process certain data and information about you, users, and/or your or their employees, customers, contractors, or Affiliates that are recognized under applicable law as “personal data” or equivalent terms (“**Personal Data**”) in connection with the Agreement. We collect and use such Personal Data in accordance with our [Privacy Statement](#), which you acknowledge. Each Party will comply with applicable privacy and data protection laws. If we process Personal Data on your behalf, our Data Processing Terms, available at <https://www.tridium.com/DPA> apply and are incorporated herein by reference.

8. Security. We will follow industry-standard security practices, implement physical and technical safeguards to protect your Personal Data and Input Data and following a confirmed security breach leading to accidental or unlawful destruction, loss or unauthorized access, we will notify you without undue delay and to assist you in meeting potential reporting or notice obligations and you will work with us in good faith to develop related public statements or notices.

9. Disclaimer. THE OFFERING IS PROVIDED “AS-IS” WITH NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ALL SUCH WARRANTIES INCLUDING MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PURPOSE. WE DO NOT WARRANT THAT THE OFFERING WILL MEET YOUR REQUIREMENTS, OR THAT IT WILL OPERATE WITHOUT INTERRUPTION, OR BE ERROR FREE.

10. Limitation. EXCEPT FOR BREACHES OF SECTION 1 (USE) OR 4 (IP) OR FOR FEES PAYABLE, NEITHER PARTY WILL BE LIABLE FOR INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS AND REVENUES. EXCEPT FOR FEES PAYABLE OR EXCLUSIONS, EACH PARTY’S CUMULATIVE, AGGREGATE LIABILITY TO THE OTHER, WILL BE LIMITED TO DIRECT DAMAGES IN AN AMOUNT EQUAL TO THE GREATER OF: (a) TOTAL AMOUNTS PAID DURING THE TERM; AND (b) U.S. \$1,000. The following are “Exclusions”: (i) claims resulting from either party’s fraudulent or willful misconduct; (ii) breach of confidentiality obligations (except in relation to Input Data and Personal Data for which the cap and exclusions apply), Section 1 (Use) or 4 (IP); and (iii) claims against us or our Affiliates relating to possession, processing or use of Input Data or Personal Data in accordance with this Agreement.

11. Miscellaneous. This Agreement and all claims arising from will be governed by the laws of the State of New York, USA and the federal or state courts in New York, New York, USA will have exclusive jurisdiction of any dispute. Descriptions of future product direction or updates (including new or improved features or functions) are intended for information purposes only and are not binding commitments on us to deliver them and their release and timing is at our sole discretion. Failures in performance beyond a party’s reasonable control are excused (except to pay). Unenforceable provisions will be reformed to permit enforceability with maximum effect to the original intent. Waiver of a breach is not waiver of other breaches. The Parties are independent contractors. This Agreement is the entire agreement and cannot be modified except by written agreement; in the event of a conflict with a proposal incorporated by reference, this Evaluation Agreement takes precedence. Your purchase orders are identified only to authorize payment and are not a part of this Agreement. If we provide hardware we retain title and bear risk of loss of the during transit and risk of loss passes to you upon arrival at your facility. You shall only use the hardware for the purpose of the purpose of this Agreement and return hardware to us on request. We may use open source software (“OSS”) and to the extent required by the licenses covering OSS, the terms of such licenses will apply to such OSS in lieu of this Agreement. To the extent the licenses applicable to OSS: (i) prohibit any restriction with respect to such OSS, such restriction will not apply to such OS; and (ii) require us to make an offer to provide source code or related information in connection with the OSS, such offer is hereby made. You must comply with all laws applicable to use of Offering and Use Rights are subject to such compliance.

12. Compliance. You must comply with all laws and regulations applicable to your use of the Offering including data privacy, localization, and anti-bribery. Your rights to use the Offering is subject to such compliance. For purposes of FARs, DFARs and access by governmental authorities, the Offering is “commercial computer software”, “commercial computer software Documentation” and “restricted data” provided to you under “Limited Rights” and “Restricted Rights” and only as commercial end items. Through utilization of the Offering, you represent that you are not (i) named on a governmental denied party or restricted list, including but not limited to: the Office of Foreign Assets Control (“OFAC”) list of Specially Designated Nationals and Blocked Persons (“SDN List”), the OFAC Sectoral Sanctions Identifications List (“SSI List”), and the sanctions list under any other Sanctions Laws; (ii) organized under, ordinarily resident in, or physically located in a jurisdiction subject to comprehensive sanctions administered by OFAC, (currently, as of writing, Cuba, Iran, North Korea, Syria, and the Crimea region); or (iii) owned or controlled, directly or indirectly, 50% or more in the aggregate, by one or more individuals described in (i) or (ii) (collectively, “**Sanctioned Persons**”). You also represent that your utilization of the Offering will comply with all Sanctions Laws administered by OFAC, other U.S. regulatory agencies, the European Union and its Member States, the United Kingdom, and the United Nations (“**Sanctions Laws**”). You will not permit Sanctioned Persons to use, to access, or to benefit from the Offering, and you will not export, re-export, or otherwise transfer the Offering for any purpose prohibited by Sanctions Laws. You shall not submit to the Offering any data subject to the U.S. International Traffic in Arms Regulations or other Sanctions Laws. Your violation of this provision will be a material breach of the Agreement. You agree to notify us immediately, in writing, of any actual or reasonably suspected violations. We may limit, suspend, or terminate your access to or delivery of the Offering or take other actions reasonably necessary to comply with applicable Export and Sanctions Laws without liability. You agree to indemnify us if we become subject to liability as a result of your non-compliance with Export or Sanction Law.