

## EULA for Wealth Front Office/Triple A Plus Interface Adapter

In consideration of the rights granted in this End User Licence Agreement ("EULA"), the Client agrees to the Use of the Third Party Component listed below as Software in accordance with the Agreement but as modified by the terms and conditions set out in this EULA.

1. The following definitions shall apply to this EULA:

**License Information or LI** means a document that provides information and any additional terms specific to a Third Party Component. The Third Party Component's LI is available at [www.ibm.com/software/sla](http://www.ibm.com/software/sla). The LI can also be found in the Program's directory, by the use of a system command, or as a booklet included with the Third Party Component.

**Non-Production** means that the Third Party Component can only be deployed as part of Client's internal development **and** test environment for internal non- production activities including but not limited to testing, performance tuning, fault diagnosis, internal benchmarking, staging, quality assurance activity and/or developing internally used additions or extensions to the Third Party Component using published application programming interfaces. Client is not to use any part of the Third Party Component for any other purposes without acquiring the appropriate production entitlements.

**Notice Files** means one or more of the following text files: "NOTICES", "README", "COPING" and/or "NON IBM LICENSE".

**Open Source Code** means any computer software program, of which (a) the human-readable program instructions (known as "source-code") are available to the public for inspection and use by others; and (b) the terms and conditions of the applicable license permit recipients of the program freely (and without liability to pay any royalty or fee) to copy, modify and distribute the program's source code.

**Third Party Component** means:

Third Party Component Name	Authorized Use	Tick applicable Program
IBM Transformation Extender Design Studio Authorized User License	Limit of One (1) IBM Transformation Extender Design Studio Authorized User License	✓
IBM Transformation Extender Processor Value Unit		✓
IBM Transformation Extender Design Studio Authorized User License	Nb of additional users IBM Transformation Extender Design Studio Authorized User Licenses	N/A

**Third Party Licensor** means the owner of the Intellectual Property Rights in the Third Party Component.

**Use:** means the specified level at which Client is authorized to execute or run the Third Party Component. That level may be measured by number of users, millions of service units ("MSUs"), Processor Value Units ("PVUs"), or other usage limits specified in this EULA.

The following additional terms shall apply to the Use of the Third Party Component:

**2. Effective Date** of this EULA is the date indicated as the effective date in the Software License EULA.

**3. License**

3.1 The Third Party Component is licensed for Use to the Client on a non-exclusive, non-transferable and non-sub-licensable basis always subject to the following:

3.1.1. the Third Party Component shall only be used in conjunction with or the contemporaneous use of the Software owned by Temenos and licensed by Temenos to the Client (i.e. Temenos Triple A Plus) and shall not be used in a standalone fashion or with data not solely generated from such Software supplied by Temenos; and

3.1.2. the Third Party Component is licensed (not sold) to the Client and no ownership in the Third Party Component is transferred to the Client.

3.2 For each Third Party Component, Client will be provided with a LI and Notice Files.

3.3 Client agrees a) to be bound by such terms within such LI and all licensing files, including Notices Files requiring compliance and b) to comply with any usage limits stated in section 1.

3.4 If Third Party Component contains any third party code (including Open Source Code) that is provided under a third-party license end user license agreement, then (i) this will be identified in the LI and the Notices Files; (ii) the terms and conditions of the third party license agreement (and not the terms and conditions of this EULA) apply to such code and (iii) except in the copying of the Third Party Component, Client may not use third parties' names or trademarks without the third parties' prior written consent.

**4. Term** of the license and the term for provisions of maintenance services for the Third Party Component is the term for the Temenos Software as indicated in the applicable Order Form ("**Term**").

**5. Delivery** of the Third Party Component shall be in accordance with the Agreement.

**6. Ownership and restrictions**

6.1 Temenos and its licensors retain all ownership and Intellectual Property Rights to the Software and the Third Party Component. Nothing in this EULA is construed as to transfer ownership in any rights to the Third Party Component to the Client or any third party.

6.2 Except as expressly set forth in this EULA, the Client may not rent, assign, license lease, loan, sell or otherwise distribute the Third Party Component or any derivative works based upon the Third Party Component in whole or in part.

6.3 The Client recognizes and agrees that the Third Party Component is protected by copyright and is to be considered by the Client as strictly confidential and is provided to the Client in the utmost confidence.

6.4 The Client will not attempt nor permit anyone else to attempt to reverse engineer, decompile, or otherwise attempt to derive or modify the source code for the Third Party Component.

6.5 The Client agrees not to remove any copyright and other proprietary notices on all copies, in whole or in part, in any form of the Third Party Component and must reproduce on each copy or partial copy of the Third Party Component made all copyright notices, trademarks and all other legends of ownership.

6.6 The Client may not:

- 6.6.1 remove or modify the Third Party Component markings or any notice proprietary rights or any Third Party Component markings or any notice of Third Party Licensor's proprietary rights;
- 6.6.2 cause or permit reverse engineering (unless as expressly permitted under applicable law without the possibility of contractual waiver), reverse assembling, reverse compiling, or otherwise translating of the Third Party Component (the foregoing prohibition includes but is not limited to review of data structures or similar materials by Third Party Component);
- 6.6.3 duplicate the Third Party Component except as provided for this EULA;
- 6.6.4 use or permit the Third Party Component for rental, sub-licensing or leasing; and
- 6.6.5 transfer title to the Third Party Component to any other another individual or entity.

## **7. Warranties**

- 7.1 The warranties provided by Temenos in relation to the Software under the Agreement shall not apply to Use of the Third Party Component.
- 7.2 Temenos warrants that the Third Party Component, when used in its specified operating environment, will conform to its specification as found in the Documentation accompanying the Third Party Component (such as a README file). If any Third Party Component does not perform as warranted and Temenos can reproduce a reported problem then Temenos will use commercially reasonable efforts to make available defect correction information, a restriction, or a bypass. The warranty applies only to the unmodified portion of the Third Party Component.
- 7.3 Temenos does not warrant uninterrupted or error free operation of the Third Party Component or that Temenos will correct all Third Party Component defects. Temenos is not responsible for the results obtained from the use of the Third Party Component. Temenos does not warrant to Client that the Third Party Component will meet Client requirements.
- 7.4 THESE WARRANTIES ARE CLIENT'S EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OR CONDITION OF NONINFRINGEMENT.
- 7.5 SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF EXPRESS OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO CLIENT. IN THAT EVENT SUCH WARRANTIES ARE LIMITED IN DURATION TO THE MINIMUM PERIOD REQUIRED BY LAW. NO WARRANTIES APPLY AFTER THAT PERIOD. SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS.
- 7.6 THE WARRANTIES IN THIS SECTION ARE PROVIDED SOLELY BY TEMENOS. THE DISCLAIMERS IN THIS SECTION ALSO APPLY TO SUPPLIERS OF THIRD PARTY CODE (INLCUDING OPEN SOURCE CODE). THOSE SUPPLIERS PROVIDE SUCH CODE WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND.

## **8. Maintenance**

- 8.1 The CLIENT is not entitled to access support and maintenance directly from the Third Party Licensor. The provisions of Annex I of the Software License Terms and Conditions shall apply to the Third Party Component and TEMENOS will endeavor to seek such support and maintenance from the Third Party Licensor. However the CLIENT acknowledges that the TEMENOS Help Desk will act as the administration point, responsible for escalating the service call and co-coordinating any response. No undertakings as to the service commitments of the Third Party Licensor are made by TEMENOS. Any resolution provided will be subject to the Third Party Licensor's support policy. The CLIENT acknowledges that it is responsible for first line technical support in relation to the Third Party Component.

- 8.2 The initial term of twelve (12) month's maintenance is included for each Third Party Component indicated in section 1 and shall automatically renew on each subsequent year for twelve (12) months period at the applicable fees, unless it is terminated earlier in accordance with this EULA.
- 8.3 Subject to section 8.2, maintenance shall automatically renew on each subsequent year for twelve (12) months period or for the duration of the notice period if terminated earlier in accordance with this EULA. CLIENT will pay a maintenance reinstatement payment for any twelve (12) months' term of maintenance acquired after any discontinued renewal periods.
- 8.4 Annual maintenance is provided under Third Party Licensor's support policy in effect at the time the services are provided. The Third Party Licensor support policies, incorporated in this EULA, are subject to change at Third Party Licensor's discretion. CLIENT may access the current version of the technical support policies at <https://www.temenos.com/en/third-party-component---third-party-licensors-support-policies/>.

## 9. Third Party Claims

- 9.1 No provisions of the Agreement related to third party claims/indemnification shall apply to the Third Party Component and the following shall apply:
- 9.2 If a third party asserts a claim against Client that the Third Party Component infringes that party's patent or copyright, Temenos will indemnify CLIENT against that claim at its expense in accordance with section **Error! Reference source not found.** below.
- 9.3 If such a claim is made in, or appears likely to be made, CLIENT agrees to permit TEMENOS or the Third Party Licensor, in either party's discretion, to either:
  - 9.3.1 modify it;
  - 9.3.2 replace it with one that is at least functionally equivalent; or
  - 9.3.3 obtain the necessary rights for CLIENT to continue to exercise the license under this EULA. If TEMENOS or the Third Party Licensor determines that none of these alternatives are reasonably available, then on TEMENOS' written request, CLIENT agrees to promptly return or destroy the Third Party Component in CLIENT's possession.
- 9.4 TEMENOS will have no obligation regarding any claim based on any of the following:
  - 9.4.1 third party code, including Open Source Code;
  - 9.4.2 anything provided by CLIENT that is incorporated into the Third Party Component;
  - 9.4.3 the Third Party Component use other than in accordance with the EULA and restrictions or use of a non-current version or release of a the Third Party Component, to the extent a claim could have been avoided by using the current release or version; or
  - 9.4.4 CLIENT's modification of the Third Party Component or the combination, operation, or use with any other program, product, hardware device, program, data, apparatus, method or process other than the Software; or
  - 9.4.5 breach of this EULA.
- 9.5 If a third party asserts a claim against TEMENOS or the Third Party Licensor as a result of CLIENT's breach of this EULA, CLIENT will indemnify TEMENOS or the Third Party Licensor against that claim at its expense.
- 9.6 The indemnifying party will pay all costs, damages and reasonable attorneys' fees that a court finally awards against the indemnified party or that are included in a settlement approved by the indemnifying party provided the indemnified party:
  - 9.6.1 promptly provides the indemnifying party with written notice of the claim;
  - 9.6.2 allows the indemnifying party to control, and cooperates with it in, the defense of the claim and settlement negotiations; and

9.6.3 remains in compliance with this EULA.

9.7 The indemnified party may participate in the proceedings at its option and expense. This section provides the parties' exclusive remedy for any infringement claims or damages.

## **10. Liability**

10.1 Nothing in the Agreement and in particular within this Liability section, shall exclude or limit liability for (i) fraud; (ii) that is not permissible under applicable law; (iii) third party claims arising under the Third party Claims indemnity given above; or (iv) infringement by the CLIENT of the Intellectual Property Rights of the Third Party Licensor.

10.2 The limitations and exclusions in this section (Liability) apply to the full extent they are not prohibited by applicable law without the possibility of contractual waiver.

10.3 Circumstances may arise where, because of a breach or other liability, one party may recover damages from the other. For all claims brought under this EULA, regardless of the basis on which the claim is made (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), each party's liability for all claims in the aggregate arising from or related to the Third Party Component or otherwise arising under this EULA will not exceed the amount of any actual direct damages up to the greater of One Hundred Thousand US Dollars (US \$100,000).

10.4 Under no circumstances are TEMENOS or the Third Party Licensor, its developers, suppliers or Third Party Licensors of associated software and software components of the included in the Third Party Component liable for any of the following even if informed of their possibility:

10.4.1 special, incidental, exemplary, or indirect damages or for any economic consequential damages;

10.4.2 lost profits, business, revenue, goodwill, or anticipated savings;

10.4.3 damages arising from or related to the use of the Third Party Component in breach of this EULA; or

10.4.4 loss of, or damage to, data.

10.5 This limitation of Liability shall not apply to any amounts due to TEMENOS under this Order From or to any claim based on the Third Party Infringement Claims section, or to any breach of intellectual property rights, or to damages for bodily injury (including death) and damage to real property and tangible personal property for which either party is legally liable.

## **11. Audit**

11.1 During the term of this EULA and for a period of two (2) years thereafter, the Client agrees to maintain, and provide, upon TEMENOS request, to TEMENOS or its designated third-party adequate records, system tools output, and access to Client premises as reasonably necessary for TEMENOS to verify CLIENT's compliance with this Order. Upon reasonable notice, the CLIENT agrees to permit TEMENOS or its designated third-party, provided it is bound by a confidentiality agreement, to conduct an audit of the CLIENT's records (not to exceed one time per calendar year) to ensure that the CLIENT is in compliance with the terms of this EULA including, but not limited to, using more Third Party Components than have been validly licensed (which may, at TEMENOS' option, include an audit of the number and the number of CPUs, servers, named users, named developers and virtual users accessing, Using, or receiving content from the Third Party Components). The CLIENT shall maintain sufficient records so that TEMENOS can successfully perform the audit contemplated by this section. The CLIENT agrees that neither TEMENOS nor Third Party Licensor shall be responsible for any of the costs incurred in cooperating with the audit. This clause shall survive the termination of this EULA for a period of two (2) years thereafter.

## **12. Other**

- 12.1 This EULA confers the benefit and all rights and remedies (but not any obligations) upon the Third Party Licensor and the CLIENT agrees that, to the extent permitted by applicable law, the Third Party Licensor may enforce such rights and remedies directly against the CLIENT without further reference to TEMENOS. Save as expressly stated in this section 12.1, this EULA confers no rights, benefit or claims upon any person or entity not a party hereto.
- 12.2 The CLIENT will comply with applicable export and import laws, orders, regulations and policies including those of the United States that prohibit or limit export for certain uses or to certain end users.
- 12.3 The CLIENT shall not have the right to transfer, assign or otherwise dispose of this EULA or its rights or obligations hereunder, by operation of law or otherwise, without the prior written consent of TEMENOS.
- 12.4 Except for actions for nonpayment or breach of proprietary rights, no action, regardless of form, arising out of or relating to this EULA may be brought by either party more than two (2) years after the cause of action has accrued.

### **13. Termination**

- 13.1 The termination provisions of the Software License Terms and Conditions shall apply to Use of the Third Party Component. In addition the following shall apply:
- 13.2 TEMENOS will endeavor to provide upgraded releases of the Third Party Component alongside an Update (as defined in the Software License Terms and Conditions and as such term applies to the Software owned and licensed by TEMENOS under a separate EULA) when the Third Party Licensor provides to TEMENOS.
- 13.3 Notwithstanding section 13.2, the provision of upgraded releases of the Third Party Component is always subject to the maintenance and support policy of the Third Party Licensor.
- 13.4 Upon adequate notice, TEMENOS may provide an alternative to the Third Party Component with equivalent or substantially similar functionality to the original Third Party Component that is a substitute component for the Third Party Component.
- 13.5 The terms and conditions relating to such new component shall also be provided to the CLIENT in advance and such terms and conditions for the new components shall not materially reduce the scope of the license and rights granted to the CLIENT.
- 13.6 If the on-going provision of the license and maintenance of the Third Party Component as licensed under this EULA is no longer possible on commercially reasonable terms, and the CLIENT refuses to accept the provision of a component with equivalent or substantially similar functionality, TEMENOS may discontinue and terminate the license granted under this EULA and shall refund to the CLIENT any prepaid unused maintenance fees paid to TEMENOS under this EULA.
- 13.7 TEMENOS may terminate this EULA on thirty (30) days' written notice if the CLIENT fails to comply with a term of this EULA, unless such failure is cured within thirty (30) days.
- 13.8 If TEMENOS terminates as a result of a breach of this EULA, CLIENT must pay within thirty (30) days all amounts which have accrued prior to such end, and liquidated damages representing all sums payable for Third Party Components ordered under this EULA plus related taxes and expenses. The parties agree that payment of liquidated damages to TEMENOS represents a genuine a pre-estimate of the loss likely to be suffered by TEMENOS in respect of early termination and payment of such liquidated damages shall not exclude the TEMENOS' right to claim damages for other unrelated breaches in accordance with the EULA.
- 13.9 Upon termination as a result of CLIENT's breach of this EULA, CLIENT must discontinue use and return or destroy all copies of the Third Party Component including any associated documentation. Upon written request, CLIENT will confirm in writing compliance with this requirement.
- 13.10 Any terms of this EULA, which by their nature extend beyond the EULA's termination or expiration, remain in effect until fulfilled.