

1 MCGUIREWOODS LLP
 2 ALICIA A. BAIARDO SBN #254228
 3 Two Embarcadero Center
 4 Suite 1300
 5 San Francisco, CA 94111-3821
 6 Telephone: 415.844.9944
 7 Facsimile: 415.844.9922

8 MCGUIREWOODS LLP
 9 LUCY JEWETT WHEATLEY (*pro hac vice*)
 10 CLAIRE HAGAN ELLER (*pro hac vice*)
 11 800 East Canal Street
 12 Richmond, VA 23219
 13 Tel: (804) 775-1368
 14 Fax: (804) 698-2130
 15 Email: lwheatley@mcguirewoods.com
 16 celler@mcguirewoods.com

17 Attorneys for TIBCO Software Inc.

18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**

20 TIBCO SOFTWARE INC.,
 21 Plaintiff and Counterclaim
 22 Defendant,

23 vs.

24 GATHERSMART LLC,
 25 Defendant and
 26 Counterclaimant.

27 CASE NO. 5:20-cv-06422-NC

28 **STIPULATION AND ORDER OF
 DISMISSAL WITH PREJUDICE**

1 Plaintiff and Counterclaim Defendant TIBCO Software Inc. and Defendant and
2 Counterclaim Plaintiff GatherSmart LLC (each a “Party” and collectively, the “Parties”), by
3 counsel, hereby stipulate pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and the
4 Parties’ Settlement and Mutual Release Agreement (the “Agreement”) to the dismissal with
5 prejudice of all claims and counterclaims in this action, with each Party to bear its own attorneys’
6 fees, costs, and expenses.

7 Pursuant to *Kokkonen v. Guardian Life Insurance Company of America*, 511 U.S. 375
8 (1993) and Rule 41(a)(2), the Parties hereby stipulate to, and, by entering this order, the Court
9 hereby retains, the Court’s jurisdiction over this matter for any disputes arising out of the
10 Agreement or for purposes of enforcing the Agreement.

11
12 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

13
14 DATED: July 19, 2021 /s/ Lucy Jewett Wheatley
Attorneys for Plaintiff

15
16 DATED: July 19, 2021 /s/ Jordan Susman
Attorneys for Defendant

17
18 PURSUANT TO STIPULATION, IT IS SO ORDERED.

19
20
21 DATED: July 19, 2021



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION

In compliance with CAND ECF Policies and Procedures regarding Stipulations and Other Documents Requiring Multiple Signatures, I hereby attest that I have obtained the concurrence in the filing of this document from all signatories

DATED: July 19, 2021

/s/ Lucy Jewett Wheatley
Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Lucy Jewett Wheatley, certify that on July 19, 2021, the foregoing document entitled **STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE** was filed electronically in the Court’s ECF; thereby upon completion the ECF system automatically generated a “Notice of Electronic Filing” (“NEF”) as service through CM/ECF to registered e-mail addresses of parties of record in the case.

/s/ Lucy Jewett Wheatley
Lucy Jewett Wheatley