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This EULA governs Your use of the software provided to you by Liferay for evaluation purposes including any related Documentation (as defined below) and application programming interfaces (collectively the “Software”), regardless of the delivery mechanism.

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1. Definitions

“**Affiliates**” means in the case of a company, an entity that owns or controls, is owned or controlled by, or is under common control or ownership with a party, where ‘control’ is the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting shares, by contract or otherwise.

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“**Instance**” means one (1) copy of the Software.

“**Liferay**” means Liferay, Inc. with a principal place of business at 1400 Montefino Avenue, Diamond Bar, CA 91765.

“**Limiting Devices**” means time-out devices, counter devices, and/or other devices intended to ensure the limits of the license granted to You under this EULA will not be exceeded.

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“**Subscription**” means a fee-bearing service subscription with a defined term, providing for certain value-added services provided for a defined period of time and related to the Subscription Software, pursuant to a Subscription Agreement as further defined below.

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“**Unit**” means an Instance.

“**You**” means, as applicable, the individual or the entity on whose behalf the individual is acting and “Your” shall be construed accordingly.

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Subject to the restrictions set forth in this Section 2 and Section 3 below and subject to Your compliance with the other terms and conditions of this EULA, Liferay grants to You a non-transferable, non-exclusive, worldwide, non-sublicensable license, to use one (1) Unit of the Software solely for purposes of evaluating the Software and no further purposes (which includes use by or on behalf of Your Affiliates and Affiliates shall not be considered a third party for the purposes of this Section, provided that You remain responsible for the Affiliates’ compliance with terms of this EULA) for an evaluation period of thirty (30) days from the activation of the Software, unless otherwise extended by Liferay. You acquire only the right to use the Software and do not acquire any rights of ownership in the Software. Liferay reserves all rights to the Software not expressly granted to You. The Software is provided with certain Third Party Software. Each Third Party Software item is licensed to You under the applicable license terms and conditions set forth at www.liferay.com/third-party-software and in a file accompanying the Software and Your use of any Third Party Software shall be subject to such terms and conditions. The license granted to You under this EULA pertains solely to Your use of the Software and nothing in this EULA is intended to limit Your rights under, or grant You rights that supersede, the license terms of any Third Party Software. The Software may be used by or for You on Your premises, or within a third party data center, provided that (i) You remain responsible for all of Your obligations under this EULA and for the activities and omissions of the third party data center, and (ii) You control the access to the Software (which control of access does not require physical control and instead may be accomplished through the use of appropriate contractual provisions with the data center operator). You may use third party contractors to assist with the installation and use of the Software on Your or Your Affiliates’ behalf and only for purposes of evaluating the Software, provided that You will remain responsible for all of Your obligations under the this EULA and for the activities and omissions of the third parties.

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5. Exclusion and Limitation of Liability, Risk Allocation

5.1 Exclusion of Liability

TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL LIFERAY OR ANY OF ITS AFFILIATES HAVE ANY LIABILITY TO YOU OR YOUR AFFILIATES, UNDER ANY LEGAL OR EQUITABLE THEORY, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY, STATUTE OR OTHERWISE, FOR OR IN CONNECTION WITH:

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(II) ANY LOSSES, COSTS, EXPENSES OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, REGULATORY NON-COMPLIANCE, DELAYS, PRODUCT LIABILITY, RELIANCE, BREACH OF ANY IMPLIED DUTY; OR

(III) ANY LOSSES, COSTS, EXPENSES OR DAMAGES OTHER THAN DIRECT DAMAGES, INCLUDING WITHOUT LIMITATION, ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSSES, COSTS OR EXPENSES.

IN EACH CASE (I) THROUGH (III), WHETHER OR NOT FORSEEABLE; EVEN IF LIFERAY, ITS AFFILIATES OR A BUSINESS PARTNER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, COSTS OR EXPENSES.

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5.3 Allocation of Risk

THE PROVISIONS OF SECTION 4 AND THIS SECTION 5 ALLOCATE THE RISKS UNDER THIS EULA BETWEEN LIFERAY AND YOU. THIS ALLOCATION IS AN INTRINSIC PART OF, AND THE BASIS OF, THE BARGAIN BETWEEN YOU AND LIFERAY AND WITHOUT SUCH ALLOCATION LIFERAY WOULD NOT HAVE ENTERED INTO THIS EULA. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS CONTAINED IN SECTIONS 4 AND 5 APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY (INCLUDING ANY LIMITED OR EXCLUSIVE REMEDY) PROVIDED FOR IN THIS AGREEMENT FAILS IN ITS ESSENTIAL PURPOSE.

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7. General

If any provision of this EULA is held to be unenforceable, such ruling shall not affect the enforceability of the remaining provisions. The affected provision(s) will be deemed amended to the minimum extent necessary to render it valid and enforceable in conformity with applicable law and parties' intent as expressed in this EULA. This EULA shall be governed by the laws of the State of New York and of the United States, without regard to any conflict of laws provisions. The rights and obligations of the parties to this EULA shall not be governed by the United Nations Convention on the International Sale of Goods. This Agreement constitutes the entire agreement between the parties with respect to the use of the Software licensed hereunder and supersedes all prior understandings regarding such subject matter. Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty or collateral contract or other assurance except those set out therein. Notwithstanding the aforesaid, to the extent You receive access to the Software within the scope of Your active Subscription under the terms of a valid Subscription Agreement, that includes license terms for Software covered by this EULA, such license terms will prevail over the terms of this EULA.