



EULA: LIFERAY DIGITAL EXPERIENCE PLATFORM AND CERTAIN APPLICATIONS

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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.

“**Business Partner**” means an organization authorized by Liferay, directly or indirectly, to promote, market, sell, resell, distribute and support the Software.

“**Designated Purpose**” means the specific use case and purpose for which You utilize the Software and the associated Subscription Services, i.e. either “Non-Production”, “Production” or “Backup” Purposes. “**Non-Production Purposes**” means using the Software solely in a non-production environment, generally for the purposes of dev-integration, testing, quality assurance, staging, and user acceptance testing but excluding Development Purposes.

“**Production Purposes**” means using the Software in a production environment, generally to service live requests and to use live data and Software. “**Backup Purposes**” means using the Software solely in a backup or secondary environment that is (i) periodically or regularly receiving backups of data from Instances used for Production Purposes; (ii) not servicing requests; and (iii) used for the purpose of disaster recovery and/or serving as a backup in case a live Instance used for Production Purposes fails.

“**Development Purposes**” means using the Software for the specific purpose of building software that runs with or on the Software.

“**Documentation**” means the documentation generally made available by Liferay in conjunction with Software at dev.liferay.com.

“**Forked Software**” means modifications to the Software source code to develop a separately maintained source code program (a) with features not present in the Software source code or (b) where modifications to the original source code of the Software are not automatically integrated with the original source code of the Software.

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

“**Liferay**” means Liferay International with a principal place of business at 2 Clanwilliam Square, Grand Canal Quay, Dublin 2, Ireland.

“**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 Services**” means fee-bearing Liferay subscriptions for certain value-added services provided for a defined period of time and related to the Software.

“**Subscription Term**” means the initial and any renewal term of Subscription Services.

“**Third Party Software**” means software program, computer code, programming libraries, application programming interfaces, or other materials, (i) the intellectual property rights of which are not owned by Liferay or its Affiliates and (ii) which is licensed under terms and conditions outside the scope of this EULA as further specified in Section 2 below.

“**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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6. Exclusion and Limitation of Liability, Risk Allocation

6.1 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:

- (I) ANY ECONOMIC LOSSES, LOSS OF REVENUE, LOSS OF CUSTOMERS OR BUSINESS, LOSS OF OR DAMAGE TO REPUTATION OR GOODWILL, LOSS OF ANTICIPATED PROFITS, LOSS UNDER OR IN RELATION TO ANY OTHER CONTRACT, LOSS OF DATA OR INTERRUPTION OF SERVICES, LOSS OF ANTICIPATED SAVINGS OR BENEFITS, OR COVER COSTS OR ANALOGOUS COST RELATED TO THE PROCUREMENT OF REPLACEMENT SERVICES OR SOFTWARE;
- (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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FOR ALL EVENTS AND CIRCUMSTANCES AND TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LIFERAY'S AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS EULA, INCLUDING WITHOUT LIMITATION ON ACCOUNT OF PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STATUTE OR OTHERWISE WILL NOT EXCEED FIFTY EURO (€50.00).

6.3 Allocation of Risk

THE PROVISIONS OF SECTION 5 AND THIS SECTION 6 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 5 AND 6 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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8. 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 Ireland, without regard to any conflict of laws provisions and any disputes arising out of or in relation to this EULA will be subject to the exclusive jurisdiction of the Irish courts. 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.