

EULA: LIFERAY SOCIAL OFFICE ENTERPRISE EDITION

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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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“**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.

“**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.

“**Permissible Extension Methods**” means the permitted methods of extending the Software defined in the Documentation, such as using the Liferay Plugins SDK and developing Liferay EXT Plugins.

“**Server**” means a physical machine or virtual machine.

“**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.

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“**Unit**” means a “**User Entitlement**” i.e. an entitlement for one (1) individual user of Liferay Social Office Software.

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

2. License Grant

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 the Software, provided that your use of the Software is (i) solely in connection with Liferay Portal Enterprise Edition software (ii) limited to the Subscription Term of your associated Liferay Social Office Enterprise Subscription Services, and (iii) limited to the total quantity of Units for which you have purchased Subscription Services from Liferay or a Business Partner. You may use the Software solely for Your internal business operations (which includes Your Affiliates). The foregoing sentence is not intended to limit Your internal use of the Software to operate a web site and/or to offer Your own software as a service, provided such web site or service does not include a distribution of the Software, in whole or in part. You may extend the Software through Permissible Extension Methods. 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 in a file accompanying the Software or at www.liferay.com/third-party-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 a Server on Your premises, or within a third party data center, provided that (1) You remain responsible for all of Your obligations under this EULA and for the activities and omissions of the third party data center, and (2) 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 behalf and only for Your own internal business use, 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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WITHOUT LIMITING THE GENERALITY OF THE FOREGOING DISCLAIMER, THE SOFTWARE IS NOT SPECIFICALLY DESIGNED, MANUFACTURED OR INTENDED FOR USE IN (1) FACILITIES OR ENVIRONMENTS REQUIRING FAILSAFE PERFORMANCE, INCLUDING BUT NOT LIMITED TO (A) THE PLANNING, CONSTRUCTION, MAINTENANCE, CONTROL, OR DIRECT OPERATION OF NUCLEAR FACILITIES, (B) AIRCRAFT NAVIGATION, CONTROL OR COMMUNICATION SYSTEMS, WEAPONS SYSTEMS, (C) DIRECT LIFE SUPPORT SYSTEMS OR (2) SIMILAR ULTRA-HAZARDOUS OR STRICT LIABILITY ACTIVITIES AND YOU ARE SOLELY RESPONSIBLE AND EXPRESSLY ASSUME ALL RISK FOR ANY SUCH USE.

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:

- (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 UNITED STATES DOLLARS (\$50.00).

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.

6. Export Control

You: (i) acknowledge and agree that the Software and its components are subject to export controls under the U.S. Commerce Department's Export Administration Regulations ("EAR"); (ii) represent and warrant that You are not located in any country listed in Country Group E:1 in Supplement No. 1 to part 740 of the EAR; (iii) shall not export, re-export, divert, or transfer the Software to any prohibited destination or to any party who has been prohibited from participating in US export transactions by any federal agency of the US government; (iv) shall not use or transfer the Software for use in connection with the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, or sounding rockets or unmanned air vehicle systems; and (v) acknowledge and agree that if You export, re-export, or transfer the Software to eligible recipients, then You shall: (a) strictly comply with all applicable export control laws, (b) obtain all necessary licenses and permits, including those required by the EAR; and (c) submit all reports required by the Commerce Department's Bureau of Industry and Security, which include the name and address (including country) of each transferee. Liferay will not have any liability for the failure to obtain a U.S. export license to export the Software. You further acknowledge and agree that countries including the United States may restrict the import, use, or export of encryption products (which may include the Software) and agree that You shall be solely responsible for compliance with any such import, use, or export restrictions. You shall indemnify Liferay, including its officers, directors and agents from all losses and liabilities (including reasonable attorneys fees and court costs) arising from any breach of Your representations, warranties or obligations under this Section.

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.