

# Payara End-User Licence Agreement (EULA)



This End-User Licence Agreement ("**Licence**") is a legal agreement between you (the "**Customer**" or "**you**") and Payara Services Limited of Malvern Hills Science Park, Geraldine Road, Malvern, Worcestershire, WR14 3SZ ("**Service Provider**", "**us**" or "**we**") for:

The software in object code form specified as licensed under the Payara EULA in an Enterprise Order ("**Software**").

We license use of the Software to you on the basis of this Licence, the Payara EULA. We do not sell the Software to you. We or our licensors remain the owners of the Software at all times.

## IT IS HEREBY AGREED

### 1. GRANT AND SCOPE OF LICENCE, MINOR CHANGES, UPDATES

- 1.1 In consideration of you agreeing to abide by the terms of this Licence, the Service Provider hereby grants to you a non-exclusive, non-transferable licence to use the Software on the terms of this Licence. Such licence shall subsist only so long as you maintain an Enterprise subscription with us in respect of the Software and comply with the terms of the agreement relating to it ("Enterprise Agreement"). Definitions in the Enterprise Agreement apply to this Licence (unless otherwise specifically defined in this Licence).
- 1.2 This Licence permits you to do the following ("Permitted Uses"):
  - 1.2.1 install and use the Software, in object code form only, solely on the Customer System(s) for which have paid to receive support under the Enterprise Agreement ;  
and
  - 1.2.2 (provided you comply with the provisions in clause 2) make a reasonable number of copies of the Software for back-up purposes.
- 1.3 We may update or require you to update the Software from time to time in which case this Licence applies to the Software as updated.

### 2. Restrictions

- 2.1 Except as expressly set out in this Licence (and in particular as set out in clause 3) or as otherwise permitted by law, you undertake:

Payara Services Ltd 2020 All Rights Reserved. Registered in England and Wales; Registration Number 0998946  
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Email: [sales@payara.fish](mailto:sales@payara.fish) Phone: +44 207 754 0481 Web: [www.payara.fish](http://www.payara.fish)



- 2.1.1 not to copy the Software, except where such copying is incidental to normal use of the Software under Permitted Uses;
- 2.1.2 to keep all copies of the Software secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software;
- 2.1.3 not to use or attempt to use the Software other than for Permitted Uses;
- 2.1.4 not to delete or obfuscate our copyright notice on all entire and partial copies of the Software in any form; and
- 2.1.5 not to provide, distribute, or otherwise make available, the Software in any form, in whole or in part to any third party (including to any affiliate company of the Customer) without prior written consent from us.

### **3. Intellectual property rights**

- 3.1 You acknowledge that all intellectual property rights in the Software throughout the world belong to us or our licensors, that rights in the Software are licensed (not sold) to you, and that you have no intellectual property rights in, or to, the Software other than the right to use the Software in accordance with the terms of this Licence.
- 3.2 Certain components of the Software are made available under open source licences in source code form. You can find out more about the components and the applicable licences [here]. Nothing in this Licence is intended to derogate from the rights granted in respect of those components under the applicable licences.
- 3.3 The rights granted by an applicable open source licence (including but not limited to any version of the Common Distribution and Development License (CDDL)) in the source code of any component referred to in clause 3.2 above do not apply to the object code form of the Software licensed to you under this Licence.

### **4. Disclaimers and Limitations on Liability**

- 4.1 This Software is provided on an “as is” basis, and without warranty of any kind whether express or implied. Your use of the Software is at your sole risk. We do not warrant under this Licence that:
  - 4.1.1 the Software will meet your specific requirements;



- 4.1.2 the Software is fully compatible with any particular platform;
  - 4.1.3 your use of the Software will be uninterrupted, error free, timely or secure;
  - 4.1.4 the results that may be obtained from the use of the Software will be accurate or reliable;
  - 4.1.5 the quality of any products, services, information, or other material purchased or obtained by you through the Software will meet your expectations; or
  - 4.1.6 defects in the Software will be corrected.
- 4.2 The Service Provider and its affiliates shall not be liable for any indirect, special, incidental, consequential, or exemplary damages or for damages for loss of profits, goodwill, use, data or other intangible losses (whether in each case direct or indirect, and even where the Service Provider has been advised of the possibility of such damages) related to the Software or this Licence including, for example:
- 4.2.1 the use or the inability to use the Software;
  - 4.2.2 the cost of procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received through the Software;
  - 4.2.3 unauthorised access to or alteration of your transmissions or data;
  - 4.2.4 statements or conduct of any third-party on the Software; or
  - 4.2.5 any other matter relating to the Software.
- 4.3 The Service Provider reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Software (or any part thereof) with or without notice. The Service Provider shall not be liable to you or to any third-party for any modification, price change, suspension or discontinuance of the Software.

## 5. Termination

- 5.1 We may terminate this Licence immediately by written notice to you if you commit a material or persistent breach of this Licence which you fail to remedy (if remediable) within 14 days after the service of written notice requiring you to do so.
- 5.2 Upon termination for any reason:
  - 5.2.1 all rights granted to you under this Licence shall cease;



- 5.2.2 you must cease all activities authorised by this Licence; and
- 5.2.3 you must immediately delete or remove the Software from all computer equipment in your possession and immediately destroy or return to us (at our option) all copies of the Software then in your possession, custody or control and, in the case of destruction, certify to us that you have done so.
- 5.3 Any waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- 5.4 The rights to terminate this Agreement given by this clause shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.
- 5.5 This Licence will terminate automatically on termination or expiry of the Enterprise Agreement for any reason.

## 6. Other important terms

- 6.1 We may transfer our rights and obligations under these terms to another organisation. You may only transfer your rights or your obligations under this Licence to another person if we agree in writing.
- 6.2 This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 6.3 Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 6.4 The failure or delay of the Service Provider to exercise or enforce any right or provision of this Licence shall not constitute a waiver of such right or provision.
- 6.5 These terms are governed by English law and you can only bring legal proceedings in respect of the Software in the courts of England and Wales.