



SOFTWARE LICENSE TRIAL AGREEMENT

PLEASE READ CAREFULLY THE FOLLOWING TERMS AND CONDITIONS BEFORE USING OUR SOFTWARE PRODUCT. THE USE OF OUR SOFTWARE LICENSED BY FLOWABLE AG ("LICENSOR") TO YOU, THE ORIGINAL END USER, IS FOR YOUR USE ONLY AS SET FORTH BELOW. IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS SOFTWARE LICENSE AGREEMENT FOR TRIAL VERSION ("AGREEMENT"), DO NOT USE THE SOFTWARE. USING ANY PART OF THE SOFTWARE INDICATES THAT YOU ACCEPT THESE TERMS.

BY ACCEPTING, YOU WILL BE BOUND BY AND BECOME PARTY TO THE AGREEMENT.

The Agreement shall apply to the unsupported free trial license of Licensor's Software "**Flowable Work**" or "**Flowable Engage**" and certain software elements (as defined below) and, if applicable, third-party software products licensed or supplied by Licensor.

1. DEFINITIONS

For the purpose of the Agreement the following terms shall have the following meaning:

"**Affiliate**" means, in respect of each Party, any corporation or entity directly or indirectly controlled by, or under common control with, or controlling, such Party. The terms "controlled", "controlling" and "control" refers to ownership, directly or indirectly, of at least 50% (fifty percent) or more of the shares or voting rights or the ability to control the operations of such entity.

"**Agreement**" means this Software License Trial Agreement, as amended from time to time.

"**Competitor**" means an organization that, at the time of the acquisition, engages in the same or similar commercial or economic market area as Licensor's technology for delivering dynamic and adaptive process and case management software solutions.

"**Documentation**" means all user manuals and technical specification documentation made available by Licensor, however, this excludes any manuals or books published by or together with a third party.

"**Effective Date**" means the date on which the Licensed Software is provided by Licensor for download.

"**JVM**" means a java virtual machine, which is a program that executes other programs, typically Java bytecode.

"**Licensee**" means a named user with login credentials for the Licensed Software.

"**Licensed Instance**" means a Java Virtual Machine (JVM) executing Flowable software, i.e. a JVM on a server node with 8-core CPUs.

"**Licensed Software**" means Licensor's software product(s) and/or related technology for which Licensee receives a license grant. A release note for a New Release shall automatically

be deemed part of the Licensed Software, unless rejected by Licensee in accordance with the terms of the Agreement.

“**Licensed Scope**” means the business unit and/or processes and/or field to which the License is limited, and if not stated in the Agreement or otherwise, this shall extend to Affiliates of Licensee.

“**New Release**” means an update, upgrade or new version of the Licensed Software.

“**OSS**” means any software which is subject to free and/or open-source software license terms, including the Apache License, BSD license, GNU General Public License, MIT License etc.

“**Territory**” means worldwide, provided, however, that Licensee ensures compliance with all applicable laws only, including, without limitation, applicable export controls laws.

“**Third Party Technology/Software**” means any software program, computer code, programming libraries, application programming interfaces or other materials, whose Intellectual Property Rights are not owned by Licensor or its Affiliates but provided to Licensee as part of the license.

“**Trial Period**” means a period of up to 30 (thirty) calendar days following the Effective Date.

Further terms are defined throughout the Agreement.

2. LICENSE GRANT

2.1. **License:** Subject to the terms and conditions of the Agreement, Licensor grants to Licensee a non-exclusive, non-transferable, non-sub-licensable license to use the Licensed Software for non-production purposes (internal test integration and test evaluation) during the Trial Period in the Territory (“License”). Licensee hereby undertakes to refrain, and to ensure that its Affiliates refrain, from making any copies or use, from any other exploitation, and from permitting any use, of the Licensed Software (including documentation), except as explicitly permitted under the Agreement. Nothing herein has the effect of transferring, or granting any rights in respect of, any copyrights or other intellectual property rights in the Licensed Software. Licensor remains free to assign or transfer intellectual property rights in the Licensed Software provided the rights of Licensee are not affected thereof. The Agreement shall be binding for Licensee and all its Affiliates. Licensee shall be liable for the acts and omissions of its Affiliates under this Agreement.

2.2. **Delivery:** Upon receipt of the online license request, Licensor shall assess that Licensee qualifies for receiving a free trial license under this Agreement and inform Licensee (by e-mail, respectively other means) accordingly. Licensor or its an Affiliate shall deliver the Licensed Software to Licensee within 10 (ten) calendar days after the Effective Date by e-mail to the e-mail address provided by Licensee with a link to an internet site where the Licensed Software can be downloaded. For the avoidance of doubt, Licensor is under no obligation to provide a free trial license and to enter into the Agreement with any party and Licensor may reject Licensee’s request with or without stating

the reasons for such rejection. In no event is a Licensee entitled to obtain a free trial license more than once.

- 2.3. **No support and maintenance:** Licensor does not provide any support, maintenance or other services under the Agreement. Any maintenance, technical or other services to be provided by Licensor or an Affiliate of Licensor in support of the use of the Licensed Software during the Trial Period shall be subject to a separate agreement.
- 2.4. **Ownership and Intellectual Property:** The Licensed Software, all related Documentation and any Update(s) in form of Releases are not in the public domain. Ownership of all Licensed Software intellectual property rights, including the rights in source code and all related Documentation, patents, copyrights, trademarks, service marks, internet domain names, trade secrets, database rights, design rights, knowhow, techniques, processes, methods, specifications and all other rights of authorship and intellectual and industrial property rights, and other equivalent or similar rights which may subsist anywhere in the world, whether registered or not, including any form of application for any of the foregoing shall remain exclusively with Licensor and its Affiliates, its licensors and suppliers (if applicable). Licensee hereby undertakes to refrain from making any copies or use, from any other exploitation, and from permitting any use, of the Licensed Software (including Documentation), except as explicitly permitted under the Agreement. Nothing herein has the effect of transferring, or granting any rights in respect of, any copyrights or other intellectual property rights in the Licensed Software except that Licensee shall be granted the contractual right to make use of the Licensed Software in accordance with the License.
- 2.5. **Restrictions:** Licensee must not use the Licensed Software for unlawful, obscene, offensive or fraudulent content or activity, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive, or deceptive messages, viruses or harmful code, or violating third party rights. If there is a complaint or notice of violation, use may be suspended until resolved, and terminated if not resolved promptly. Licensee shall hold Licensor and all its Affiliates, directors and employees harmless from and against any claims that may arise out of Licensee's violation of the applicable laws and regulations.
- 2.6. **Dependencies:** The Licensed Software is provided with certain Third-Party Technology/Software and, therefore, subject to (i) system and equipment requirements and (ii) licenses from third parties, including OSS licenses ("Third Party Licenses", together with system and equipment requirements "Dependencies"). The applicable license terms and conditions and/or copyright notices are in the license file, Documentation, or other materials accompanying the Licensed Software or available on Licensor's website. Licensee represents and warrants that, its use of the Licensed Software will comply with such Third Party Licenses and Dependencies, in particular when incorporating them into its product(s) and/or when using and exploiting the Licensed Software.

3. LICENSE TERM, TERMINATION

- 3.1. **Term and Termination of the Agreement:** By respecting Licensor's right to withdraw its consent to provide access to the binary repository artifacts according to clause 2.2 above at any time, the Agreement shall become effective as of the Effective Date and continue to be in effect until expiration of the Trial Period. It can be terminated before according to Section 3.2. Upon expiry of the Trial Period, the Agreement shall end automatically. Licensor may extend the Term of the Trial License at its sole discretion subject to a separate agreement by and between the parties.
- 3.2. **Termination without cause:** Either Party may terminate the Agreement by giving notice in writing to the other Party if the non-terminating Party commits a material breach of the Agreement and has failed to cure such breach within ten (10) days following a request from the notifying Party to do so. For the avoidance of doubt, breach of the terms of the License or of a Third-Party License shall be considered a material breach under the Agreement.
- 3.3. **Effect of Termination:** Upon expiration of the Trial Period the Trial License expires immediately and Licensee's entitlement to use the Licensed Software ends automatically (except OSS).

4. FEES

License Fees: The license grant is free of cost.

5. REPRESENTATIONS AND WARRANTIES

- 5.1. **General:** Given that this Trial License is free of cost for Licensee, Licensor provides no representations or warranties, whether express, implied, statutory or otherwise regarding or relating to the Licensed Software and, to the maximum extent permitted under applicable law, Licensor hereby disclaims any and all representations and warranties and in particular any representation or warranty of merchantability, fitness for a particular purpose.
- 5.2. **Disclaimer:** In the event of a breach of a representation or warranty which cannot be validly excluded due to mandatory applicable law, Licensor's sole obligation, and Licensee's exclusive remedy, shall be limited to the extent permitted by applicable law to Licensor or, at Licensor's choice, an Affiliate of Licensor, repairing the defect or replacing the defective Licensed Software.

6. LIABILITY

NO CONSEQUENTIAL DAMAGES: NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES INCLUDING WITHOUT LIMITATION, INTERRUPTION OF BUSINESS, LOST PROFITS, LOST OR CORRUPTED DATA OR CONTENT, LOST REVENUE ARISING OUT OF THE AGREEMENT (INCLUDING WITHOUT LIMITATION THE USE OF THE LICENSED SOFTWARE OR THE INABILITY TO USE LICENSED SOFTWARE), EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7. CONFIDENTIALITY AND DATA PROTECTION

- 7.1. **Confidential Information:** The parties acknowledge that they may, in the course of performing the Agreement, obtain information relating to the other Party, which is of a confidential or proprietary nature ("**Confidential Information**"). Confidential Information includes information, data and materials concerning Licensor's or Licensee's business, products, projects, strategies, employees, customers, designs, pricing, research, development activities as well as computer programs, drawings, algorithms, know-how, formulas, processes, ideas, inventions and other information which by its nature can be reasonably expected to be proprietary and confidential, whether it is presented in oral, written, graphic or photographic or other form. The Licensed Software, and in particular, without limitation, the source code, are Confidential Information of Licensor.
- 7.2. **Non-disclosure:** The parties shall not disclose Confidential Information of the other Party to any third party and shall protect such information at all times against unauthorized disclosure or access. The parties shall refrain from using Confidential Information of the other Party for any purposes other than as necessary to carry out their duties under the Agreement. Each Party may, however, disclose any Confidential Information to third parties to the extent necessary to exercise and enforce its rights under the Agreement or as required by law or regulations. Licensor shall be entitled to share Confidential Information of Licensee with its Affiliates, provided, however, that Licensor remains responsible for its Affiliates' compliance with this confidentiality clause.
- 7.3. **Exceptions:** The obligations of confidentiality shall not apply to information which (i) is in the public domain, except where such information being in the public domain is the result of the receiving Party's breach of the Agreement, (ii) was already in the receiving Party's possession prior to disclosure hereunder, (iii) is obtained by the receiving Party on a non-confidential basis from a third party who has the right to disclose such information, or (iv) was developed by the receiving Party without any use of any of the Confidential Information, as can be proven by the receiving Party.
- 7.4. **Data Protection:** Each Party undertakes to process information on identifiable natural persons and legal entities ("Personal Data") received from, or on behalf of, the other Party in accordance with applicable data protection laws, in particular the Swiss Federal

Act on Data Protection (FADP), and, if applicable, the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) and any related legislation, regulations, requirements or guidance from time to time. Licensor will process Personal Data only for, and according to the instructions of, Licensee.

- 7.5. **Tracking:** By downloading the Licensed Software you agree that Flowable may be tracking your behavior in an anonymous and/or non-anonymous manner in order to improve your Flowable Work trial experience and ensure a seamless navigation. Licensor may only share the collected data with its Affiliates.
- 7.6. **Survival:** This clause survives the expiry or termination of the Agreement for an additional period of five years. In respect of the source code (except for OSS), the clause remains in force until the entire source code has become publicly available without an act or omission on the side of Licensee that contributed to the source code becoming publicly available.

8. MISCELLANEOUS

- 8.1. **Assignment:** Licensee cannot assign any of its rights or obligations under the Agreement, whether by operation of law or otherwise, without prior written consent of the Licensor. Subject to the foregoing, the Agreement is binding upon, inures to the benefit of and is enforceable by, the parties and their respective permitted successors and assigns.
- 8.2. **Severability:** The invalidity or unenforceability of individual parts of the Agreement shall have no impact on the validity of the Agreement as a whole. The Parties agree that if any provision or part of a provision of the Agreement shall under any circumstances be invalid, inoperative or otherwise not enforceable, the Agreement as a whole shall remain valid and the invalid, inoperative or unenforceable provision or part of a provision shall be deemed replaced by a provision which corresponds to the widest extent possible to the invalid or inoperative, unenforceable provision or part of a provision without being invalid or inoperative itself.
- 8.3. **Governing Law:** The Agreement shall be governed by and construed in accordance with the laws of Switzerland, excluding its conflict of laws rules and excluding the UN Convention for the International Sale of Goods. In the event of any dispute arising out of or in connection with the Agreement, such dispute shall be referred exclusively to the jurisdiction of the competent courts of Zurich, Switzerland.