

EVALUATION AGREEMENT

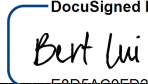
This Agreement, dated February 10, 2020, is made by and between SetSail Technologies, Inc., a Delaware corporation ("SetSail"), and AppDynamics LLC, with its principal place of business at 303 2nd Street, North Tower, Eighth Floor, San Francisco, CA 94107 ("Company").

1. **Licenses.** Subject to Company's compliance with all of the terms and conditions of this Agreement, during the Term of this Agreement SetSail hereby grants to Company a nontransferable, nonsublicensable, nonexclusive limited, revocable license to use and access an evaluation version of SetSail's services (the "Service") solely for (i) Company's internal testing and evaluation and only in accordance with the documentation supplied by SetSail and only in connection with individuals residing within the United States and (ii) generating Results for its internal business use, and for no other purpose. "Results" means work products resulting from or arising out of Company's use of the Service that are provided to Company by or on behalf of SetSail in the form of reports, charts, graphs and/or other modes of presentation, and which are based on Company Data (as defined below). Company grants to SetSail a perpetual, irrevocable, nonsublicensable, nonexclusive, royalty-free license to access and use any information or content submitted by or on behalf of Company ("Company Data") solely for (A) improving, testing, and operating SetSail services, (B) providing the Service and any Results to Company, and (C) aggregating and anonymizing in such a manner that it can in no way be linked specifically to Company ("Aggregated Anonymous Data") and freely using and exploiting such Aggregated Anonymous Data.
2. **Restrictions.** Company shall not (nor shall it permit anyone else to), directly or indirectly: (i) reverse engineer, decompile, create other works from, or disassemble any software related to the Service, or otherwise attempt to discover such software source code or underlying Proprietary Information (as that term is defined below); (ii) modify, translate, or create derivative works based on the Service; (iii) copy, rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Service; (iv) use the Service for the benefit of a third party; (v) use the Service in connection with any individual residing outside of the United States (and Company hereby agrees to indemnify SetSail for any breach of the foregoing obligation); (vi) remove or otherwise alter any proprietary notices or labels from the Service or any portion thereof; (vii) use the Service to build an application or product that is competitive with any SetSail product or service; (viii) interfere or attempt to interfere with the proper working of the Service or any activities conducted on the Service; or (ix) bypass any measures SetSail may use to prevent or restrict access to the Service (or other accounts, computer systems or networks connected to the Service). Company is responsible for all of Company's activity in connection with the Service. Company represents and warrants that it has all rights and consents necessary to use the Service and shall (x) use the Service in compliance with all applicable local, state, national and foreign laws, treaties and regulations in connection with Company's use of the Service (including those related to data privacy, international communications, export laws and the transmission of technical or personal data laws), and (y) not use the Service in a manner that violates any third party intellectual property, contractual or other proprietary rights. Company understands that SetSail may modify the Service and/or cease supporting old versions or releases of the Service at any time in its sole discretion.
3. **Billing and Taxes.** Company is responsible for paying SetSail the cash value of the incentives to be provided by SetSail to Company's employees as part of the Services being provided hereunder. All Fees and other amounts payable by Company under this Agreement are exclusive of taxes and similar assessments. Company is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Company hereunder, other than any taxes imposed on SetSail's income.
4. **Confidentiality.** Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's technology or business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). The Receiving Party agrees: (i) not to divulge to any third person any such Proprietary Information, (ii) to give access to such Proprietary information solely to those employees with a need to have access thereto for purposes of this Agreement, (iii) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the party takes with its own proprietary information, but in no event shall a party apply less than reasonable precautions to protect such Proprietary Information, and (iv) not to use the Proprietary Information except as necessary to exercise its rights and fulfill its obligations hereunder. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (1) is or becomes generally available to the public without any action by, or involvement of, the Receiving Party, or (2) was in its possession or known by it prior to receipt from the Disclosing Party, or (3) was rightfully disclosed to it by a third party, or (4) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement shall prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. Notwithstanding anything to the contrary, the Service (including its features and mode of operation), the Aggregated Anonymous Data and the Feedback (defined below) are SetSail's Proprietary Information

(and, in the case of the Feedback and Aggregated Anonymous Data, deemed disclosed by SetSail and not subject to the exceptions set forth in 3(2) or (4)).

5. Ownership. Title to and ownership of the Service shall be and at all times remain in SetSail. Any feedback, developments or modifications (including all related intellectual and proprietary rights) made during the term of this Agreement by SetSail or the Company, either independently or at SetSail's direction, in any way relating to the Service, whether or not influenced or suggested by the Company, are the sole property of SetSail ("Feedback"). Company hereby makes all assignments necessary to effect the foregoing ownership.
6. Warranty Disclaimer; Liability Limitation.
 - a. The parties acknowledge that the Service is experimental in nature and that the Service is provided "AS IS" and may not be functional on any machine or in any environment. SETSAIL DISCLAIMS ALL WARRANTIES RELATING TO THE SERVICE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES AGAINST INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
 - b. IN NO EVENT SHALL SETSAIL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, ACTION, OR TORT FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO LOSS OF REVENUES, AND LOSS OF PROFITS. SETSAIL SHALL NOT BE RESPONSIBLE FOR ANY MATTER BEYOND ITS REASONABLE CONTROL.
7. Nonassignability. Neither the rights nor the obligations arising under this Agreement (including, but not limited to, Company login information) are assignable or transferable by Company, and any such attempted assignment or transfer shall be void and without effect.
8. Controlling Law, Attorneys' Fee and Severability. This Agreement is made under and will be governed by and construed in accordance with the laws of the State of California, without applying conflicts of law rules. In any action to enforce this Agreement the prevailing party will be entitled to costs and attorneys' fees. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.
9. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all written or oral agreements heretofore existing between the parties hereto are expressly cancelled. Any modifications or waivers of this Agreement must be in writing and signed by both parties hereto.
10. Term. The "Term" (unless earlier terminated in accordance with this Evaluation Agreement) is either (a) if Company is using SetSail, that period of time from Company's download of SetSail until Company receives written notice of termination of this Evaluation Agreement from SetSail; (b) if Company is using SetSail on a limited twelve (12) week trial basis, that period of time from Company's download of SetSail until sixteen (16) weeks after such download; or (c) for the period enabled by the License Key provided by SetSail.
11. Termination. This Agreement may be terminated by either party for any reason or no reason at any time upon ten days' notice, or immediately upon the other party's breach. Upon termination, the license granted hereunder shall terminate and Company shall immediately delete any and all documents, notes and other materials associated with the Service, including, without limitation, all SetSail Proprietary Information and all copies and extracts of the foregoing, but the terms of this Agreement will otherwise remain in effect.

SETSAIL TECHNOLOGIES, INC.

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 By: _____
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Bert Lui CPO

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APPDYNAMICS LLC

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 By: _____
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George Karamanos General Counsel

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