

# **ALM** Octane

Software Version: 12.55

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# Contents

O	pen Source Licenses	.6
	cfg4j-cfg4j (4.4)	6
	hibernate-hibernate-validator (5.4.1)	6
	jetty (9.3.18)	6
	commons-io (2.4)	6
	localforage-localforage (1.5)	6
	elasticsearch-elasticsearch (2.4.3)	6
	apache-olingo (4.2.0)	6
	liquibase (3.4.2)	6
	spring-security-config (4.x.x.RELEASE)	6
	spring_security (4.0.3)	6
	behrica-jira-rest-java-client (2.0)	6
	tslib (1.2.0)	6
	httpcore (4.4.1, 4.4.3)	6
	json-lib (2.4)	7
	apache-jakarta-commons-validator (1.5.1)	7
	commons-collections (4.01)	7
	Hazelcast (3.5.2)	7
	tape (1.2.3)	7
	apache-tika (1.9)	7
	Google-GSON (2.2.4)	7
	fasterxml-jackson-annotations (2.6.2, 2.6.4)	7
	imgscalr-lib (4.2)	7
	commons-lang3 (3.3.2)	7
	Log4j-api (2.5)	7
	Log4j-core (2.5)	7
	nvd3 (1.7.1)	7
	Spring Framework (4.2.5)	7
	commons-cli (1.3.1)	7
	httpclient (4.5)	7
	commons-lang3 (3.1, 3.4)	7
	commons-logging (1.2)	7
	commons-io (2.4)	8
	commons-codec (1.9)	8

guava (18.0)	8
swagger-annotations_2.10 (1.5.6)	8
nvd3 (1.7.1)	8
fasterxml-jackson-databind (2.3.2)	8
he Apache Software License, Version 2.0	8
dom 1.1	10
Apache-style open source license	11
he MIT License	13
${ m slf4j\text{-}api}(1.7.13)$ - Copyright (c) 2004-2017 QOS.ch, https://www.slf4j.org/license.html	14
$liquibase-slf4j~(1.2.1)~- Copyright~(c)~2012-2015~Matt~Bertolini,\\ https://github.com/mattbertolini/liquibase-slf4j/blob/master/LICENSE~$	14
$ m zloirock\text{-}core\text{-}js(2.1.4)\text{-}Copyright (c) 2014-2016 Denis Pushkarev,} \  \   \rm https://github.com/zloirock/core-js/blob/master/LICENSE$	14
vdurmont-emoji-java(3.1.3)-Copyright (c) 2014-present Vincent DURMONT, https://github.com/vdurmont/emoji-java/blob/master/LICENSE.md	14
modernizr-modernizr (20100706)	14
as lakhelles oy-events ource $(0.3)$ - Copyright (c) 2011-2013, Aslak Helles øy and contributors https://github.com/michaelklishin/eventsource-netty5/blob/master/LICENSE	
kamilkp-angular-vs-repeat(1.1.7)-Copyright(c)2014 kamilkp, https://github.com/kamilkp/angular-vs-repeat/blob/master/LICENSE	14
m Select2~(4.0.0) - Copyright (c) 2012-2015 Kevin Brown, Igor Vaynberg, and Select2 contributors https://github.com/select2/select2/blob/master/LICENSE.md	15
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CKEditor (4.47)	16
Common Development and Distribution License	16
mimepull (1.9.6)	16
javax.el (2.2.4)	16
Common Development and Distribution License 1.0	17
ISC License	20
aminag-openscreenshot (4.5.14)	20
ISC License (ISC)	20
One-JAR Open-Source License	20
one-jar 0.97	20
ANTLR 4.2.2	22
ANTLR 4 License	22
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The D3 BSD-3-clause license	23
OWASP-Java-Encoder 1.1	24
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jgit 3.6.1.201501031845-r	25
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HSQLDB (2.2.9)	26
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jersey (2.15)	30
c3p0 (0.9.5, fedora)	30

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If any provision of this Agreement is invalid or unenforceable under applicable law, it shall not affect the validity or enforceability of the remainder of the terms of this Agreement, and without further action by the parties hereto, such provision shall be reformed to the minimum extent necessary to make such provision valid and enforceable.

If Recipient institutes patent litigation against any entity (including a cross-claim or counterclaim in a lawsuit) alleging that the Program itself (excluding combinations of the Program with other software or hardware) infringes such Recipient's patent(s), then such Recipient's rights granted under Section 2(b) shall terminate as of the date such litigation is filed.

All Recipient's rights under this Agreement shall terminate if it fails to comply with any of the material terms or conditions of this Agreement and does not cure such failure in a reasonable period of time after becoming aware of such noncompliance. If all Recipient's rights under this Agreement terminate, Recipient agrees to cease use and distribution of the Program as soon as reasonably practicable. However, Recipient's obligations under this Agreement and any licenses granted by Recipient relating to the Program shall continue and survive.

Everyone is permitted to copy and distribute copies of this Agreement, but in order to avoid inconsistency the Agreement is copyrighted and may only be modified in the following manner. The Agreement Steward reserves the right to publish new versions (including revisions) of this Agreement from time to time. No one other than the Agreement Steward has the right to modify this Agreement. The Eclipse Foundation is the initial Agreement Steward. The Eclipse Foundation may assign the responsibility to serve as the Agreement Steward to a suitable separate entity. Each new version of the Agreement will be given a distinguishing version number. The Program (including Contributions) may always be distributed subject to the version of the Agreement under which it was received. In addition,

after a new version of the Agreement is published, Contributor may elect to distribute the Program (including its Contributions) under the new version. Except as expressly stated in Sections 2(a) and 2(b) above, Recipient receives no rights or licenses to the intellectual property of any Contributor under this Agreement, whether expressly, by implication, estoppel or otherwise. All rights in the Program not expressly granted under this Agreement are reserved.

This Agreement is governed by the laws of the State of New York and the intellectual property laws of the United States of America. No party to this Agreement will bring a legal action under this Agreement more than one year after the cause of action arose. Each party waives its rights to a jury trial in any resulting litigation.

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