

## 1. General

These Terms of Service are incorporated into an Appendix (“**Appendix**”) governing certain Web Based Services as further defined in the Appendix (including any related Documentation and application programming interfaces) that references these Terms of Service, and set forth the terms and conditions (“**Terms of Service**”) for Customer’s use of Web Based Services, provided by Liferay within the scope of the applicable Appendix.

Customer must also agree to comply with the Liferay Acceptable Use Policy as a precondition to the use of Web Based Services. These Terms of Service are in addition to the terms and conditions contained in the Appendix and supersede the terms of the Appendix in case of a conflict with respect to the Web Based Services.

## 2. Rights to the Web Based Services

Subject to the restrictions set forth in these Terms of Service below and the Agreement, Customer’s compliance with the other terms and conditions for Subscription Services established in the Appendix, and to the Acceptable Use Policy, Liferay grants to Customer a non-transferable, non-exclusive, worldwide, non-sublicensable right to use the Web Based Services limited to the applicable Subscription Term and limited to and in connection with the Units for which Customer has purchased Subscription Services from Liferay or a Business Partner. Customer acquires only the right to use the Web Based Services and does not acquire any rights of ownership in the Web Based Services. Liferay reserves all rights to the Web Based Services not expressly granted to Customer.

## 3. Restrictions, Intellectual Property Rights

**3.1** The features and/or functionality of some Web Based Services are limited according to the Documentation. Liferay may offer Add-on Subscriptions that extend the available features and/or functionality.

**3.2** The rights granted to Customer under these Terms of Service do not authorize Customer (nor may Customer allow any third party) to: (i) reverse engineer, translate, modify, loan, convert or apply any procedure or process to the Web Based Services in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings of the software utilized by Liferay in the provision of the Web Based Services or any trade secret information or process contained in the Web Based Services (except as permitted under applicable law); (ii) execute or incorporate other software (except for approved software as more particularly identified in the Documentation or specifically approved by Liferay in writing) into the Web Based Services, or create a derivative work of any part of the Web Based Services including but not limited to, any software utilized by Liferay in the provision of the Web Based Services; (iv) remove any product identification, trademarks, trade names or titles, copyrights, legends or any other proprietary marking in the Web Based Services; (v) disclose the results of any benchmarking of the Web Based Services (whether or not obtained with Liferay’s assistance) to any third party; (vi) use Web Based Services for the purpose of building a competitive product or service to the Liferay Software or Web Based Services or copying Web Based Services’ features or user interface; (vii) use any of the Web Based Services in violation of any applicable laws (including i. e. data protection laws, export or IP laws) or for any illegal activities or promotion, solicitation or encouraging of illegal activities and substances; (viii) use Web Based Services in a manner that might affect availability, functionality, and enjoyment of the Web Based Services by other users or third parties (such as unauthorized access to the accounts of other customers, harassing other users or third parties, any attempts to circumvent agreed limitations or the Service, intercepting, unauthorized monitoring or penetration, performance, vulnerability or security testing of the Web Based Service or breaching security measures, use for illegal or unlawful file sharing, launching or facilitating a denial of

service attack (DoS) from or on Web Based Service, hacking, cracking, spoofing or defacing any portion of the Web Based Service, posting, transmitting, or distributing spam mail, mass mailings, chain letters, any robot, spider, site search/retrieval application, or other automatic or manual process or device to retrieve or index data or “data mine”); or (ix) use Web Based Services for any purposes that might impact life, health or environment or telecommunication services, or use of the Web Based Services as “miner” or “forder” of cryptocurrencies or using Web Based Services to operate a general-purpose proxy or “open proxy”. Customer agrees to indemnify, defend and hold Liferay harmless from and against any costs, losses, liabilities, claims or expenses (including reasonable attorneys’ fees) arising out of any allegation or claim to the extent is based on a violation of this Section 3.2.

**3.3** Customer is hereby notified that the Web Based Services may contain or be subject to time-out devices, counter devices, and/or other devices intended to ensure the limits of the rights granted to Customer under these Terms of Service will not be exceeded (“**Limiting Devices**”). If the Web Based Services contain or are otherwise subject to Limiting Devices, Liferay will provide Customer with materials necessary to use the Web Based Services to the extent permitted. Customer may not tamper with or otherwise take any action to defeat, disable or circumvent a Limiting Device or timing or use restrictions that are built into, defined or agreed upon, regarding the Web Based Services, including but not limited to, resetting the Unit amount.

**3.4** Customer acknowledges and agrees that title to the Web Based Services including but not limited to, any software utilized by Liferay in the provision of the Web Based Services and each component, copy and modification, including but not limited to all derivative works, improvements or upgrades (“**Derivative Works**”) whether made by Liferay, Customer or on Liferay’s or on Customer’s behalf, including those made at Customer’s suggestion and all associated intellectual property rights, are and shall remain the sole and exclusive property of Liferay, its Affiliates and/or its licensors. As between Customer and Liferay, Customer shall own all independently developed code and documentation and any associated intellectual property rights developed by Customer or on Customer’s behalf that are separate from the code base of the Web Based Services (i.e. non-Derivative Works).

## 4. Customer Data and Statistics

**4.1** Information as to whether, what and how Customer Data may be processed through certain Web Based Services can be found at: <https://www.liferay.com/legal/cloud-services-data>. To the extent the applicable Web Based Services include the processing of Personal Data the following Sections 4.2 through 4.11 shall apply.

**4.2** For purposes of this Section 4 “**Data Protection Laws**” means the applicable data protection or privacy laws to the extent such laws apply to the processing of data within the scope of the Web Based Services. “**Personal Data**” shall have the meaning assigned to it by Data Protection Laws.

**4.3** Customer agrees that for purposes of processing of Customer’s Personal Data through the Web Based Services Liferay acts as data processor and is appointed and authorized to process such Personal Data on behalf of the Customer in accordance with Customer’s instructions and in accordance with the terms of the Agreement (including Liferay’s confidentiality obligations set forth in the Base Agreement) and only to the extent required in order to provide the Web Based Services to Customer but for no further purposes. The Parties agree that Customer’s instructions are properly documented in the Agreement. Processing of Personal Data for any other purposes requires a prior written agreement between the Parties.

**4.4** Customer acknowledges that for purposes of delivering the Web Based Services Liferay engages the Affiliates and subcontractors identified at

[www.liferay.com/legal/cloud-services-data](https://www.liferay.com/legal/cloud-services-data) as sub-processors, and that such sub-processors are located in territories world-wide that may not have the same level of protection as the country of the origin of Personal Data. Customer authorizes Liferay to engage the aforementioned and additional sub-processors ("Sub-processors"), provided that: (i) Liferay imposes obligations on the Sub-processors with regard to processing of Personal Data that shall be not less strict than those agreed between Customer and Liferay in this Section; (ii) as between Liferay and Customer, Liferay remains responsible for processing of Personal Data by its Sub-processors and liable for any violations of Liferay's obligations under the Agreement; (iii) Liferay maintains at all times the list of Sub-Processors available at: <https://www.liferay.com/legal/cloud-services-data>; and (iv) Customer may object to an appointment of an additional Sub-processor by Liferay due to justified concerns regarding such Sub-processors' ability to comply with the data privacy and security obligations applicable to Liferay under the Agreement. Upon receipt of Customer's objection specifying the concerns, Liferay and Customer will enter into good faith negotiations to address Customer's concerns. If Parties should not be able to agree on measures to resolve Customer's concerns in due time, either Party may terminate the Agreement without liability to the other Party.

**4.5** Throughout the term of the Agreement, Liferay will maintain commercially reasonable and appropriate Technical and Organizational Measures located at <https://liferay.com/legal/cloud-services-data> ("**TOM**") to protect any Personal Data stored by Customer in the Web Based Service. Liferay may at its sole discretion update its TOM at any time and without notice to Customer, provided, however, that any such updates shall not materially reduce the security and data protection standards set forth in the TOM applicable as of the Effective Date of the Order Form governing Customer's use of the applicable Web Based Service.

**4.6** Each Party shall comply with its respective obligations under the applicable Data Protection Laws. As the Party in control of Personal Data, Customer is at all times responsible for assessing if the contractual assurances, TOM implemented and backup functionalities offered by Liferay are appropriate for the Personal Data Customer intends to upload to the Web Based Services in accordance with the Data Protection Laws. Customer shall refrain from uploading and/or, if required to assure compliance with the applicable Data Protection Laws, remove, any Personal Data to the Web Based Services to the extent processing of such Personal Data through the Web Based Service would constitute a violation of the Data Protection Laws applicable to such Personal Data. To the extent required under applicable laws, Customer will obtain any necessary consent from, provide any required notification and/or information to the data subjects, and reply to the requests of the data subjects exercising their rights under the Data Protection Laws with regard to the Personal Data Customer transfers, uploads or stores in the Web Based Services. As between the parties, Customer is solely responsible for its own secure use of the Web Based Services, including, without limitation, compliance with Customer's own security policies, its use and distribution of access credentials.

**4.7** Either Party shall inform the other Party of any suspected or actual unauthorized access to the Personal Data resulting in unauthorized alteration, disclosure or loss of Personal Data stored in the Web Based Services without undue delay ("**Security Incident**"). The Parties shall cooperate in good faith to investigate the reasons and consequences of the Security Incident and take reasonable steps to address the Security Incident and prevent future Security Incidents. Liferay may provide such notifications either via email notification to the email address associated with the applicable Customer account and/or notification within the applicable Web Based Service.

**4.8** Upon Customer's written request to be made no later than fourteen (14) days upon expiration of Customer's applicable Web Based Services Subscription, Liferay will provide Customer with access to the Web Based Services for up to a fourteen (14) day period starting from the date of receipt of Customer's request, solely for purpose of retrieval of Customer's Content,

which as defined in the Acceptable Use Policy includes Personal Data stored by the Customer in the Web Based Services. Liferay shall have no obligation to maintain and will irretrievably remove the Content upon expiration of a thirty (30) day period after expiration of Customer's Subscription that provides for access to the Web Based Services.

**4.9** Customer agrees to notify Liferay of any intent to upload, store or process any Personal Data subject to the EU General Data Protection Regulation 2016/679 ("**GDPR**") in the Web Based Services prior to uploading any such Personal Data to the Web Based Services. In such case, Customer agrees, as a precondition to such uploading, storage or processing, to comply with the Data Processing Addendum located at [www.liferay.com/legal/doc/DPA/1001810](https://www.liferay.com/legal/doc/DPA/1001810) ("**DPA**"), which terms are incorporated by reference into this Appendix. Prior to uploading any such Personal Data, Customer shall execute and return an executed copy of the DPA to Liferay. In any event of inconsistencies between the terms of the DPA and this Section 4, the terms of DPA shall prevail in relation to the Personal Data subject to the GDPR.

**4.10** For clarification, either Party understands and agrees that processing of the business contact data of the employees or third parties involved in performance or using Subscription Benefits of the Agreement on behalf of the other Party does not constitute data processing on behalf of that other Party. Liferay processes such business contact data in accordance with its privacy statement at: [www.liferay.com/privacy-policy](https://www.liferay.com/privacy-policy).

**4.11** Customer acknowledges and agrees that Liferay may use solutions or technologies that monitor Customer's usage statistics while using the Web Based Services. Liferay will only use such usage statistics related to Customer's use of the Web Based Service in accordance with the Privacy Policy at: <https://www.liferay.com/privacy-policy> and only to improve Liferay offerings, to assist a Customer in its use of the Liferay Service and to monitor Customer's compliance with the use restrictions applicable to the Service as set forth in the applicable Appendix. Liferay may collect and use, for any purpose, aggregated anonymous usage data about Customer's use of the Web Based Services.

## **5. Availability**

Liferay will use commercially reasonable efforts to make Web Based Services available twenty-four (24) hours a day, seven (7) days a week, except for (i) planned downtimes or (ii) any unavailability of the Web Based Services caused by circumstances beyond Liferay's reasonable control, including, without limitation any Force Majeure Event, delays and downtimes of Liferay's or Customer's hosting or internet-service-providers.

## **6. Changes**

Liferay may periodically update, upgrade, backup, improve and/or discontinue certain functionality associated with the Web Based Services and Customer's user experience. As a result, the Web Based Services may be substantially modified. Liferay reserves the right at any time to change and/or discontinue any or all of the Web Based Services (including the underlying platforms and application programming interfaces ("**APIs**") and/or application binary interfaces ("**ABIs**") which may inhibit Customer's ability to use existing applications. Liferay will use reasonable efforts to provide advance notice of material changes to the Web Based Services on the applicable Web Based Services website.

## **7. Suspension**

Without limiting other rights that Liferay may have, Liferay may suspend or terminate Customer's Web Based Services Subscriptions, disable access to the Web Based Service for Customer or take down Customer Content as defined in the Acceptable Use Policy immediately if Liferay reasonably believes Customer has breached the Agreement, the Acceptable Use Policy, these Terms of Service, applicable law or has violated or is violating any third party rights, without any liability to Customer and without obligation to

refund any prepaid Fees to Customer. Where appropriate and permitted under applicable law, Liferay will notify Customer of any suspension and reasons thereof and request rectification of the breach within a reasonable time frame specified by Liferay in the notification (“**Cure Period**”). If Customer fails to rectify violation of this Agreement within the Cure Period, then the Agreement will automatically terminate upon expiration of the Cure Period.