



APPENDIX 1: ENTERPRISE SUBSCRIPTION SERVICES

This Appendix 1, which includes the documents referred to in this Appendix 1 (together, the “**Appendix**”), describes the fee bearing subscriptions that Liferay offers (“**Subscriptions**”). The Services that Liferay provides to Customer as part of these Subscriptions (the “**Subscription Services**”) provide Customer, as applicable, with one or more Subscription Benefits as further described in Section 2. Any capitalized terms used but not defined in this Appendix have the meaning defined in the agreement to which this Appendix applies, such as the Liferay Enterprise Services Agreement (the “**Agreement**”).

1. Definitions

“**Acknowledge Receipt Time**” means the time by which Liferay must respond to an Incident acknowledging receipt of the Incident as set forth in Section 7.3 below. Acknowledge Receipt Times are only supported in response to an Incident that is submitted to Liferay via telephone. Incidents submitted via the web shall have a one (1) Business Day Acknowledge Receipt Time.

“**Backup Purposes**” means using the Services (including Software) solely in a backup or secondary environment that is (i) periodically or regularly receiving backups of data from Servers used for Production Purposes; (ii) not servicing requests; and (iii) used for the purpose of disaster recovery and/or serving as a backup in case a live Server used for Production Purposes fails.

“**Business Day**” means a standard business day based on Customer’s “Support Region” and “Support Center” as set forth at www.liferay.com/support/coverage-areas-and-hours.

“**Business Hour**” means a clock hour during the standard business hours of a Business Day based on Customer’s “Support Region” and “Support Center” as set forth at www.liferay.com/support/coverage-areas-and-hours.

“**Core**” means a computing component that reads or executes a process as (i) a physical processing core located in a CPU or (ii) a vCPU (as defined below).

“**Customer Application**” means the Software and Customer’s unique implementation of the Software that extends the functionality of the Software.

“**Development Purposes**” means using the Subscription Services (including any Software) for the specific purpose of building software that runs with or on the Software.

“**Designated Contact**” means Customer’s contact designated to communicate with Liferay for the provision of Support and/or any other Subscription Services.

“**Designated Purpose**” means the specific use case and purpose for which Customer utilizes the Subscription Services and Software on a Server, for example Production or Backup Purposes.

“**Forked Software**” means modifications to the Software source code to develop a separately maintained source code program (i) with features not present in the Software source code or (ii) where modifications to the original source code of the Software are not automatically integrated with the original source code of the Software.

“**Incident**” means a single, discrete technical problem that cannot be reasonably subdivided, and also that is not overly broad in scope, the severity of which shall be determined in accordance with Section 7.1.

“**Instance**” means a single installation of the Software known as “Liferay Portal”, which corresponds to one (1) Liferay Portal .WAR file.

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

“**Non-Production Purposes**” means using the Services (including Software) solely in a non-production environment, generally for the purposes of dev-integration, testing, quality assurance, staging, and user acceptance testing but excluding Development Purposes.

“**Production Purposes**” means using the Services (including any Software) in a production environment, generally to service live requests and to use live data and Software.

“**Server**” means a physical machine or virtual machine.

“**Services**” as defined in the Agreement shall for the purposes of this Appendix mean Subscription Services.

“**Software**” or “**Liferay Software**” means the software and corresponding documentation that Liferay provides access to as part of Software Access, Software Maintenance and Support. Software shall not include third-party software applications that are made available through the Liferay Marketplace located at www.liferay.com/marketplace (“**Third-Party Marketplace Apps**”), Third Party Software or generally available open source projects such as Liferay Portal Community Edition, Liferay Social Office Community Edition and/or other community projects.

“**Software Access**” has the meaning set forth in Section 2.1 below.

“**Software Maintenance**” has the meaning defined in Section 2.2 below.

“**Subscription Benefit(s)**” means one or more of the defined benefits described in Section 2 below.

“**Subscription Term**” has the meaning defined in Section 5 below.

“**Support**” has the meaning set forth in Section 2.3 below.

“**Support (Service) Level**” means the level of Support (e.g. Gold or Platinum) for a specified scope of Support as described in Section 7 below and specified in an Order Form.

“**Third Party Software**” means any software program, computer code, programming libraries, application programming interfaces, or other materials, (i) the intellectual property rights of which are not owned by Liferay or its Affiliates and (ii) which are not licensed to Customer under the EULAs set forth in the Agreement or this Appendix, but is licensed subject to the applicable license terms and conditions set forth in a file accompanying the Software (and for certain Software also at www.liferay.com/third-party-software).

“**Unit**” means the unit that is used to measure Customer’s use of the Subscription Services as set forth in Section 6.

“**Updates**” means any and all software fixes, updates, upgrades, enhancements, additions, corrections, modifications, new versions and releases, when and if they are made available.

“**User Entitlement**” means an entitlement for one (1) individual user of the Software known as “**Liferay Social Office**”.

“**Virtual CPU**” or “**vCPU**” means a virtual machine’s virtual processor to which a physical CPU is assigned, in whole or in part.

2. Benefits of Subscription Services

Subscription Services provide Customer with one or more of the following benefits as specified in the applicable Schedule identified in Section 6 below (“**Subscription Benefits**”):

2.1 Access to Liferay Software

Liferay will provide Customer access to supported versions of Software (and the applicable Third Party Software) for electronic download from Liferay’s website (“**Software Access**”). The Software is governed by one or multiple End User License Agreement(s) (“**EULAs**”) identified in Section 6 below.

2.2 Software Maintenance

Liferay will periodically make available Updates for electronic download from Liferay’s website (“**Software Maintenance**”).

2.3 Software Support

Liferay (and/or a Liferay Business Partner, if applicable) will provide Customer with access to Liferay support for issues relating to the Software and the applicable Third Party Software to the extent such Third Party Software causes the Software to not substantially conform to the Documentation as further described in Section 7 below (“**Support**”).

2.4 Legal Assurance

Liferay provides a set of intellectual property assurances according to the terms of Liferay’s Legal Assurance Program set forth in Schedule 1.A.

Please note: Unless otherwise explicitly noted in the applicable EULA, the Software is provided under a perpetual license (subject to Customer’s compliance with applicable terms) while the benefits of the Subscription Services are limited to a specified period of time and will expire unless Customer renews its Subscription Services. For example, while Customer may continue using Software under the terms of the perpetual license, any available Subscription Benefits such as Support or Legal Assurance would terminate unless Customer renews its Subscription Services.

3. Subscription Fees

Liferay charges a Fee for the Subscription Services based on the total number of Units that Customer deploys, installs, uses or executes (the Units for Subscription Services are described in Table 6 below). For example, the Subscription Services for the Software known as “Liferay Portal” are priced based on the number of Cores and JVMs on which Customer deploys, installs, uses or executes the Software. While Customer has a Subscription entitling Customer to receive Subscription Services, Customer is required to purchase a quantity of Subscriptions equal to the total number of Units applicable to that Subscription (including variants or components of the Software or Subscription Services) that Customer deploys, installs, uses or executes. In addition, if Customer uses Subscription Services to support or maintain Liferay Software (or any part thereof) then Customer must purchase Subscriptions equal to the amount of Units applicable to that Liferay Software for which Customer uses Subscription Services. Within each unique Customer Application (i) Customer shall maintain all Subscriptions that include Support at the same Support Level for all Units (for clarity, Customer may not purchase Platinum Support Services Level for one Unit and Gold Support Services Level for any additional Units deployed within a Customer Application, independent of whether such Units are used for Production Purposes, Backup Purposes or for Non-Production Purposes); and, (ii) Customer is required to maintain at least one (1) Subscription for Production Purposes. If Customer terminates Subscriptions or does not renew Subscriptions within thirty (30) days after the termination or expiration of a Subscription Term and as a genuine pre-estimate of Liferay’s losses and costs associated with reinstatement, Liferay reserves the right to charge Customer reinstatement Fees on a per Unit basis (the “**Reinstatement Fee**”). The Reinstatement Fee per Unit shall be equal to one hundred twenty percent (120%) of the Fees for the reinstated Subscription Services, agreed between Customer and Liferay as of the date of reinstatement, and pro-rated based on the lapsed period between the expiration or termination of the Subscription Term and the date the Subscription Services are reinstated.

4. Use of Subscription Services

The Agreement, including this Appendix (including pricing Liferay has agreed to in an Order Form) is premised on Liferay’s understanding that Customer will use the Subscription Services and Software only for Customer’s internal use (which includes Customer’s Affiliates). The foregoing

sentence is not intended to limit Customer’s internal use of the Subscription Services (including any Software) to operate a web site and/or to offer Customer’s own software as a service, provided such web site or service does not include a distribution of the Software or Subscription Services, in whole or in part. Customer agrees not to use Subscription Services with higher Support Service Levels (e.g. Platinum) to provide such higher Support Service Levels to Units with Subscriptions that include lower Support Service Levels (e.g. Gold), unless Customer reports and pays for the higher Support Services Levels on such Units. Customer may transfer Subscriptions from one Unit to another Unit with the same Subscription characteristics (such as from one on-premise Server to another on-premise Server) without the purchase of additional Subscriptions, provided that Customer does not increase the total quantity of Units and use the Subscriptions for the same Designated Purpose, if applicable. (Please note: transfers of Subscription Services may require Customer to contact Liferay for underlying technical administration of the transfer to ensure continuity of Services.) Distributing the Software or any portion of the Subscription Services to a third party or using any of the Subscription Services for the benefit of a third party is a material breach of the Agreement, including this Appendix, even though open source licenses applicable to certain software packages may give Customer the right to distribute those packages (and this Appendix is not intended to interfere with Customer’s rights under those individual licenses). The Subscription Services may be used under the terms of this Appendix by third parties acting on Customer’s behalf, such as contractors, subcontractors or outsourcing vendors, provided that (i) Customer remains responsible for all of Customer’s obligations under the Agreement and this Appendix and for the activities and omissions of the third parties, (ii) Customer controls the access to the Software, if and when the Software is deployed within a third party data center and (iii) Customer agrees to the terms stipulated in Schedule 1.E (Liferay Cloud Deployments) before Customer migrates its Subscription Services off of Customer’s premises or off of Servers within a third party data center that are under Customer’s control into a Provider’s Cloud (as defined in Schedule 1.E). Any unauthorized use of the Subscription Services is a material breach of the Agreement, such as, without limitation, (1) only purchasing or renewing Subscription Services based on some, but not all, of the total number of Units that Customer deploys, installs, uses or executes, (2) providing Software Access or Software Maintenance to third parties, (3) using Software Access, Software Maintenance and/or Support to provide support to third parties, (4) using Subscription Services in connection with any redistribution of Software, (5) using Subscription Services to support or maintain any non-Liferay Software, (6) using Subscription Services or Software for the purpose of building a competitive product or service to the Liferay Software or Services or copying the Software’s features or user interface, (7) using the Subscription Services or Software to develop or enhance any (a) software that is not Software including but not limited to any open source version of Software (such as “Liferay Portal Community Edition”) or (b) derivative works of any software that is not Software; or (8) developing Forked Software. If Customer uses any Subscription Services or Software for non-Liferay Software, Customer agrees that as a minimum and non-exclusive remedy in case of such breach, Customer will pay Liferay the Subscription Services Fees for each Unit for which Customer utilizes the Subscription Services or Software in connection with such software that is not Software.

5. Subscription Term

Unless otherwise specified in writing, Subscription Services will begin on the date Liferay accepts Customer’s order for the applicable Subscriptions (please note that the foregoing does not limit Customer’s obligation to pay for Subscription Services that Customer previously used but for which Customer has not paid) and will run for a term of twelve (12) months. Unless otherwise agreed in writing, Subscriptions have a minimum term of twelve (12) months and cannot be terminated for convenience by either party. Unless otherwise agreed in the applicable Order Form and provided that Liferay has provided an email notification of an upcoming renewal to the email address associated with Customer’s applicable customer account at least sixty (60) days prior to the renewal date of the Subscriptions, the term of the Subscription Services will automatically renew for successive terms of one (1) year each, unless either party gives written notice to the other of its intention not to renew at least thirty (30) days prior to the expiration of a (initial or renewal) term (initial term and any renewal term collectively referred to as the “**Subscription Term**”).

6. Available Subscription Services, Units, EULAs

Table 6 below sets forth various Subscriptions that Liferay offers, the applicable Unit, and the applicable EULA if Software Access is a Subscription Benefit. The Schedules listed in Table 6 contain additional information concerning the scope of the Subscription Services.

Table 6

	Enterprise Subscriptions	Unit	EULA	Schedule*
Liferay Portal and Portal Add-On Enterprise Subscriptions	Liferay Portal	Cores and JVMs per Server	Portal and certain applications: www.liferay.com/legal/doc/eula/portal/1001501 Developer Studio: www.liferay.com/legal/doc/eula/ds/1001501	Schedule 1.B
	Liferay Portal JVM Add-On	JVMs per Server	www.liferay.com/legal/doc/eula/portal/1001501	Schedule 1.B
	Liferay Portal Core Add-On	Cores per Server	www.liferay.com/legal/doc/eula/portal/1001501	Schedule 1.B
Liferay Social Office and other Liferay Apps Enterprise Subscriptions	Liferay Social Office	User Entitlements	www.liferay.com/legal/doc/eula/so/1001501	Schedule 1.C
	Liferay Paid Apps	Instances	www.liferay.com/legal/doc/eula/pa/1001501	Schedule 1.C
Liferay Enhanced Support and Customer Experience Subscriptions	Designated Contact Add-On	Designated Contacts	N/A	Schedule 1.D
	Extended Premium Support	Cores and JVMs per Server	N/A	Schedule 1.D

* For the avoidance of doubt, only those Schedules applicable to Enterprise Subscriptions that Customer has purchased shall apply.

7. Support Services

Liferay will provide Support to Customer according to the following terms.

7.1 Severity Levels

Severity Levels are determined during a mutual discussion between Customer and Liferay, based on the business impact of the issue.

Severity 1 (“Critical”) Incidents: A Severity 1 Incident means the (i) production system is severely impacted or completely shut down, or (ii) system operations or mission-critical applications are inoperable, or (iii) mission-critical applications that have experienced repeated material system interruptions that are effectively making the applications inoperable.

Severity 2 (“Major”) Incidents: A Severity 2 Incident means (i) the system is functioning with limited capabilities, or (ii) is unstable with periodic interruptions, or (iii) mission critical applications, while not inoperable, have experienced material system interruptions.

Severity 3 (“Minor”) Incidents: A Severity 3 Incident means the system is fully functional but there are observed errors that do not impact the usability of the system.

Liferay will work on issues designated as Severity 1 twenty-four (24) hours a day, seven (7) days a week, (“24x7”), provided that Customer’s support team is also available to work during those hours. If Customer’s support team is not readily available 24x7, Liferay reserves the right to lower the severity level to match the actual business impact until Customer’s support team is available to support the incident on a 24/7 basis.

7.2 Designated Contacts

Liferay will provide Support Services to Customer only through communication with the Designated Contacts. Customer may designate up to the number of Designated Contacts described in the table below based on the number of Subscriptions for Production Purposes Customer has purchased. Customer may add Designated Contacts by purchasing additional “Designated Contact Add-on” Subscriptions (as listed in Section 6). Customer shall use commercially reasonable efforts to maintain consistent Designated Contacts during the term of this Agreement. Customer may not use a single Designated Contact to act as a mere forwarding service for other of Customer’s personnel.

Table 7.2

Number of Subscriptions for Production Purposes	Designated Contacts for Gold Support Level	Designated Contacts for Platinum Support Level
1 to 4	2	3
5 to 8	4	6
9 to 12	6	9
13 to 16	8	12
17 to 20	10	15
21 and over	12	18

7.3 Acknowledge Receipt Times

Once Customer has contacted Liferay about an Incident, Liferay will provide an acknowledgement of receipt within the applicable time frame specified below, in accordance with Customer’s appropriate Support Services Level. Bug fixes will be delivered to Customer’s Designated Contacts. As used in this Section, a receipt acknowledgment means a qualified Liferay engineer has been assigned to the Incident and has begun to work to resolve the Incident.

Table 7.3(A) – Platinum Level

Severity Level	Acknowledge Receipt Time
1	1 clock hour
2	2 Business Hours
3	1 Business Day

Table 7.3(B) – Gold Level

Severity Level	Acknowledge Receipt Time
1	4 Business Hours
2	1 Business Day
3	2 Business Days

7.4 Support Exclusions

Liferay is not obligated to provide Support Services in the following situations:

- i. Software has been modified, changed, damaged by Customer in any way, except as provided in the applicable Documentation or otherwise as directed by or under agreement with Liferay, with or without malicious intent;
- ii. the Incident is caused by Customer’s negligence, malicious intent, hardware malfunction, or other causes beyond the reasonable control of Liferay;
- iii. the Incident is caused by Third Party Software, unless the Third Party Software causes the Software to not substantially conform to the Documentation;
- iv. Customer has been previously provided a fix for an Incident reported to Liferay and where Customer has not installed such fix within forty-five (45) days after its being given to Customer;
- v. the deployment environment is not approved or supported by Liferay, as identified at www.liferay.com/services/support/support-matrix; and/or
- vi. Liferay has discontinued Services for the version of the Software in accordance with Liferay’s End of Service Life (EOSL) Policy, a copy of which can be found at www.liferay.com/products/liferay-portal/ee/end-of-service-life.

Notwithstanding the above, Liferay may nevertheless, but is not obligated to, provide Support Services to Customer in the above cases (i)-(vi).

7.5 Conditions for Providing Support

Prior to logging an Incident with Liferay, Customer will use commercially reasonable efforts to diagnose the nature of the Incident to ensure that it is resident in the Software and not a third-party application or component. During the collaborative initial phase of reporting an Incident, Customer will reciprocate a reasonable level of time and resources in accordance with the severity of Incident. Customer acknowledges that Liferay’s ability to perform certain Support Services may be conditioned upon access to and completeness of certain of Customer’s information as reasonably requested by Liferay. Such information may include, but is not limited to, the type of hardware Customer is using, a description of the Incident for which Customer seeks Support Services, and any other additional software Customer is using.

8. End of Service Life (EOSL) Policy.

During the Services life cycle of a specific version of Software, the scope of Software Maintenance and Support evolves and, after a number of years, phases out for older versions of Software. The details of the Software Maintenance and Support life cycle are set forth at www.liferay.com/products/liferay-portal/ee/end-of-service-life. For certain Software, Liferay offers Extended Premium Support as described in Schedule 1.D to extend the Premium Support Phase for a specific version of Software.

9. Web Based Delivery

Liferay will provide the Software (including any Updates) to Customer for electronic download from Liferay’s website. Software (including any Updates) shall be considered delivered by Liferay to Customer when made available for download.



SCHEDULE 1.A: LIFERAY LEGAL ASSURANCE

This Legal Assurance Program (“**Program**”) describes certain the intellectual property assurances described in Section 2 below that Liferay offers to Customer as a Subscriptions Benefit for Assured Software (as defined in Section 1 below) in addition to one or more other Subscription Benefits such as Software Access, Software Maintenance or Support as further described in the Subscription Services Appendix to which this Schedule is attached (Subscriptions including Legal Assurance are referred to as “**Eligible Subscriptions**”). The effective date of this Program (“**Program Effective Date**”) is the date Customer accepts the terms of this Program Appendix as an integral part of the agreement governing the Eligible Subscriptions such as the Liferay Enterprise Services Agreement (“**Agreement**”).

There is no additional or separate Fee associated with Customer’s participation in this Program. By accepting the terms of this Program as part of the Agreement, the Program automatically applies to Assured Software (as defined in Section 1 below). This Program applies regardless of whether Customer purchases the Eligible Subscription directly from Liferay or a Business Partner, provided that it is a valid Subscription evidenced by an active registration in Customer’s Liferay Customer Portal account.

1. Assured Software

This Program covers the Software including any Updates to the extent the relevant Units are covered by an active Eligible Subscription at the time of the Claim (as defined in Section 2) or threatened Claim (such Software referred to as “**Assured Software**”). Assured Software does not include Third Party Software.

2. Intellectual Property Assurances

2.1 Obligations

If an unaffiliated third party initiates a legal action against Customer (such action, a “**Legal Action**”) and the Legal Action includes an allegation that Customer’s use of Assured Software directly infringes the third party’s copyrights, patents or trademarks, or misappropriates the third party’s trade secret rights (such allegation within a Legal Action, a “**Claim**”) and Customer has complied with and remains in compliance with the terms of this Program, then, subject to the other terms in this Program, Liferay will (i) defend Customer against the Claim and (ii) pay costs, damages and legal fees that are included in a final judgment against Customer (without right of appeal) or in a settlement approved by Liferay that are attributable to Customer’s use of the Assured Software.

2.2 Remedies

If an injunction against Customer’s use of the Assured Software is obtained pursuant to a Claim, Customer’s use of Assured Software is found by a court to infringe a third party’s copyrights, patents or trademarks, or misappropriates the third party’s trade secret rights or if Liferay believes that such a finding, injunction or a Claim is likely, then Liferay will, at its expense and option: (i) obtain the rights necessary for Customer to continue to use the Assured Software consistent with the Agreement; (ii) modify the Assured Software so that it is non-infringing; or (iii) replace the infringing portion of the Assured Software with non-infringing code of similar functionality (subsections (i), (ii) and (iii) are the “**IP Remedies**”); provided that if none of the IP Remedies is available on a basis that Liferay finds commercially reasonable, then Liferay may terminate the Agreement and/or the applicable Order Form including any applicable End User License Agreement without further liability under this paragraph, and, if Customer then returns the Assured Software that is the subject of the Claim, Liferay will refund any prepaid Fees for the Eligible Subscription(s) related to Assured Software based on the time remaining under the applicable Eligible Subscription as of the effective date of such termination.

2.3 Conditions

As conditions precedent to Liferay’s obligations to Customer under this Section 2, Customer must comply with the following conditions: Customer must (i) be current in the payment of all applicable Fees prior to a Claim or threatened Claim; and remain current in such payments throughout the term of the Program, (ii) notify Liferay promptly, but in no event later than ten (10) days of receipt of any Claim for which relief is sought under this Program; (iii) provide Liferay with the right to control and conduct the defense of the Legal Action (to the extent the Legal Action is related to the Claim) with counsel of its choice and to settle such Claim at Liferay’s sole discretion; (iv) not assert or have asserted or have encouraged or assist any third party to assert, against Liferay or any of its Affiliates, customers or Business Partners, any claim that Liferay or a Liferay product infringes copyrights, patents or trademarks, or misappropriates trade secret rights and (v) cooperate with Liferay in the defense of the Claim.

2.4 Exclusions

Notwithstanding the foregoing, Liferay will have no obligations under Section 2 with regard to any Claim to the extent that it is based upon (i) a modification of Assured Software not made by, or at the written direction of, Liferay (ii) Liferay’s compliance with any designs, specifications or instructions provided by Customer; (iii) use of the Assured Software in combination with products, data or business methods not provided by Liferay, if the infringement or misappropriation would not have occurred without the combined use; (iv) facts or circumstances constituting a breach of the Agreement; (v) use of any release of the Assured Software if, as of the date of a Claim the infringement or misappropriation would not have occurred through use of a more recent release of the Assured Software; (vi) any use of the Assured Software by Customer other than for Customer’s internal use (Customer’s own internal use does not include, for example, web hosting services, managed services, Internet service provider (ISP) services, others’ use of the Assured Software, or similar uses or making, offering to sell, selling, distributing and/or importing products that include Assured Software); (vii) use by Customer after notice by Liferay to discontinue use of all or a portion of the Assured Software to avoid infringement or misappropriation; (viii) a claim or lawsuit by Customer against a third party (or results from or arises out of such claim or lawsuit) or (ix) allegations associated with software, technology, products or other subject matter other than Assured Software (including, but not limited to allegations associated with the Legal Action other than the Claim, including any allegations that remain after the Claim is resolved), and Customer assumes full responsibility for fees, costs and damages associated with defending, settling and/or paying any resulting judgment or settlement in connection with software, technology or products that are not Assured Software.

3. Term

The term of this Program will begin on the Program Effective Date and will terminate upon the expiration or termination of Customer's last active Eligible Subscription, provided that if Liferay updates or amends the Program, (i) this Program will apply only until the end of the then current Subscription Term for any active Eligible Subscriptions and (ii) Customer will have the opportunity, in Customer's sole discretion, to participate in the updated or amended Program for any additional Eligible Subscriptions or renewal terms of existing Eligible Subscriptions. If this Program expires or is terminated for any reason, Section 1 and Sections 3-5 will survive termination.

4. Limitation of Liability

4.1 Liferay will not be obligated to pay any amounts in connection with a Claim related to any period of time during which Customer does not have active and fully-paid Eligible Subscriptions related to the Assured Software. Liferay will have no obligation to Customer under this Program if, as of the Program Effective Date, Customer has received notice of allegations of infringement or are engaged in litigation concerning the subject matter of what would otherwise be a Claim under this Program or with respect to a product substantially similar to the Assured Software. If the Legal Action includes a claim that both Assured Software and non-Assured Software infringe, then Customer will be responsible for a proportional share of common fees and costs in defending such claim based on the relative number of Assured Software and non-Assured Software.

4.2 Limitation of Liability

I. Limitation of Liability.

IT IS LIFERAY'S INTENT TO PROVIDE CUSTOMER A SET OF PROTECTIONS UNDER THIS PROGRAM RELATED TO CLAIMS (AS DEFINED IN SECTION 2 ABOVE). IT IS NOT LIFERAY'S INTENT TO EXPAND LIFERAY'S TOTAL LIABILITY TO CUSTOMER IN EXCESS OF THE LIABILITY LIMITATIONS SET FORTH UNDER THE AGREEMENT WITH CUSTOMER. IN THIS REGARD, LIFERAY'S AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY UNDER BOTH THIS PROGRAM AND THE AGREEMENT SHALL BE SUBJECT TO THE LIMITATIONS OF LIABILITY CONTAINED IN THE AGREEMENT IN EFFECT AS OF THE DATE OF A CLAIM; PROVIDED, HOWEVER, IN NO EVENT WILL LIFERAY'S AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY TO CUSTOMER ARISING OUT OF OR RELATING TO ANY AND ALL CLAIMS UNDER THIS PROGRAM EXCEED, THE GREATER OF (I) TWENTY THOUSAND UNITED STATES DOLLARS (\$20,000) OR (II) THE TOTAL FEES RECEIVED BY LIFERAY IN RESPECT OF CUSTOMER'S PURCHASES OF ELIGIBLE SUBSCRIPTIONS COVERING THE ASSURED SOFTWARE SUBJECT OF THE CLAIM (DIRECTLY OR INDIRECTLY FROM A LIFERAY BUSINESS PARTNER) DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FILING DATE OF THE ORIGINATING SUMMONS OR OTHER INITIATING DOCUMENT/WRIT IN THE FIRST CLAIM GIVING RISE TO LIABILITY FOR LIFERAY UNDER THIS PROGRAM; PROVIDED THAT, IF CUSTOMER HAS PREPAID ANY FEES FOR ELIGIBLE SUBSCRIPTIONS COVERING THE ASSURED SOFTWARE SUBJECT OF THE CLAIM, FOR TERMS LONGER THAN TWELVE (12) MONTHS, THE APPLICABLE LIABILITY AMOUNT SHALL BE THE ANNUALIZED PRO RATED AMOUNT RECEIVED BY LIFERAY FOR THE RELEVANT TWELVE-MONTH PERIOD.

II. Exclusion of Liability.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS PROGRAM, THE AGREEMENT OR AN ORDER FORM, IN NO EVENT WILL LIFERAY OR ITS AFFILIATES BE LIABLE TO CUSTOMER OR CUSTOMER'S AFFILIATES UNDER ANY LEGAL OR EQUITABLE THEORY, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY, STATUTE OR OTHERWISE, FOR OR IN CONNECTION WITH:

- a. ANY ECONOMIC LOSSES, LOSS OF REVENUE, LOSS OF CUSTOMERS OR BUSINESS, LOSS OF OR DAMAGE TO REPUTATION OR GOODWILL, LOSS OF ANTICIPATED PROFITS, LOSS UNDER OR IN RELATION TO ANY OTHER CONTRACT, LOSS OF DATA OR INTERRUPTION OF SERVICES, LOSS OF ANTICIPATED SAVINGS OR BENEFITS, OR COVER OR ANALOGOUS COST RELATED TO THE PROCUREMENT OF REPLACEMENT SERVICES OR SOFTWARE;
- b. ANY LOSSES, COSTS, EXPENSES OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, REGULATORY NON-COMPLIANCE, DELAYS, PRODUCT LIABILITY, RELIANCE, BREACH OF ANY IMPLIED DUTY; OR
- c. ANY LOSSES, COSTS, EXPENSES OR DAMAGES OTHER THAN DIRECT DAMAGES, INCLUDING WITHOUT LIMITATION, ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSSES, COSTS OR EXPENSES;

IN EACH CASE (a) THROUGH (c) OF THIS SUBSECTION II WHETHER OR NOT FORSEEABLE AND EVEN IF LIFERAY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, COSTS OR EXPENSES.

4.3 No express or implied warranties by Liferay or its Affiliates are created as a result of this Program. This Program sets forth Customer's exclusive remedies and Liferay's sole obligations for claims arising from or related to copyrights, patents, trademarks, trade secrets or any other intellectual property rights and supersedes any other Liferay obligation related to the subject matter of this Program (including, but not limited to, indemnification, breach of warranty, and/or breach of contract under the Agreement or otherwise and any implied warranty of non-infringement, which is hereby disclaimed). For the avoidance of doubt, the terms of Section 2 above shall apply in the place of, and Customer expressly waives any rights, and releases Liferay from any obligations, under the terms of any other warranties or terms relating to intellectual property rights or remedies, including without limitation Legal Assurance terms or conditions that may be included in the Agreement. If there are any other applicable indemnity coverage or remedies available to Customer related to intellectual property infringement, Customer agrees that the total of all benefits payable under all such provisions will not exceed the total damages, costs, and expenses incurred by Customer, and that Liferay will pay only its proportional share of such total damages, costs, and expenses, subject to the limitations of liability set forth in the Agreement including this Program.

4.4 Allocation of Risk

THIS SECTION 4 AND THE OTHER TERMS AND CONDITIONS OF THIS PROGRAM ALLOCATE THE RISKS BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER OF THIS PROGRAM. THIS ALLOCATION IS AN INTRINSIC PART AND THE BASIS OF THE BARGAIN

BETWEEN THE PARTIES. WITHOUT SUCH ALLOCATION LIFERAY WOULD NOT HAVE ENTERED INTO THIS PROGRAM AND THE AGREEMENT. LIFERAY'S PRICES FOR SUBSCRIPTION SERVICES REFLECT THIS ALLOCATION OF RISKS AND THE DISCLAIMER OF WARRANTIES, EXCLUSIONS AND LIMITATION OF LIABILITY SPECIFIED HEREIN. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS CONTAINED IN THIS PROGRAM APPLY, EVEN IF ANY REMEDY (INCLUDING ANY LIMITED OR EXCLUSIVE REMEDY) PROVIDED FOR IN THIS PROGRAM FAILS IN ITS ESSENTIAL PURPOSE.

5. Miscellaneous

- i. Notices under this Program must be in English, in writing, and will be deemed given when delivered by hand or five (5) days after being sent using a method that provides for positive confirmation of delivery to Customer at the address indicated in the Agreement or to Liferay at: Liferay, Inc., Attention: Legal Department, 1400 Montefino Avenue, Diamond Bar, CA 91765, U.S.A.; Facsimile: (866) 497-9792.
- ii. This Program is binding on the parties to the Agreement, and nothing in this Program confers upon any other person or entity any right, benefit or remedy of any nature whatsoever.
- iii. The delay or failure of either party to exercise any rights hereunder will not constitute or be deemed a waiver or forfeiture of such rights. No waiver will be valid unless in writing and signed by an authorized representative of the party against whom such waiver is sought to be enforced.
- iv. This Program represents the final, complete and exclusive statement of the agreement between the parties with respect to the subject matter of this Program, and all prior written agreements and all prior and contemporaneous oral agreements with respect to the subject matter of this Program are merged herein.
- v. By express agreement of the parties and as an intrinsic part of the bargain between the parties if any provision of this Program is held invalid or unenforceable for any reason, this Program will be deemed invalid in its entirety.
- vi. Except as set forth in Section 2 above, this Program may not be amended, supplemented or modified except by a written instrument signed by the parties hereto, which instrument makes specific reference to this Program.



SCHEDULE 1.B: LIFERAY PORTAL ENTERPRISE SUBSCRIPTIONS

1. Liferay Portal and Add-on Enterprise Subscriptions:

A Liferay Portal Enterprise Subscription provides Customer the following Subscription Benefits during the Subscription Term and on a per Unit basis: Software Access, Software Maintenance, Support and Legal Assurance.

Software Access includes access to the Liferay Portal Software as well as access to certain additional software (the “**Supplemental Software**”), subject to the Supplemental Software Conditions described in Section 2 below;

One (1) Unit of a Liferay Portal Enterprise Subscription covers one Server up to eight (8) Cores and one (1) JVM. If Customer’s Liferay Portal Enterprise Subscription is used on a Server that exceeds the allotted Cores or JVMs in one (1) Unit, Customer is required to purchase Add-on Subscriptions to cover the exceeded capacity. For example, Liferay may offer 4-Core or single JVM Add-on Subscriptions.

Liferay Portal Enterprise Subscriptions are available in two Support Levels - Gold and Platinum.

Liferay Portal Enterprise Subscriptions are priced depending on the Designated Purpose. Liferay Portal Enterprise Subscription pricing is available for the following Designated Purposes: Non-Production, Production or Backup.

For Development Purposes, Customer’s Liferay Portal Enterprise Subscription includes developer licenses accessible through the Customer Portal during the Subscription Term. Each Liferay Portal developer license provides Customer an entitlement to use Liferay Portal Software for Development Purposes only and limited to use on one (1) development workstation and for up to ten (10) unique IP addresses, as further described in the applicable EULA.

2. Supplemental Software Conditions.

With Customer’s Liferay Portal Enterprise Subscription Customer also receives Software Access to additional Software including access to certain Subscription Services described as follows:

- **Liferay Developer Studio**
Liferay Developer Studio is licensed under and subject to its own EULA, and includes access to Software Maintenance and Legal Assurance, but not Support.
- **Free Liferay Subscription Apps**
Free Liferay Subscription Apps are those Liferay Subscription Apps that Liferay makes available in the Subscription App category of its Marketplace free of charge (displayed as “Free” Apps). Free Liferay Subscription Apps come with access to Software Maintenance, Support and Legal Assurance that are the same as Customer’s Liferay Portal Enterprise Subscription. Free Liferay Subscription Apps are licensed under and subject to the EULA for Liferay Portal Software.

Please note: Liferay provides certain preview-based technology called “Liferay Labs Apps” that are provided without any Subscription Benefits and licensed under and subject to the EULA for Liferay Portal Software.



SCHEDULE 1.C: LIFERAY SOCIAL OFFICE AND LIFERAY PAID APPS ENTERPRISE SUBSCRIPTIONS

1. Liferay Social Office Enterprise Subscriptions:

Liferay Social Office Enterprise Subscription Services and the associated Software may only be used with Liferay Portal Software. A Liferay Social Office Enterprise Subscription requires an active Liferay Portal Enterprise Subscription at the time of purchase.

A Liferay Social Office Enterprise Subscription provides Customer the following Subscription Benefits during the Subscription Term and on a per Unit basis: Software Access, Software Maintenance, Support and Legal Assurance provided that (i) Support requires an active underlying Liferay Portal Enterprise Subscription and (ii) a Liferay Social Office Enterprise Subscription for total Units of less than fifty (50) User Entitlements only entitles Customer to Software Access, Software Maintenance and Legal Assurance, but not Support. Customer's Support Level is dependent on the Support Level for Customer's underlying Liferay Portal Enterprise Subscription.

The Unit for Liferay Social Office Enterprise Subscription is based on the number of User Entitlements.

2. Paid Liferay Subscription Apps

Paid Liferay Subscription Apps are those Liferay Subscription Apps that Liferay makes available in the Subscription App Category of the Liferay Marketplace in form of a Subscription and subject to Fees (displayed as "Paid" Apps) and are not available as "Free" Apps from Liferay as part of Customer's Liferay Portal Enterprise Subscription as described in Schedule 1.B. Paid Liferay Subscription Apps require an active Liferay Portal Enterprise Subscription at the time of purchase. Liferay Paid Apps Software and the associated Subscription Services may only be used with Liferay Portal Software.

A Liferay Paid App Subscription provides Customer the following Subscription Benefits during the Subscription Term and on a per Unit basis: Software Access, Software Maintenance Support and Legal Assurance, provided that Support requires an active underlying Liferay Portal Enterprise Subscription. The Support Level is dependent on the Support Level for Customer's underlying Liferay Portal Enterprise Subscription.

The Unit for Liferay Paid Apps Subscriptions is an Instance.

Liferay Paid App Subscriptions are available as a "Standard" and a "Developer" versions. The Developer versions have a limitation of ten (10) unique IP addresses.



SCHEDULE 1.D: LIFERAY ENHANCED SUPPORT SUBSCRIPTIONS

1. Designated Contact Add-on Subscription

Designated Contact Add-on Subscriptions are available as optional add-on Subscriptions to an active Liferay Portal Enterprise Subscription, if Customer maintains Support Levels Gold or Platinum.

Designated Contact Add-on Subscriptions entitle Customer to an additional Designated Contact. The Unit for Designated Contact Add-on Subscriptions is the number of additional Designated Contacts.

2. Extended Premium Support Subscription

The Extended Support Subscription extends the benefits associated with the Premium Support Phase for Software Maintenance and Support beyond the end of Premium Support Phase, as defined in Liferay's End of Service Life Policy located at www.liferay.com/products/liferay-portal/ee/end-of-service-life. Extended Premium Support Subscriptions must be purchased before the Premium Support Phase ends.

Each Extended Premium Support Subscription requires an underlying and active Liferay Portal Enterprise Subscription with Gold or Platinum Support. For example, the Liferay Extended Premium Support Subscription is not available for Customer Applications for which Customer does not have an active Liferay Portal Enterprise Subscription.

If purchased, the Extended Premium Support Subscription is provided for a period of up to three (3) years immediately following the end of the Premium Support Phase. The Unit, Designated Purpose and Support Level for Liferay Extended Premium Support Subscriptions are the same as for Customer's underlying active Liferay Portal Enterprise Subscription.



SCHEDULE 1.E: LIFERAY CLOUD DEPLOYMENTS

1. General.

This Schedule establishes the terms and conditions under which Customer may use Subscription Services including any Software in a third party's ("Provider") hosted computing infrastructure of shared resources that provides Virtual CPUs to Customer on-demand ("Cloud"). These terms and conditions are in addition to the terms and conditions contained in the Appendix to which this Schedule is attached and supersede the terms of the Appendix in case of a conflict. These terms and conditions are separate from and in addition to any agreement between Customer and a Provider. Fees for Subscription Services do not include any Provider Cloud services. Liferay is not a party to Customer's agreement with the Provider and is not responsible for providing access to or support for a Provider's Cloud or any other obligations of Provider under such separate agreement.

2. Eligible Subscriptions and Units

The following table sets forth the Liferay Subscriptions eligible for use in a Provider's Cloud ("Portable Subscriptions") and the applicable Unit for Customer's Portable Subscriptions for both physical deployments and in a Provider's Cloud. Certain software components or functionality of the Software contained in the Subscription (or Add-on Subscription) may not be available or supported when used in the Provider's Cloud.

Table 2

Portable Subscription	Unit when used for physical deployments	Unit when used within a Provider's Cloud
Liferay Portal Enterprise	Cores and JVMs per Server	vCPUs and JVMs per Server
Liferay Portal JVM Add-On	JVMs per Server	JVMs per Server
Liferay Portal Core Add-on	Cores per Server	vCPUs per Server
Liferay Social Office	User Entitlements	User Entitlements
Liferay Paid Apps	Instances	Instances
Extended Premium Support	Cores and JVMs per Server	vCPUS and JVMs per Server

3. Preconditions

Customer may transfer Customer's Subscriptions to and use the Subscriptions in a Provider's Cloud provided that Customer (i) complies with the Agreement and the Appendix, including this Schedule and (ii) completes the registration within the Liferay customer portal at www.liferay.com/group/customer/forms/cloud-registration.

4. Subscription Services in the Cloud

4.1 Use of Subscription Services in the Cloud.

Customer may use the Subscription Services and Software only for Customer's own internal use within a Provider's Cloud (which includes Customer's internal use to operate a web site and/or to offer Customer's own software as a service, provided such web site or service does not include a distribution of the Software or Subscription Services, in whole or in part). Distributing the Software or any portion of the Subscription Services, including any Software to a third party or using any of the Subscription Services for the benefit of a third party is a material breach of the Agreement, even though the open source licenses applicable to individual components of the Software may give Customer the right to distribute those components (and this Agreement is not intended to interfere with Customer's rights under those individual licenses).

4.2 Software Access and Software Maintenance.

Software Access and associated Software Maintenance including any Updates will be made available to Customer for download in the form of software images for transfer by Customer as virtual instances to the Cloud. The Software is governed by the End User License Agreement referenced in the Appendix.

4.3 Support.

Liferay will provide support for Units deployed in a Provider's Cloud to Customer pursuant to the terms of the Appendix.

5. Subscription Term.

A transfer of Subscriptions to a Provider's Cloud does not change the Subscription Term. If Customer's Subscriptions expire, Customer's rights to transfer the Software to a Provider's Cloud and any associated Subscription Services will expire, unless otherwise renewed. If the EULA applicable to the Software provides for perpetual rights to use the Software, Customer may continue using any Software already transferred to the Provider's Cloud even after a Subscription Term has ended subject to the terms and conditions of the applicable EULA.

6. Reporting

Customer agrees that the number of simultaneous Units Customer deploys, installs, uses or executes in a Provider's Cloud will not exceed the equivalent total number of Units transferred from a physical environment. If Customer deploys, installs, uses or executes more Units in a Provider's Cloud or uses any Subscription Services, including any Software, outside the Provider's Cloud, Customer will promptly notify Liferay in writing and Customer is required to purchase Subscriptions in a quantity equal to the total number of Units (including variants or components thereof) that Customer deploys, installs, uses or executes as set forth in the Appendix, including this Schedule. Failure to comply with this Section 6 will be considered a material breach of the Agreement, and will (without limiting its other rights or remedies) entitle Liferay to suspend the Subscription Services or terminate the Agreement.