

Subscription and Support Agreement

This Subscription and Support Agreement (the "Agreement") is entered into this ___ day of Month, 2013 ("Effective Date") by and between Liferay, Inc., a California corporation ("Provider"), and [Company Name] ("Company"), a [Enter State] [Company Type] with its principal place of business at [Enter Address]. The parties hereby agree as follows:

WHEREAS, Provider has developed certain software (defined below) which Company wishes to license;

WHEREAS, Provider provides subscription and support services for this software and Company desires to purchase such services;

THEREFORE, for good and valuable consideration, the value of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS

"Backup Purposes" means using the Provider Technology in a backup environment, generally for the purpose of disaster recovery and/or serving as a backup in case a live production server fails.

"Core" means an independent execution unit on a processor package that handles computational activities one program thread at a time.

"Customized Solution" means any software that extends the functionality of and is bundled with the Provider Technology.

"Developer License" means a license to use Provider Technology, limited to a certain number of connections, restricted for use only on a developer workstation and solely for development purposes.

"Documentation" means all user manuals and technical specification documentation generally made available by Provider, but excluding any manuals or books published by or together with a third party.

"End User" means the person using the Customized Solution.

"Fees" means the fees for the license(s) and/or Services as specified in an Order Form.

"Intellectual Property Rights" means all current and future worldwide intellectual property rights including, without limitation, all patents, trademarks and service marks, copyrights, mask work rights, trade secrets and know-how, and applications and registrations for any of the foregoing.

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

"Licensed Purpose" means the purpose of use permitted for a particular Licensed Server, either Production Purposes, Non-Production Purposes, or Backup Purposes, in each case as specified in an applicable Order Form.

"Licensed Server" means a single Server, to which additional JVMs and Cores may be added as specified in an Order Form, with a license to execute or run the Provider Technology and authorized to receive Services.

"Non-Production Purposes" means using the Provider Technology in a non-production environment, excluding developer workstations, generally for the purposes of dev-integration, testing, quality assurance, staging, and user acceptance testing.

"Order Form" means a document, which consists of a description of Company's order for license(s) and/or Services and Fees, that expressly states that it is governed by the terms and conditions of this Agreement and may be in the form of Provider's order form or a Company issued purchase order accepted by Provider.

"Production Purposes" means using the Provider Technology in a production environment, using live data, generally for the purpose of providing a service to its End Users.

"Provider Technology" means the computer software, whose Intellectual Property Rights are owned by Provider and its Affiliates, specified in an Order Form and licensed to Company under the terms of this Agreement, including any releases provided as part of the Services and all modifications, additions, and further enhancements thereto delivered by Provider.

"Server" means a physical machine or virtual machine, limited to one (1) JVM and eight (8) cores or less.

“Services” means the Subscription Services and/or Support Services provided by Provider to Company.

“Services Term” means the term for which Services are provided to Company for a particular Licensed Server, as specified in the Order Form.

“Source Code” means the human-readable version of the Provider Technology that, when compiled, generates machine-readable executable code.

“Subscription Services” means the subscription to receive access to releases of the Provider Technology, as further defined in Exhibit A, Article 2.

“Support Services” means the technical support services for the Provider Technology that is provided by Provider, Provider’s Affiliates, and/or its third party contractors under this Agreement, as further defined in Exhibit A, Article 3.

“Support Services Level” means the level of Support Services to be provided by Provider to Company under this Agreement, as further defined in Exhibit A and as specified in an Order Form.

“Third Party Technology” means any software program, computer code, programming libraries, application programming interfaces, or other materials, whose Intellectual Property Rights are not owned by Provider or its Affiliates but provided to Company.

2. LICENSE AND RESTRICTIONS

2.1 License

Subject to the terms and conditions of this Agreement, and provided that Company has paid all applicable Fees, Provider grants Company a perpetual, non-exclusive, non-sublicensable, non-transferable license for an unlimited number of users, to use the Provider Technology (i) in accordance with the Documentation and the Licensed Purpose; and (ii) limited to the number of Licensed Servers. The Provider Technology is provided with certain Third Party Technology. Such Third Party Technology is licensed to Company under its applicable license terms and conditions and/or copyright notices found in the license file, Documentation, or other materials accompanying the Provider Technology or available on Provider’s website.

2.2 Restrictions

Ownership of all rights, title and interest in the Provider Technology and Documentation shall remain solely with Provider and its suppliers. These rights may include, but are not limited to, Intellectual Property Rights, international treaty and other rights as applicable. Company may not (i) to a third party, transfer rights or usage to, sublicense, rent, lease or otherwise distribute the Provider Technology or Documentation except as provided herein; (ii) modify, loan, decompile, reverse engineer or disassemble or otherwise attempt to derive source code from any encrypted or encoded portion of the Provider Technology or Documentation, except as and only to the extent that any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open source components included with the Provider Technology; (iii) remove or alter any product identification, proprietary, copyright or other notices contained in the Provider Technology; (iv) use any of the Services for any server that is not a Licensed Server; (v) use Developer Licenses for any Non-Production Purposes, Backup Purposes or Production Purposes. Except as permitted herein, any attempt to assign, transfer or sublicense the Provider Technology or Documentation to any third party will be void. Company may make any reasonable number of copies of the Provider Technology and Documentation for data archival purposes.

3. FEES AND PAYMENTS

3.1 License and Fees

Company shall pay to Provider the Fees in the currency specified in an applicable Order Form and in accordance with the payment terms set forth in the Order Form.

3.2 Intentionally Omitted

3.3 Intentionally Omitted

3.4 Intentionally Omitted

3.5 Rights to Audit License Usage

Provider will have the right, with reasonable notice, during normal business hours, at Provider’s sole expense and in as non-disruptive a manner as reasonably possible, to verify Company’s compliance with its payment obligations by having Provider’s representatives conduct an audit of Company’s usage of the Provider Technology. If Provider has a reasonable suspicion that Company’s usage of the Provider Technology is not in accordance with the Order Form or this Agreement, Provider shall be entitled

to submit a Request for Equitable Adjustment or Claim as provided for by statute, the Federal Acquisition Regulation ("FAR"), and any relevant Agency supplement to the FAR.

Provider may appoint an independent auditor to conduct an audit of Company's compliance with the terms of this Agreement. Any auditor appointed under this Article must agree in writing to the confidentiality terms of this Agreement prior to being permitted to perform such audit. Any such audit may not be conducted more than two (2) times during each twelve (12) month period and may not continue for more than ten (10) business days unless otherwise agreed in writing by Company.

4. TERM AND TERMINATION

4.1 Term and Termination of the Agreement

This Agreement shall become effective as of the Effective Date and shall remain in effect until the Services Term specified on the Order Form has expired or been terminated. A Services Term begins on the start date specified in the Order Form and continues for the term specified therein.

4.2 Survival

The parties' rights and obligations under Articles 1 ("Definitions"), 2 ("License and Restrictions"), 4 ("Term and Termination"), 5 ("Representations and Warranties"), 7 ("Limitation of Liability"), 8 ("Grant to Provider") and 10 ("Miscellaneous") shall survive final expiration or termination of this Agreement.

5. REPRESENTATIONS AND WARRANTIES

5.1 Limited Warranty

Provider represents and warrants that: (i) the Support Services will be performed in a professional and workmanlike manner by qualified personnel; (ii) it has the authority to enter into this Agreement with Company; (iii) to Provider's knowledge, Provider Technology does not, at the time of delivery to Company, include malicious code with the purpose of adversely affecting the operation, security or integrity of a system; and (iv) the Provider Technology is presently not subject to any claim for infringement, and Provider is not aware of any specific facts upon which such a claim could reasonably be based.

5.2 Disclaimer of Warranty

EXCEPT AS STATED UNDER ARTICLE 5.1, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PROVIDER TECHNOLOGY AS PROVIDED BY PROVIDER IS PROVIDED AND LICENSED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. PROVIDER DOES NOT GUARANTEE THAT THE USE OF THE PROVIDER TECHNOLOGY WILL NOT BE INTERRUPTED OR ERROR FREE.

6. INTELLECTUAL PROPERTY CLAIMS

6.1 Injunctive Relief

If an injunction is sought, obtained or in Provider's opinion is likely to be sought or obtained against Company's use of the Provider Technology and/or Documentation as a result of a third party infringement claim, Provider may, at its sole option and expense and within commercially feasible means, (i) replace or modify the affected Provider Technology with functionally equivalent software so that it does not infringe; or (ii) request return of the Provider Technology and, upon receipt thereof, terminate this Agreement and provide Company a pro rata refund based upon the time period remaining under the applicable Order Form.

6.2 Legal Defense and Damages

Subject to Article 6.3, Provider shall indemnify Company with respect to both legal defense and damages against any claim or action of any kind against Company involving an Intellectual Property Rights violation regarding the Provider Technology and/or Documentation, provided that Company has not terminated Services with Provider. Company shall reasonably cooperate with Provider and allow Provider to participate in any settlement negotiations and lawsuit as provided for or permitted under federal law. Company shall promptly notify Provider in writing of any claim against Company regarding the foregoing violations.

6.3 Exclusions

Provider shall have no liability for any third party claim of infringement regarding the Provider Technology and/or Documentation based upon (i) Provider Technology and/or Documentation that has been modified in any way, except as permitted under this Agreement; (ii) Company's combination, operation, or use of the Provider Technology with any programs or equipment not supplied, recommended, or authorized by Provider; and (iii) Company's failure, within a reasonable time frame, to implement any replacement or modification of Provider Technology provided by Provider. Article 6 constitutes the entire liability of Provider and Company's sole and exclusive remedy with respect to any third party claims of infringement of Intellectual Property Rights.

7. LIMITATION OF LIABILITY

EXCEPT FOR COMPANY'S OBLIGATIONS UNDER ARTICLE 2 AND EITHER PARTY'S CONFIDENTIALITY OBLIGATIONS UNDER ARTICLE 10.4, WITH RESPECT TO DAMAGES ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT, THE PROVIDER TECHNOLOGY, OR DOCUMENTATION, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY, UNDER ANY LEGAL OR EQUITABLE THEORY, WHETHER CONTRACT, TORT, PRODUCT LIABILITY, RELIANCE, BREACH OF ANY IMPLIED DUTY, OR OTHERWISE, FOR (A) ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO RELIANCE, COVER, OR LOSS OF ANTICIPATED PROFITS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) ANY AMOUNTS IN EXCESS OF THE FEES PAID TO PROVIDER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE ACT OR OMISSION GIVING RISE TO THE LIABILITY.

The provisions of this Article allocate the risks under this Agreement between Provider and Company and are an intrinsic part of the bargain between the parties. The fees provided for in this Agreement reflect this allocation of risks and the limitation of liability specified herein.

8. GRANT TO PROVIDER

Neither party will, without the other party's prior written consent, make any news release or public announcement of this Agreement, its value, or its terms and conditions.

9. USE OF SUPPORT SERVICES

For every unique Customized Solution, Company must purchase the same Support Services Level for all Licensed Servers. For the avoidance of doubt, Company may not purchase a Platinum Support Services Level for one Licensed Server used for Production Purposes and Gold Support Services Level for any additional Licensed Servers used for Production Purposes. Furthermore, Company may not purchase a Platinum Support Services Level for one Licensed Server used for Production Purposes and a Gold Support Services Level for a Licensed Server used for Non-Production Purposes. During the term that Company is receiving Services from Provider for a Customized Solution, Company is required to purchase Services equal to the total number of Servers that Provider Technology is deployed, installed, used, or executed on for that Customized Solution.

10. MISCELLANEOUS

10.1 Headings to articles in this Agreement are for convenience only and shall not have any effect on construction and interpretation.

10.2 No provision shall be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Agreement or that provision

10.3 This Agreement may only be varied or amended in writing signed by an authorized signatory of each party.

10.4 Nondisclosure

It is expected that the parties may disclose to each other certain information that may be considered confidential. Confidential information protected under this Agreement is: (a) the Source Code; (b) confidential information disclosed by either party in writing that is marked as confidential at the time of disclosure; (c) confidential information disclosed by either party in any other manner that is identified as confidential at the time of disclosure and summarized and designated as confidential in a written memorandum delivered to the receiving party within thirty (30) days of the initial disclosure; (d) information that given its nature or the disclosed under circumstances surrounding its disclosure, a reasonable person should have an expectation of confidentiality for; (e) all information relating to the provision of Services; (f) all information relating to the security arrangements of either party; and (g) all data owned or held by Company and stored on Provider Technology (jointly "Confidential Information").

Confidential Information shall not include information which: (i) is or becomes a matter of public knowledge through no fault of the receiving party; (ii) is or becomes available to the receiving party from a source other than the disclosing party, provided that such source was not known by the receiving party to be bound by a duty of confidentiality with respect to such information; (iii) is disclosed by the disclosing party to a third party without a duty of confidentiality; (iv) is independently developed by the receiving party without use of the Confidential Information of the other party; (v) is in the rightful possession of the receiving party without an obligation of confidentiality; (vi) is disclosed by the receiving party with the disclosing party's prior written approval; or (vii) subject to disclosure under the Freedom of Information Act (FOIA) including, by way of example, the contents of this Agreement, any finally awarded pricing, and the contents of any task orders issued against the GSA Multiple Award Schedule 70 contract. In the event that pursuant to the requirements of a governmental agency or by operation of applicable statutory law or by order of a competent court or recognized stock exchange a party becomes legally compelled to disclose any of the other party's Confidential Information, the party required to make such disclosure shall provide the other party with prompt prior written notice of any such requirement so that the other party may seek a protective order or other appropriate remedy and/or waive compliance with the non-disclosure provisions of this Agreement. In the event that such protective order, other remedy or waiver is not obtained, the party required to make the disclosure shall furnish only that portion of the Confidential Information that such party, in the opinion of counsel, is legally required

to disclose and shall exercise reasonable efforts to preserve for the remainder the confidentiality of the other party's Confidential Information.

Except as otherwise specified herein, the disclosing party shall retain all Intellectual Property Rights in any Confidential Information disclosed to the other party. The parties agree, during the term of a valid Order Form and for a period of two (2) years after termination or expiration of a valid Order Form, to hold each other's Confidential Information in confidence and to protect the disclosed Confidential Information of the other party by using the same degree of care to prevent the unauthorized use, dissemination or publication of the Confidential Information as they use to protect their own confidential information of a like nature but in any event no less than a reasonable degree of care. The parties agree not to make each other's Confidential Information available in any form to any third party except that third party subcontractors shall be permitted to exercise the licenses granted under this Agreement or to use each party's Confidential Information solely for the purpose of implementing this Agreement. Each party agrees to (i) restrict disclosure of the Confidential Information to those third parties and/or its employees who have a "need to know" such information in order to undertake their work with respect to this Agreement or otherwise to the benefit of the parties and have themselves an agreement with the receiving party sufficient to require them to treat the other party's Confidential Information in a manner materially similar as is set out herein (jointly the "Staff") and (ii) to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its Staff in violation of the provisions of this Agreement. Upon termination or expiration of this Agreement, except as necessary to give any existing Order Form effect, both parties shall return or destroy all copies of the other party's Confidential Information furnished under this Agreement except any copies necessary to exercise the continuing rights specified in Article 4 ("Term and Termination") above. Each party will at all times be responsible for ensuring that its Staff retains the confidentiality of the other party's Confidential Information in accordance with this Agreement.

10.5 Governing Law

This Agreement, and all matters arising out of or relating to this agreement, shall be governed by Federal Law and Regulation including without limitation the Contract Disputes of 1978 (41 USC §§ 7101-7109) and the Federal Acquisition Regulation (48 C.F.R.).

10.6 Assignment

Neither party may assign, transfer or otherwise dispose of any of its rights or obligations under this Agreement and/or any Order Form without the other party's prior written consent. Any assignment in violation of this Article is void. Any assignment by Provider shall be subject to 41 USC 6305, FAR 42.1204, 31 USC 3724, and FAR Clause 52.212-4(b).

10.7 Notice

All notices permitted or required under this Agreement shall be in writing and shall be delivered in person, by certified or registered express mail, electronic mail, or facsimile, to the parties' addresses set forth below, respectively. Notice shall be deemed received the day of personal delivery, or transmission by electronic mail or facsimile; or five (5) days after deposit in the mail.

For Provider:

Liferay, Inc.
Attn: Legal Department
1400 Montefino Avenue
Diamond Bar, California 91765
E-mail: legal@liferay.com
FAX: (866) 497-9792

For Company:

Company
Attn:
[Address]
E-mail:
FAX:

10.8 Relationship Between the Parties

In all matters relating to this Agreement, Company and Provider shall act as independent contractors. Neither party will represent that it has any authority to assume or create any obligation, expressed or implied, on behalf of the other party, or to represent the other party as agent, employee or in any other capacity. Nothing herein shall oblige parties to enter into any further agreement(s) with each other.

10.9 Force Majeure

Neither party shall be liable to the other for failure or delay in the performance of a required obligation under this Agreement and/or Order Form if such failure or delay is caused by riot, fire, flood, explosion, earthquake or other natural disaster, government regulation, or other similar cause beyond such party's reasonable control, provided that such party gives prompt written notice of such condition and resumes its performance as soon as reasonably possible.

10.10 Export Compliance

The Provider Technology provided to Company is subject to export control restrictions. As such, Company shall not export or re-export the Provider Technology to any country where such export is prohibited by U.S. laws and regulations and shall not, directly or indirectly, use, export or re-export the Provider Technology in such a way that it violates any export control laws or regulations of

any government or government agency. Should Company decide to export the Provider Technology, Company shall be wholly responsible for its compliance with applicable export requirements and obligations for the Provider Technology. Should Company breach this Article, Provider shall be entitled to pursue any and all remedies, including an action to recover its costs and damages, as provided for under FAR 52.212-4(d).

10.11 Government End Users

The Provider Technology and Services provided under this Agreement is a commercial computer software program developed exclusively at private expense. Provider provides the Provider Technology and Services for federal government end use solely in accordance with the following: Government technical data and software rights include only those rights customarily provided to the public as defined in this Agreement. Certain Confidential Information, including the Provider Technology, may be considered "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, FAR 12.211 and FAR 12.212 and, for Department of Defense transactions, DFAR 252.227-7015 and DFAR 227.7202-3, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, FAR 12.211 and FAR 12.212, DFAR 252.227-7015 and DFAR 227.7202-3, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished- rights reserved under the copyright laws of the United States. If a government agency has a need for rights not conveyed under these terms, it must negotiate with Provider to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable agreement.

10.12 Severability

If any provision or provisions of this Agreement and/or any Order Form shall be held to be invalid, illegal or unenforceable in whole or in part by any court of competent jurisdiction or other competent authority, this Agreement and/or any affected Order Form will continue to be valid and enforceable as to the other provisions and/or the remainder of the affected provision(s). The affected provision(s) will be deemed amended to the minimum extent necessary to render it valid and enforceable in conformity with applicable law and parties' intent as expressed in this Agreement and/or the Order Form.

10.13 Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.14 No Waiver

The failure of any party to enforce any of the provisions hereof shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions. This Agreement may not be waived, except in writing by the Party granting the waiver.

10.15 Entire Agreement

This Agreement, including all exhibits hereto, all Order Forms, and the GSA Multiple Award Schedule 70 contract, sets forth the entire agreement between the parties and supersedes prior proposals, agreements and representations between them, whether written or oral, relating to the subject matter contained herein. Each party acknowledges that in entering into this Agreement it has not relied on any representation, warranty or collateral contract or other assurance except those set out therein. This Agreement may be changed only if agreed to in writing and signed by an authorized signatory of each party. In the event of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit hereto or any Order Form, the terms of this Agreement shall prevail, provided however, that an Order Form may amend or override the terms and conditions of this Agreement only if (and limited to the extent) that the Order Form specifically identifies the provision(s) the parties intend to amend or override and such interpretation is not contrary to federal law and the terms and conditions of the GSA Multiple Award Schedule 70 contract. For purposes of clarity, if a Company's purchase order is accepted by Provider, such acceptance is limited to the terms of the quantities, descriptions, Services, Fees, delivery schedule, the GSA Multiple Award Schedule 70 contract, and Services Terms, and any additional or different terms or conditions, or any other attempt by Company to vary in any degree any of the terms of this Agreement by such purchase order, shall be rejected by the parties and null and void.



This Agreement shall be effective when signed by both parties in the same document or separately in two documents; a photocopy, facsimile, electronic or other copies shall have the same effect for all purposes as an ink-signed original.

IN WITNESS WHEREOF, THE PARTIES LISTED BELOW HAVE EXECUTED THIS AGREEMENT AS OF THE EFFECTIVE DATE.

PROVIDER		COMPANY	
By (signature):		By (signature):	
Name:		Name:	
Title:		Title:	
Date:		Date:	

**EXHIBIT A
SUBSCRIPTION AND SUPPORT
STANDARD TERMS AND CONDITIONS**

1. DEFINITIONS

“Acknowledge Receipt Time” means the time by which Provider must respond to the Incident reporter acknowledging receipt of the Incident. Acknowledge Receipt Times are only supported in response to an Incident that is submitted to Provider via phone. Incidents submitted via the web shall have a one (1) Business Day Acknowledge Receipt Time.

“Business Day” means the days between Monday and Friday of the week, inclusive.

“Business Hour” means a clock hour during Standard Business Hours.

“Designated Contact” means the Company’s contact designated to communicate with Provider for the provision of Services.

“Incident” means a single, discrete technical problem that cannot be reasonably subdivided, and also that is not overly broad in scope.

“Standard Business Hours” means the hours of 9:00 a.m. to 6:00 p.m., Pacific Time (unless otherwise specified in an applicable Order Form), each Business Day.

“Support Center Hours” means the operating hours of support.

2. SUBSCRIPTION

Provider will periodically make available service packs, updates, corrections and bug fixes (collectively, “Updates”) for electronic download from Provider’s website. Provider shall notify Company’s designated personnel of availability of Updates. Company is responsible for validating and installing any Updates in Company’s operating environments.

3. SUPPORT SERVICES

Provider will provide support to Company for all Support Services Levels except Limited according to the terms set forth below. For the avoidance of doubt, Provider shall have no obligation to provide Support Services for the Limited Support Services Level.

3.1 Severity Levels

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.

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 being affected, have experienced material system interruptions.

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

3.2 Designated Contacts

Provider will provide Services to Company only by communication with the Designated Contacts, two (2) Designated Contacts for Gold level and three (3) for Platinum level. Company may purchase additional Designated Contacts at the price designated in the GSA Multiple Award Schedule 70 contract. Company shall use commercially reasonable efforts to maintain consistent Designated Contacts during the term of this Agreement. Company may not use a single Designated Contact to act as a mere forwarding service for other Company personnel.

3.3 Response Times

Once Company has contacted Provider about an Incident, Provider will provide an acknowledgement of receipt within the applicable time frame specified below, in accordance with Company’s appropriate Support Services Level. Provider will be responsible for fixing reproducible bugs, testing fixes, and delivering appropriate patches to Company within commercially reasonable means. Bug fixes will be delivered to Company development team, unless Company notifies Provider otherwise. As used in this Article, a response means a qualified Provider engineer has been assigned to the Incident and has begun to work to resolve the Incident.

PLATINUM LEVEL

Severity Level	Support Center Hours	Acknowledge Receipt Time
1	24x7	1 clock hour
2	Standard Business Hours	2 Business Hours
3	Standard Business Hours	2 Business Hours

GOLD LEVEL

Severity Level	Support Center Hours	Acknowledge Receipt Time
1	Standard Business Hours	4 Business Hours
2	Standard Business Hours	4 Business Hours
3	Standard Business Hours	4 Business Hours

The prescribed response times above may be extended by mutual agreement of both parties in writing on a per Incident basis.

3.4 Support Exclusions

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

- a) Provider Technology has been modified, changed, damaged by Company in any way, except as directed by or under agreement with Provider, with or without malicious intent;
- b) The Incident is caused by Company's negligence, malicious intent, hardware malfunction, or other causes beyond the reasonable control of Provider;
- c) The Incident is caused by Third Party Technology;
- d) Company has been previously provided a fix for an Incident reported to Provider and where Company has not installed such fix within forty-five (45) days after its being given to Company;
- e) The deployment environment is not approved or supported by Provider, as identified at <http://www.liferay.com/services/support/support-matrix>; and
- f) Provider has discontinued Services for the version of the Provider Technology in accordance with Provider's End of Service Life (EOSL) Policy, a copy of which can be found at <http://www.liferay.com/products/liferay-portal/ee/end-of-service-life>.

Notwithstanding the above, Provider may nevertheless, but is not obligated to, offer to provide support to Company. Provider is, in these cases, only obligated to make a reasonable effort to treat the Incident, and Company is not entitled to a final resolution of the Incident.

3.5 Conditions for Providing Support

Prior to logging an Incident with Provider, Company will endeavor to diagnose the nature of the Incident to ensure that it is resident in the Provider Technology and not a third party application or component. During the collaborative initial phase of reporting an Incident, Company will reciprocate a reasonable level of time and resources in accordance with the severity of Incident. Company acknowledges that Provider's ability to perform certain Support Services may be conditioned upon access to and completeness of certain Company information as reasonably requested by Provider. Such information may include, but is not limited to, the type of hardware Company is using, a description of the Incident for which Company seeks Support Services, and additional software Company is using that falls outside the Support Services scope of coverage.