



APPENDIX: ANALYTICS CLOUD SERVICES

This Appendix, which includes the documents referred to in this Appendix (together, the “**Appendix**”), describes the fee bearing Liferay Analytics Cloud subscriptions that Liferay offers (“**Subscriptions**”). The Services that Liferay provides to Customer as part of these Subscriptions (the “**Subscription Services**” or “**Services**”) provide Customer, as applicable, with 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 Subscription Services Agreement (the “**Agreement**”).

1. Definitions

“**Acceptable Use Policy**” has the meaning set forth in Section 10 below.

“**Acknowledge Receipt Time**” means the time by which Liferay must respond to an Incident acknowledging receipt of the Incident as set forth in Section 2.2 below.

“**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.

“**Customer Portal**” means a web portal maintained by Liferay or a Liferay Affiliate that provides for various resources accessible to Liferay Subscription customers as further described in Section 2.1 below.

“**Content**” means any content or data (including Personal Data) whether developed in connection with the Services or otherwise, software code, documentation, materials, information, text files, images and/or trademarks associated with Customer’s use of the Services hosted in the Services and not provided by Liferay.

“**Documentation**” means the documentation generally made available by Liferay in conjunction with Software and the Services at <https://help.liferay.com>.

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

“**Named Individual**” means an individual tracked person with identifiable contact information accessing a Page.

“**Page**” means a webpage that is owned or operated by the Customer or by a third party on Customer’s behalf with a single identification address (URL) upon which Customer utilizes Subscription Benefits.

“**Page View**” means a single request for a full Page document.

“**Plan**” means a certain allotment of Named Individuals and Page Views.

“**Software**” or “**Liferay Software**” means the software and corresponding Documentation that Liferay makes available for download as part of Subscription Services. 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 any Liferay branded community edition of the Software and/or other community projects.

“**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.

“**Terms of Service**” has the meaning set forth in Section 10 below.

“**Users**” means any person, including Customer’s and/or its Affiliates employees, contractors, advisors, or employees or contractors of a third

party, including any IT service providers, used by the Customer, registered to access and use the Services on behalf of the Customer.

2. Benefits of Subscription Services

Subscription Services provide Customer with the following benefits (“**Subscription Benefits**”):

2.1 Access to the Customer Portal and Analytics Cloud Service

Liferay will provide Customer and the Users access to Liferay’s Customer Portal during the Subscription Term, including access to the Analytics Cloud Service, subject to the Terms of Service. Liferay’s Customer Portal furthermore provides Customer access to an expanding knowledge base, support information, compatibility information, checklists, FAQs, patching tools, security updates and newsletters (“**Customer Portal Access**”). Liferay intends to periodically update, upgrade, backup, improve and/or discontinue certain functionality associated with the Analytics Cloud Services and Customer’s user experience. As a result, the Analytics Cloud Services may be substantially modified. Liferay reserves the right at any time to change and/or discontinue any or all of the Analytics Cloud 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 Services on the applicable Analytics Cloud Services website.

2.2 Support Services

Liferay (and/or a Liferay Business Partner, if applicable) will provide Customer with access to Liferay support (“**Support**”) as follows:

2.2.1. Submitting Support Queries and Acknowledgement Receipt

Support will be provided only through communication with the Users. Liferay will provide Support through a web-based multifaceted issue tracker application. Customers utilizing Subscriptions with the Business or Enterprise Plan may furthermore submit Incidents via chat. In addition, Customers utilizing Subscriptions with the Enterprise Plan may report Incidents via phone. Chat and phone-based Support will be available during Business Hours. Once Customer has contacted Liferay about an Incident, Liferay will provide an acknowledgement of receipt within the applicable time frame specified below. As used in this Section, a receipt acknowledgment means a Liferay engineer has been assigned to the Incident and has begun to work to resolve the Incident. Acknowledge Receipt Time shall be 1 Business Day irrespective of the channel used to submit an Incident, whereby priority will be given to the Incidents submitted by customers utilizing Subscriptions with the Enterprise Plan. Basic Subscriptions are provided at no charge, therefore, Support is provided without any commitment regarding Acknowledgement Receipt Time.

2.2.2. 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 the technical problem is resident in the Service 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. Customer acknowledges that Liferay’s ability to perform certain Support tasks 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 software or hardware Customer is using, a description of the Incident for which Customer seeks Support, and any other additional software or services Customer is using.

2.2.3. Support Exclusions

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

- i. the Incident is caused by Customer's negligence, malicious intent, hardware malfunction, or other causes beyond the reasonable control of Liferay;
- ii. the Incident relates to Customer's integration of Services with data sources based on any technology that is not software known as "Liferay DXP" nor other technology not supported in accordance with <https://liferay.com/services/support/compatibility-matrix>;
- iii. 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.

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

3. Subscription Fees

Liferay charges a Fee for the Subscription based on the total number of Units that Customer deploys, installs, uses or executes. 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"), if and when Customer wishes to reinstate the terminated or expired Subscriptions. 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 use by or on behalf of Customer's Affiliates and Affiliates shall not be considered a third party for the purposes of this Section, provided that Customer remains responsible for the Affiliates' compliance with terms of the Agreement including this Appendix and any Order Form). Distributing the Service or otherwise providing access to 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. The Subscription Services may be used under the terms of this Appendix by any Users, provided that Customer remains responsible for all of Customer's obligations under the Agreement and this Appendix and for the activities and omissions of the Users. 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 uses, (2) providing access to the Service to third parties except as authorized under this Appendix, (3) using Support to provide support to third parties, (4) using Subscription Services for the purpose of building a competitive product or service to the Liferay Services or copying the features or user interface of the Service.

5. Subscription Term, Suspension, Termination and Data Retention

5.1 Subscription Term

Unless otherwise agreed by the parties in writing or specified in an Order, the Subscription Term for an applicable Subscription will begin on the date Liferay accepts Customer's Order for the Subscription (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 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"). Notwithstanding the aforesaid, and unless otherwise agreed in writing or specified in the applicable Order, Basic Subscriptions provided at no charge will run for a term of three (3) months and not renew automatically upon expiration of this term.

5.2 Data Retention

Upon Customer's written request to be made no later than fourteen (14) days upon expiration of Customer's Subscription, Liferay will provide Customer with access to the Subscription Service for the duration of fourteen (14) days from receipt of Customer's request solely for purposes of retrieval of Customer's Content. Liferay shall have no obligation to maintain and will irretrievably remove the Content upon expiration of a thirty (30) days period after expiration of Customer's Subscription.

6. Subscription Services, Units

The Unit for a Subscription is a Plan. The pricing for each Plan is defined by the maximum number of Named Individuals and maximum number of Page Views as set forth in the Table below:

Plan	Max. Number of Named Individuals	Max. Number of Page Views
Basic	1,000	300,000
Business	10,000	5,000,000
Enterprise	100,000	60,000,000

*Each Plan provides for an unlimited number of Users.

Customers must acquire a Subscription with the appropriate Plan (**Basic, Business or Enterprise**) based on the estimated number of Named Individuals visiting Customer's Page and Page Views. If the number of Named Individuals or Page Views for which Customer utilizes Subscription exceeds the number of Named Individuals or Page Views for which Customer has an active Subscription, Customer is required to immediately upgrade to the appropriate Plan or purchase appropriate Add-On Subscriptions as set forth in this Section below to cover this exceeding number of Named Individuals and Page Views for the remainder of the Subscription Term. Increased Fees for the higher Plan or Add-On Subscriptions will be applied on pro-rata basis to the remainder of the Subscription Term beginning with the day on which either the maximum number of Named Individuals or Page Views is exceeded, whichever occurs first.

A Basic Subscription requires, at the time of purchase, an active "Liferay DXP Subscription" for the Liferay Software known as "Liferay DXP" version 7.0 or higher and Customer must maintain the "Liferay DXP Subscription" active throughout the Subscription Term.

Customer may incrementally increase the Named Individual or Page View limits of its Business or Enterprise Plan by purchasing an appropriate Add-On Subscription with the appropriate Plan, e.g. a "5,000 Named Individuals" Add-On Subscription increases the maximum number of Named Individuals by 5,000 Named Individuals, while a "5,000,000 Page Views" Add-On Subscription increases the maximum number of Page Views by 5,000,000 Page Views.

7. Acceptable Use Policy and Terms of Service

Subscription Services include access to a variety of portals, websites, web pages, documents, discussion groups, blogs, applications and other interactive services for Customer's use and consumption, such as for example, but without limitation, access to Liferay's Customer Portal, Liferay's support application, or to Liferay Analytics Cloud Services. Customer must agree to comply with the Liferay Acceptable Use Policy, the most recent version of which is available at www.liferay.com/legal/doc/policies/aup/1001605 (the "Acceptable Use Policy") and Terms of Service available at:

<https://liferay.com/legal/doc/TOS/1001810> (the “Terms of Service”), which are incorporated into this Appendix, as a precondition to the use of such Services.

8. Content, Indemnification

8.1 Each Customer is responsible for the Content used with or made available through Customer’s use of the Services, including but not limited to the Content’s compliance with the laws, the Content’s compliance with the Agreement, the right to use such Content, and administering take down notices related to the Content and Customer will remove immediately any Content that does not meet these compliance requirements. Customers will not use the Services to store, create, or deploy Content that is (i) violating laws, regulations or violates, misappropriates or infringes or is invasive of rights of any third parties; (ii) regulated under the International Traffic in Arms Regulations (ITAR); (iii) is malicious or contains technology that may damage, interfere with, or intercept any system, program or data, including viruses, worms, trojan horses, time bombs or other harmful or disruptive components; (iv) is threatening, abusive, harassing, defamatory, slanderous, libelous, derogatory, or violent; (v) is vulgar, obscene, bigoted, hateful, or that advocates racial or ethnic intolerance; (vi) is profane, scandalous, pornographic, indecent, or otherwise objectionable. Customer may be required upon a reasonable request by Liferay to provide Content or other information as may be reasonably necessary to ensure Customer’s compliance with the Agreement. Customer will immediately respond to any notice that the Customer receives claiming that Content violates laws, this Agreement or a third party’s rights, including notices under the Digital Millennium Copyright Act, and take corrective action, which may include but is not limited to promptly removing any such Content. Customer will maintain a policy to respond to any and all such requests that Customer may receive regarding Content. Liferay however reserves the right to suspend or terminate Customer’s use of or access to the Services immediately and without liability to a Customer if any Content breaks any applicable law, requires additional consent or permission a Customer has not obtained, or does not comply with the Agreement.

8.2 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 Content, the combination of Content with other applications, content or processes, or any claim or allegation that Content infringes or misappropriates the intellectual property rights of any third party.

8.3 Customer is solely responsible for assessing sufficiency of the backup functionalities that Liferay may provide as part of the Services for Customer’s purposes and needs. Between Liferay and Customer, Customer is responsible for taking security precautions for backing up Content and for any other measures, that Customer deems necessary to ensure that Content is not lost. Customer may lose any of the Content for which Customer does not maintain a copy outside of the Services. Liferay and/or any of its vendors are not responsible to Customer, Users or any third party, if Content is lost or deleted.