

## APPENDIX 4: LIFERAY DXP CLOUD SERVICES

Liferay's DXP Cloud services enable development, deployment, hosting and management of Liferay DXP software and any available software and/or services add-ons in Liferay's cloud infrastructure, whereby the scope of the different types of Liferay's DXP Cloud offerings may differ as further described in Section 6 below. This Appendix 4, which includes the documents referred to in this Appendix 4 (together, the "**Appendix**"), describes the terms and conditions applicable to the fee bearing "Liferay DXP Cloud" Services Subscriptions that Liferay offers (for purposes of this Appendix "**Cloud Subscription(s)**"). The Services that Liferay provides to Customer as part of these Cloud Subscriptions (for purposes of this Appendix "**Cloud Services**") provide Customer, as applicable, with certain benefits as further described in this Appendix and the applicable Schedules augmenting this Appendix.

While the main body of this Appendix describes the generic terms and conditions that apply to all Cloud Subscriptions, the Schedules describe specific Cloud Subscriptions and any additional terms and conditions applicable to them. In any event of inconsistency, the terms of the Schedules prevail over the terms of the main body of this Appendix. Any capitalized terms used but not defined in this Appendix have the meaning defined in the agreement to which this Appendix is attached (physically or by reference), such as the Liferay Enterprise Services Agreement (the "**Base Agreement**" and collectively, with the Appendix referred to as "**Agreement**").

### 1. Definitions

**"Account"** means the individual account a Customer must create and use to access Liferay Cloud Services.

**"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 Instances 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 Instance used for Production Purposes fails.

**"Customer Application"** means a program with a distinct code base that customizes or extends the functionality of the Software and connects to a database with a distinct database schema deployed in the Liferay Cloud Infrastructure as further defined below.

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

**"Customer's Users"** means any person (including Customer's and/or its Affiliates employees, contractors, advisors, or third party, including any IT service providers used by the Customer) using the Services on behalf of the Customer.

**"Data Processing Addendum"** or "**DPA**" means the agreement between the parties governing processing of Personal Data hosted by the Customer in Liferay Cloud Services located at: [www.liferay.com/legal/doc/DPA/1001810](http://www.liferay.com/legal/doc/DPA/1001810).

**"Data Protection Laws"** means data protection or privacy laws including EU Data Protection Laws (as defined below) to the extent applicable.

**"Designated Contact"** means a Customer's User designated to communicate with Liferay for the provision of Support and/or any other Cloud Services and acting as administrators of the applicable Account, who are enabled to add additional Customer's Users to the Account.

**"Designated Purpose"** means the specific use case and purpose for which Customer utilizes the Cloud Services and Software, for example Development Purpose, Production Purpose or Backup Purpose.

**"Documentation"** means the documentation generally made available by Liferay in conjunction with the Cloud Services at [dev.liferay.com](http://dev.liferay.com) and [help.liferay.com](http://help.liferay.com).

**"End Users"** means any third party which is not a Customer's User that accesses and uses Customer Application through the web.

**"EOSL Policy"** means the End of Service Life Policy applicable to a specific Software, as identified at [www.liferay.com/products/end-of-service-life](http://www.liferay.com/products/end-of-service-life).

**"External Offerings"** means third party software and/or services provided to Customer by third parties that Customer uses through or in connection with the Cloud Services.

**"EU Data Protection Laws"** means the GDPR as amended, replaced or superseded from time to time and laws implementing or supplementing the GDPR.

**"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.

**"GDPR"** means EU General Data Protection Regulation 2016/679.

**"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 Schedule 1.A.

**"Instance"** means one (1) copy of the Software.

**"Liferay Cloud Infrastructure"** means the cloud based computing infrastructure created and maintained by Liferay for deployment and hosting of Liferay Software.

**"Liferay DXP"** means a Liferay Software offering commonly known as "Liferay's Digital Experience Platform".

“**Liferay Marketplace**” means the marketplace located at: [www.liferay.com/marketplace](http://www.liferay.com/marketplace).

“**Memory**” means random access memory (RAM) assigned to a single Instance.

“**Non-Production Purposes**” means using the Cloud 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.

“**Personal Data**” means any information relating to an identified or identifiable natural person, where an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

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

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

“**Sizing**” means the sizing of an Instance, which is determined by the number of vCPUs that will be accessible by, and the Memory assigned to, each Instance.

“**Software**” or “**Liferay Software**” means the software and corresponding Documentation that Liferay makes available for download as part of Cloud Services. Software shall not include third-party software applications that are made available through the Liferay 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.

“**Technical and Organizational Measures**” means commercially reasonable physical, administrative, physical and technical measures taken by Liferay in order to assure integrity, security and confidentiality of Personal Data as set forth at [www.liferay.com/de/legal/cloud-services-data](http://www.liferay.com/de/legal/cloud-services-data).

“**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 is not licensed to Customer under the EULAs set forth in the Base 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](http://www.liferay.com/third-party-software)).

“**Unit**” means the unit that is used to measure Customer’s use of the Cloud Services as set forth in Section 6 or as agreed by the parties in an Order Form.

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

“**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 the Cloud Services Subscriptions

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

### 2.1 Access to the Cloud Service

Liferay will provide Customer access to the respective Cloud Service including any application programming or binary interfaces (“**API**”) as described in the Documentation, and if applicable any Instances of Liferay Software preinstalled by Liferay for the Customer in the Liferay Cloud Infrastructure, for purposes of deployment, management, development, integration and hosting of the Customer Application, for which Customer has purchased a Cloud Subscription during the Subscription Term (access to the Cloud Service and rights to the Cloud Service as described above are hereinafter together referred to as “**Access to the Cloud Service**”).

### 2.2 Access to Customer Portal

Liferay will provide Customer access to Liferay’s Customer Portal during the Subscription Term. Liferay’s Customer Portal provides Customer access to an expanding knowledge base, support information, compatibility information, checklists, FAQs, patching tools, Updates, newsletters, as well as access to all versions of Liferay Software throughout their respective life cycle as set forth in the **EOSL** Policy and the applicable Third-Party Software for electronic download from Liferay’s Customer Portal (“**Customer Portal Access**”). The applicable Software made available through the Customer Portal for each Cloud Subscription and any end user license agreements (“**EULAs**”) applicable to such Software are specified in the applicable Schedule identified in Section 6 below. Customer accepts and agrees to the terms of such EULA(s) as a precondition to receiving applicable Subscription Benefits in connection with such Software.

### 2.3 Maintenance

Liferay will periodically update the Cloud Service or make Updates for Liferay Software provided as part of a Cloud Service available for electronic download from Liferay’s website, as further specified in the applicable Schedules (“**Maintenance**”).

### 2.4 Support

Liferay (and/or a Liferay Business Partner, if applicable) will provide Customer with access to Liferay support for issues relating to the Cloud Services (“**Support**”) through Liferay’s web based issue tracker application that allows Customers to submit issues they experience with Software to the Liferay

support team for investigation or through phone and chat as further described in Schedule 1.A and, as applicable, amended by the Schedules describing specific Cloud Services.

### 3. Subscription Fees

Liferay charges a Fee for the Cloud Subscriptions based on the total number of Units of measure and certain other parameters like the applicable Support Level. The Units and other applicable parameters for Cloud Subscriptions are described in this Appendix (including the applicable Schedules) and identified in the applicable Order Form. While Customer has a Cloud Subscription entitling Customer to receive Cloud Services, Customer is required to purchase a quantity of Cloud Subscriptions equal to the total number of Units applicable to that Cloud Subscription (including variants or components of the Software or Cloud Services) that Customer deploys, uses or executes. In addition, if Customer uses any of the Cloud Services to support or maintain Liferay Software (or any part thereof) or any software that is not Liferay Software then Customer must purchase Cloud Subscriptions equal to the amount of Units applicable to that Liferay Software for which Customer uses Cloud Services. Within each unique Customer Application Customer is required to maintain at least one (1) Cloud Subscription for Production Purposes and one (1) Cloud Subscription for Non-Production Purposes.

### 4. Use of the Services, Restriction

#### 4.1 Account

Customer is required to create an Account for each Customer's User to access and use Cloud Services by providing a valid email address and creating a secure password. Customer remains fully responsible for confidentiality of credentials used by Customer's Users to access the Account and any activity through its Account, either by End Users or third parties resulting of any unauthorized accessing of the Cloud Services. Customers may not (any may not allow third parties to) create multiple Accounts or otherwise access the Services in a manner that is intended to avoid Fees or to circumvent maximum capacity thresholds for the Cloud Services or otherwise increase the Cloud Service scope or level provided for each Customer.

#### 4.2 Use of the Service

Subject to the restrictions set forth in the Agreement, to Customer's compliance with the other terms and conditions for Cloud Subscriptions established in the Appendix, Liferay grants to Customer a non-transferable, non-exclusive, worldwide (subject to any applicable export restrictions), non-sublicensable right to use the Cloud Services in order to deploy, develop, manage and host the Customer Application limited to the applicable Subscription Term and limited to and in connection with the Units for which Customer has purchased Cloud Subscriptions from Liferay or a Business Partner. Customer's right to use is limited to Customer's internal purposes (which shall include 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 and any Order Form). The foregoing sentence is not intended to limit Customer's internal use of the Cloud Services (including any Software) to operate a web site and/or to offer Customer's own software as a service, which may be used and accessed by an unlimited number of End Users, provided such web site or service does not include a distribution of the Cloud Services (including any Software), in whole or in part. The Cloud Services may be used under the terms of this Appendix by Customer's Users, provided that Customer remains responsible for all of Customer's obligations under the Agreement and for the activities and omissions of the Customer's Users. Distributing or otherwise providing access to any portion of the Cloud Services to a third party or using any of the Cloud Services for the benefit of a third party is a material breach of the Agreement, 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). Customer acquires only the right to use the Cloud Services and Software as set forth in this Appendix but does not acquire any rights of ownership in the Cloud Services or Software. Liferay reserves all rights to the Cloud Services (including any Software) not expressly granted to Customer.

#### 4.3 Restrictions

Customer's use of the Cloud Services is subject to the following restrictions:

##### 4.3.1 General Restrictions

The rights granted to Customer under this Appendix do not authorize Customer and Customer will not (and will not allow any third party) to: (i) distribute, sell, rent any parts of the Cloud Services to a third party; (ii) reverse engineer, translate, modify, loan, convert or apply any procedure or process to the Cloud Services or any parts thereof in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings of the software utilized by Liferay in the provision of the Cloud Services, Liferay Software or any trade secret information or process contained in the Cloud Services (except as permitted under applicable law or license terms applicable to the concerned item); (iii) execute or incorporate other software (except for approved software as more particularly identified in the Documentation or specifically approved by Liferay in writing) into the Cloud Services, or create a derivative work of any part of the Cloud Services including but not limited to, any software utilized by Liferay in the provision of the Cloud Services; (iv) remove any product identification, trademarks, trade names or titles, copyrights, legends or any other proprietary marking in the Cloud Services; (v) disclose the results of any benchmarking of the Cloud Services (whether or not obtained with Liferay's assistance) to any third party; (vi) using Cloud Services or Software for the purpose of building a competitive product or service to the Liferay Software or Cloud Services or copying the Software's or Cloud Services features or user interface; (vii) using the Cloud 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") or (b) derivative works of any software that is not Software or developing Forked Software; (viii) use any of the Cloud Services in violation of any applicable laws (including i. a. Data Protection Laws, export or IP laws) or for any illegal activities or promotion, solicitation or encouraging of illegal activities and substances; (ix) using Cloud Services in a manner that might affect availability and enjoyment of the Cloud Services by other users or third parties (such as unauthorized access to the accounts of other customers, harassing other users or third parties, any attempts to circumvent agreed limitations or the Cloud Service, intercepting, unauthorized monitoring or penetration, performance, vulnerability or security testing of the Cloud Service or breaching security measures, use for illegal or unlawful file sharing, launching or facilitating a denial of service attack (DoS) from or on Cloud Service, hacking, cracking, spoofing or defacing any portion of the Cloud Service, posting, transmitting or distributing spam mail, mass mailings, chain letters, any robot, spider, site search/retrieval application, or other automatic or manual process or device to retrieve or index data or "data mine"); or (x) using Cloud Services for any purposes that might impact life, health or environment or telecommunication services, as "miner" or "forder" of cryptocurrencies or using Cloud Services to operate a general-purpose proxy or "open proxy".

##### 4.3.2 Non-Compliance and Remedies

Customer agrees to indemnify, defend and hold Liferay harmless from and against any costs, losses, liabilities, claims or expenses (including reasonable attorneys' fees) arising out of any allegation or claim to the extent is based on a violation of Section 4.3.1. In addition, Customer agrees that as a remedy in case of a breach as set forth in Section 4.3.1 (vii) above, Customer will pay Liferay the Cloud Services Fees for each Unit for which Customer utilizes the Cloud

Services or Software in connection with such software that is not Software as genuine pre-estimate of Liferay’s losses and costs associated with such breach.

**4.3.3 Limiting Devices**

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

**4.3.4 Derivative Works**

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

**5. Subscription Term, Termination and Suspension**

**5.1 Subscription Term**

Unless otherwise agreed by the parties in writing, Cloud Subscriptions will begin on the date Liferay accepts Customer’s order for the applicable Cloud Subscriptions (please note that the foregoing does not limit Customer’s obligation to pay for Cloud 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, Cloud 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 Cloud Subscriptions, the term of the Cloud Subscriptions 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**”.

**5.2 Suspension and Termination, Retention of Customer Content**

Without limiting other rights that Liferay may have, Liferay may suspend or terminate Customer’s use of Cloud Services, disable access to the Cloud Service to Customer or Customer’s Users or take down Customer Content immediately, if Liferay reasonably believes Customer or Customer’s Users have breached the Agreement, applicable law or have violated or are violating any third party rights, without any liability to Customer and without obligation to refund of any prepaid Fees to Customer and Customer will continue to incur applicable Fees for the Cloud Services during any suspension. Where appropriate and permitted under applicable law, Liferay will notify Customer of any suspension and reasons thereof and request rectification of the breach within a reasonable time frame specified by Liferay in the notification (“**Cure Period**”). If Customer fails to rectify violation of the Agreement within the Cure Period, then the Agreement will automatically terminate upon expiration of the Cure Period without any liability to the Customer. Upon Customer’s written request to be made no later than 14 (fourteen) days upon termination or expiration of Customer’s Cloud Subscription, Liferay will provide Customer with access to the Cloud Service for the duration of 14 (fourteen) days from receipt of Customer’s request solely for purposes of retrieval of Customer Content. Liferay shall have no obligation to maintain and will irretrievably remove Customer Content upon expiration of a 30 (thirty) days period after termination or expiration of Customer’s Cloud Subscription.

**6. Available Cloud Subscription Services, Unit, applicable Schedules**

Table 6 below sets forth various Cloud Subscriptions that Liferay offers. The applicable Schedules for each Subscription listed in Table 6 contain additional terms and conditions and information concerning the scope of the relevant Cloud Subscriptions.

**Table 6**

Subscriptions	Description	Schedule
Liferay Cloud Infrastructure	Liferay Cloud Infrastructure is Liferay’s enterprise platform as a service offering.	<b>1.B</b>
Liferay DXP Cloud	“Liferay DXP Cloud” is Liferay’s bundled offering of “Liferay DXP” Software preinstalled in the “Liferay Cloud Infrastructure”.	<b>1.C</b>
Elastic DXP Cloud	“Elastic DXP Cloud” Subscriptions enable auto-scaling of the Liferay DXP Cloud Services to improve performance of the Customer Application.	<b>1.C</b>
Enterprise Search Standard DXP Cloud Add-on	Enterprise Search Standard DXP Cloud Add-On Subscription provides for certain search server functionalities.	<b>1.D</b>
Liferay Paid App DXP Cloud Add-On	Liferay Paid Apps DXP Cloud Add-On provide for additional Liferay apps available through Liferay’s Marketplace.	<b>1.D</b>

Liferay DXP Cloud Database Add-on	Liferay DXP Cloud Database Add-On provides for database capacities and functionalities.	<b>1.D</b>
Designated Contacts DXP Cloud Add-on	Designated Contacts DXP Cloud Add-On Subscription enables adding further Designated Contacts.	<b>1.D</b>
Extended Premium Support DXP Cloud Add-on	Extended Support Subscription extends the benefits associated with the Premium Support Phase for Maintenance and Support of certain Liferay Software.	<b>1.D</b>

**7. External Offerings, Content, Linking**

Certain External Offerings may be made available for use on or in connection with the Cloud Services. Each Customer is fully responsible for the choice of any External Offerings within a Customer Application. The availability of such External Offerings does not constitute any endorsement by Liferay nor implies that the External Offerings will interoperate with any Cloud Services (including any Liferay Software as applicable) regardless of whether an item of External Offerings is designated as Liferay “certified” or similar. Liferay does not provide any warranty, does not necessarily support and has not necessarily confirmed the validity, functionality or screened the content of such External Offerings and any use is at Customer’s own risk. The terms and/or conditions that apply to Customer’s use of any External Offerings within a Customer Application are as solely agreed upon between Customer and the External Offerings provider and do not apply to Liferay. Liferay and its licensors and vendors have no obligations and/or liability with respect to such third party or the External Offerings. If a Customer chooses to use External Offerings within a Customer Application, Customer authorizes Liferay to grant the External Offerings access to Customer Content or Account to the extent necessary to provide the External Offerings or for interoperability with the External Offerings. External Offerings may be removed from or be made no longer available through Cloud Services at any time, for example but not limited to if a takedown is required by law or court order or due to inconsistent interoperability. Customer may furthermore encounter links to non-Liferay websites, services, content or other external sources while using Cloud Services, which should not be interpreted as endorsement of Liferay of such third party sites or the company, products, services or content to which they link as they are not under Liferay control, Liferay has not reviewed or is otherwise responsible for them and Liferay is not responsible for the content of any linked site or any link contained in a linked site. If Customer decides to access any third party site, product or service linked through Cloud Services, Customer does so at Customer’s own risk and agrees that Liferay is not responsible or liable for any loss or expenses that may result due to Customer’s use of (or reliance on) the external site or content.

**8. Customer Content, Feedback**

**8.1 Liferay’s Rights In The Content**

In order to make Cloud Services available to Customer, Customer gives Liferay, its Affiliates, subcontractors, and any third party service providers on whose services Liferay may depend to provide the Cloud Services a worldwide, royalty-free, perpetual, non-exclusive license to make, use, reproduce, prepare derivative works from, distribute, import, perform and display Customer Content for the purpose of providing the Cloud Services to Customer. Liferay does not expect to access Customer Content or provide it to third parties except (a) as required by applicable law or regulation (such as responding to an audit, agency action, a subpoena or warrant); (b) as may be necessary to deliver, enhance or support the Cloud Services provided to Customer; (c) to prevent, detect or address fraud, security or technology issues; (d) to investigate potential breaches of Customer’s agreements with Liferay or to establish Liferay’s legal rights or defend against legal claims; or (e) to protect against harm to the property, rights, or safety of Liferay, its users or the public. Except as set forth in this section, Liferay obtains no rights in Customer Content under the Agreement. Customer represents and warrants that Customer owns all rights in, or have received a valid license to use the Customer Content, with rights or license sufficient to enable any activities in connection with the Cloud Services. Customer must provide all required and appropriate warnings, information and disclosures as may be required due to the nature of the Customer Content.

**8.2 Customer Responsibilities**

**8.2.1** Customer is solely responsible for the Customer Content used with or made available through Customer’s use of the Cloud Services, including but not limited to the Customer Content’s compliance with applicable laws (including i. a. any applicable export laws), the Customer Content’s compliance with the Agreement, the right to use such Customer Content, and administering take down notices related to the Customer Content and Customer will remove immediately any Customer Content that does not meet these compliance requirements. Customers will not use the Cloud Services to store, create, or deploy Customer 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; or (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 Customer 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 Customer Content. Customer will maintain a policy to respond to any and all such requests that Customer may receive regarding Customer Content. Liferay however reserves the right to suspend or terminate Customer’s use of or access to the Cloud 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. Customer is responsible for ensuring that Customer Content is authorized for export, distribution and use under the Export Administration Regulations (EAR) and other export control laws and regulations that may be applicable based on Customer’s use of the Cloud Services.

**8.2.2** 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 (i) Customer Content, (ii) the combination of Customer Content with other applications, content or processes, or (iii) any claim or allegation that Customer Content infringes or misappropriates the intellectual property rights of any third party. Customer is solely responsible for assessing if the backup functionalities that Liferay may provide as part of the Cloud Services are sufficient for Customer’s purposes and needs. Between Liferay and Customer, Customer is responsible for taking security precautions for backing up Customer Content and for any other measures, that Customer deems necessary to ensure that Customer Content is not lost. Customer may lose any of the Customer 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, Customer’s Users or

any third party, if Content is lost or deleted.

### 8.3 Feedback

Within the scope of this Appendix Customer may submit feedback, including comments, information, enhancement requests, recommendations, corrections, and ideas regarding the Cloud Services (collectively "Feedback"). Customer confirms that such Feedback is not confidential information of Customer or any third party, but shall be deemed Liferay's Confidential Information. Customer grants Liferay a worldwide, perpetual and irrevocable license to use any and all Feedback for any purpose, including but not limited to incorporating such Feedback as Liferay's own into its products and services without any obligation to account to Customer in any way, which shall include without limitation, no attribution or compensation obligations, etc., and Liferay shall be the owner of any products and services it creates based, directly or indirectly on Customer's Feedback.

### 9. Non-Compliance

Customer will immediately notify Liferay if Customer suspects someone has breached Customer's obligations with respect to Customer's use of the Cloud Services, or has obtained unauthorized access to Customer's Account, the Customer Content and/or Cloud Services. If Liferay has reason to believe that Customer or Customer's Users have breached the Agreement, subject to confidentiality obligations of the Agreement, Liferay or its designated agent may inspect Customer's use of the Cloud Services, including Customer's Account, Customer Content and records, to verify Customer's compliance with the Agreement. Customer will not interfere with Liferay's monitoring activities and will provide Customer Content or other information regarding Customer's Account and/or Customer Content as may be reasonably requested by Liferay to ensure that Customer's use of the Cloud Services complies with the Agreement.

### 10. Indemnification

#### 10.1 Obligations

If an unaffiliated third party initiates a legal action against Customer (such action, a "Legal Action") and that Legal Action includes an allegation that Liferay's provision of Liferay Cloud Infrastructure Services and any Software provided as part of the Cloud Subscription Services ("Cloud Content") directly infringes the third party's copyrights, trademarks or misappropriates the third party's trade secret rights ("Third Party Rights"); and, such allegation within a Legal Action, a "Claim") and Customer has complied with and remains in compliance with the terms of this Section 10, then, subject to the other terms in this Section 10, Liferay will (i) defend Customer against the Claim and (ii) pay costs, damages and/or 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 Cloud Content.

#### 10.2 Remedies

If an injunction against Customer's use of any Cloud Content is obtained pursuant to a Claim, Customer's use of Cloud Content is found by a court to infringe Third Party Rights or if Liferay believes that such a finding, injunction or a Claim is likely, then Liferay may, at its option and expense do one or more of the following: (i) obtain the rights necessary for Customer to continue using the Cloud Content consistent with the Agreement; (ii) replace the infringing portion of the Cloud Content with functionally equivalent components that are not infringing Third Party Rights; (iii) modify the Cloud Content so that it does not infringe Third Party Rights anymore ((i)-(iii) collectively referred to as "IP Resolutions"); or (iv) if none of the IP Resolutions is available on a basis that Liferay finds commercially feasible, then Liferay may terminate the Agreement and/or the applicable Order Form without further obligations to Customer under this Section 10.2 or any other liability for such termination, discontinue providing the Cloud Content to the Customer, disable Customer's access to the affected Cloud Services and, if Customer then returns and discontinues use of all items of affected Cloud Content in Customer's possession that are the subject of the Claim, Customer will receive a pro rata refund based on the time remaining under the applicable Cloud Subscription as of the effective date of such termination. If Customer chooses not to return any or some of the affected Cloud Content upon termination by Liferay in accordance with this Section 10.2, Customer shall bear the sole risk of any costs, damages and/or attorney's fees arising from Customer's continued use of the Cloud Content following Customer's receipt of Liferay's termination notice, and shall indemnify and hold Liferay harmless from such costs, damages and/or attorney's fees.

#### 10.3 Conditions

As conditions precedent to Liferay's obligations to Customer under this Section 10, Customer must (i) be current in the payment of all applicable Subscription Fees prior to a Claim or threatened Claim; (ii) notify Liferay in writing of the Claim promptly, but in no event later than ten (10) days of receipt of the Claim for which relief is sought under the Agreement; (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 its 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.

#### 10.4 Exclusions

Notwithstanding the foregoing, Liferay will have no obligations under Section 10 with regard to any Claim to the extent that it is based upon (i) a modification of the Cloud Content 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 Cloud Content 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 Cloud Content 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 Cloud Content, as applicable; (vi) any use of the Cloud Content by Customer other than for Customer's internal use; (vii) use by Customer after notice by Liferay to discontinue use of all or a portion of the Cloud Content 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 Cloud Content (including, but not limited to allegations associated with any 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 Cloud Content.

#### 10.5 Sole Remedies

No express or implied warranties by Liferay or its Affiliates are created as a result of this Section 10. To the maximum extent permitted by law, this Section 10 states Customer's sole and 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 as relates directly to the Cloud Subscription Services and Cloud Content and supersedes any other Liferay obligation related to the subject matter of this Section 10 (including, but not limited to, indemnification, breach of warranty, and/or breach of contract under

the Agreement). For the avoidance of doubt, the terms of this Section 10 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 indemnification terms or conditions that may be included in the Base Agreement. If there are any other applicable indemnity coverage or remedies available to Customer related to intellectual property infringement under the Base Agreement, 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 Base Agreement. To avoid any doubt, nothing in this Section 10 derogates from the limitations and exclusions of liability under Section 7 of the Base Agreement.

## 11. Data Privacy and Security

**11.1** Customer agrees that for purposes of Personal Data stored by the Customer in the Cloud Service Liferay acts as data processors and are appointed and authorized by the Customer to process such Personal Data on behalf of the Customer in accordance with Customer's instructions and in accordance with the terms of the Agreement (including Liferay's confidentiality obligations set forth in the Base Agreement) and only to the extent required in order to provide the Cloud Services to the Customer but for not further purposes. The Parties agree that Customer's instructions are properly documented in the Agreement. Processing of Personal Data for any other purposes requires a prior written agreement between the Parties.

**11.2** Customer understands that for purposes of delivering of the Cloud Services Liferay engages its Affiliates and/or subcontractors identified at <https://www.liferay.com/de/legal/cloud-services-data> as sub-processors, and that such sub-processors are located world-wide and may not have the same level of protection as the country of the origin of Personal Data. Customer authorizes Liferay to engaging the afore mentioned and additional sub-processors ("Sub-processors"), provided that: (i) Liferay imposes obligations on the Sub-processors with regard to processing of Personal Data that shall be not less strict than those agreed between Customer and Liferay in this Section 11; (ii) as between Liferay and Customer, Liferay remains responsible for processing of Personal Data by its Sub-processors and liable for any violations of Liferay's obligations under the Agreement; (iii) Liferay maintains the list of Sub-Processors available at current at all times: <https://www.liferay.com/de/legal/cloud-services-data>; and (iv) Customer may object to an appointment of an additional Sub-processor by Liferay due to justified concerns regarding such Sub-processors' ability to comply with the data privacy and security obligations applicable to Liferay under the Agreement. Upon receipt of Customer's objection specifying the concerns, Liferay and Customer will enter into good faith negotiations to address Customer's concerns. If Parties should not be able to agree on measures to resolve Customer's concerns in due time, either Party may terminate the Agreement without liability to the other Party.

**11.3** Throughout the term of the Agreement Liferay will maintain commercially reasonable Technical and Organizational Measures ("TOM") to protect any Personal Data stored by Customer in the Cloud Service. Liferay may at its sole discretion update its TOM at any time and without notice to Customer, provided, however, that any such updates shall not materially reduce the security and data protection standards set forth in the TOM applicable as of the Effective Date of the Agreement.

**11.4** Each Party shall comply with its respective obligations under the applicable Data privacy Laws. As the Party in control of Personal Data, Customer is at all times responsible for assessing if the contractual assurances, TOM taken and backup functionalities offered by Liferay are appropriate for the Personal Data Customer intends to upload to the Cloud Services in accordance with the applicable Data Privacy Laws. Customer shall refrain from uploading and/or, if required to assure compliance with the applicable Data privacy Laws, remove any Personal Data to the Cloud Services to the extent processing of such Personal Data through the Cloud Service would constitute a violation of the Data Privacy Laws applicable to such Personal Data. To the extent required under the applicable laws, Customer will obtain any necessary consent from and provide any required notification and/or information and reply to the requests of the data subjects whose Personal Data Customer will be transferring to and hosting in the Cloud Services exercising their rights under the Data Privacy Laws with regard to their Personal Data. Customer is furthermore responsible for secure use of the Cloud Services, including i. a. secure storage, use and distribution of access credentials.

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

**11.6** Liferay will irretrievably remove Personal Data stored by the Customer in Cloud Services in accordance with Section 5.2.

**11.7** Additional information as to what and how customer data is processed through certain Cloud Services can be found here: <https://www.liferay.com/de/legal/cloud-services-data>.

**11.8** Customer furthermore agrees to notify Liferay of any intent to host any Personal Data subject to the GDPR in the Cloud Services prior to uploading any such Personal Data to the Cloud Service. In such case Customer agrees to comply with the Data Processing Addendum ("DPA"), which terms are incorporated by reference into this Appendix. Customer shall execute and return an executed copy of the DPA to Liferay. In any event of inconsistencies between the terms of DPA and this Section 11, the terms of DPA shall prevail in relation to the Personal Data subject to the GDPR.

**11.9** For clarification, either Party understands and agrees that processing of the business contact data of the employees or third parties involved in performance or use of Subscription Benefits of the Agreement on behalf of the other Party does not constitute data processing on behalf of that other Party.

## 12. Monitoring of Customer's Use of the Service

Liferay may use solutions or technologies that monitor Customer's usage statistics while using the Cloud Services. Liferay will only use such usage statistics related to Customer's use of the Cloud Service subject to confidentiality obligations set forth in the Base Agreement, and if applicable DPA, and only to improve the Cloud Services, to assist a Customer in its use of the Cloud Services and to monitor Customer's compliance with the use restrictions applicable to the Cloud Service as set forth in the applicable Appendix. Liferay may furthermore collect and use, for any purpose, aggregated anonymous usage data about Customer's use of the Cloud Services.



## SCHEDULE 1.A: SUPPORT

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

### 1. Severity Levels

The Severity level for a particular Incident is determined through a mutual discussion between Customer and Liferay, and based on the business impact of the issue.

**Severity 1 (“Critical”) Incidents:** A Severity 1 Incident means for purposes of the Liferay Cloud Infrastructure (i) the production environment for the Customer Application is completely shut down or severely impacted; or for purposes of Liferay Software (ii) production environment system is severely impacted or completely shut down, or (iii) system operations or mission-critical applications are inoperable, or (iv) 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 for purposes of the Liferay Cloud Infrastructure (i) any environment for the Customer Application is functioning with limited capabilities or is unstable with periodic interruptions; or for purposes of Liferay Software (ii) the system is functioning with limited capabilities, or (iii) is unstable with periodic interruptions, or (iv) mission critical applications, while not inoperable, have experienced material system interruptions.

**Severity 3 (“Minor”) Incidents:** A Severity 3 Incident means for purposes of the Liferay Cloud Infrastructure (i) either environment for the Customer Application is fully functional, but there are observed errors that do not impact the usability of an environment; or for purposes of Liferay Software (ii) the system is fully functional, but there are observed errors that do not impact the usability of the system.

Liferay will work on Incidents designated as Severity 1 twenty-four (24) hours a day, seven (7) days a week, (“**24x7**”), provided that if resolution of a Customer’s issue requires input from members of Customer’s support team and they are not available to work during those hours, Liferay reserves the right to lower the severity level to match the actual business impact, if applicable, until Customer’s support team is available to support the incident on a 24x7 basis.

### 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 of the Appendix). Customer shall use commercially reasonable efforts to maintain consistent Designated Contacts during the relevant Subscription Term, provided that Customer may change its Designated Contacts from time to time as a result of changes in employment responsibilities, transfers, leaves of absence, resignation or termination of employment of such individual. Customer may not use a single Designated Contact to act as a mere forwarding service for other of Customer’s personnel.

Number of Subscriptions for Production P	Designated Contacts for Gold Support	Designated Contacts for Platinum Supp
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

### 3. Acknowledge Receipt Times

Customer may report Incidents to Liferay in accordance with the provided contact information, currently at <https://www.liferay.com/group/customer/support/contact/world-wide-support>. 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 3**

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



**4. Support Exclusions**

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

- i. Software or Cloud Service 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; and/or
- v. Where Liferay has discontinued Services for the version of the Software in accordance with the EOSL Policy.

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

**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 or Cloud 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 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.

## SCHEDULE 1.B: LIFERAY CLOUD INFRASTRUCTURE SERVICES

Liferay Cloud Infrastructure Services (“**Liferay CI Services**”) is a platform as a service offering created to enable deployment, management, use and hosting of Liferay Software. Unless otherwise agreed in writing, Liferay CI Services are generally only available in a bundle with further Liferay Cloud Services (“**Cloud Services Bundle**”), such as, for example, Liferay DXP Cloud, provided on a subscription basis (“**Cloud Subscription**”) as defined in the main body of the Appendix).

### 1. Definitions

“**Complete Shutdown**” means the production environment for the Customer Application is completely shut down due to an Incident.

“**Scheduled Maintenance**” is the weekly Maintenance conducted every Tuesday and Wednesday, between 9 pm Pacific Time (PT) and 3 am (PT), which generally does not require the Liferay CI Services to be offline, but may lead to short periods of instability and downtime of up to one (1) clock hour.

“**Unscheduled Maintenance**” is the Maintenance outside of the weekly scheduled maintenance periods as defined for the “Scheduled Maintenance” above that might be required to resolve issues that are critical for Customer and/or performance of the Liferay CI Services.

### 2. Subscription Benefits

Liferay CI Services provide Customer the following Subscription Benefits during the Subscription Term on a per Unit Basis applicable to the Cloud Services Bundle for which Customer has purchased Cloud Subscriptions: Access to the Cloud Service, Maintenance and Support.

Liferay CI Services provide for separate environments for the Units provided for different Designated Purposes (Production, Non-Production, Backup).

### 3. Maintenance, Availability and Service Credits

#### 3.1 Maintenance

Liferay intends to periodically update, upgrade, backup, improve and/or discontinue certain functionality associated with the Liferay CI Services and Customer’s user experience. As a result, the Liferay CI Services may be substantially modified. Liferay reserves the right at any time to change and/or discontinue any or all of the Liferay CI 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 Liferay CI Services website.

If Scheduled Maintenance is required outside of the defined weekly scheduled maintenance periods, Liferay will notify Customer at least three (3) days in advance. If Unscheduled Maintenance shall be required, Liferay will notify Customer at least four (4) hours prior to the Unscheduled Maintenance, if Liferay expects a downtime due to the Unscheduled Maintenance. In any case, the Unscheduled Maintenance will be conducted between 9:00 pm (PT) and 3:00 am (PT) and will last no more than one (1) hour. Any notifications of upcoming Maintenance will be provided via email to the Designated Contacts and include reason for the downtime, expected duration of the downtime and contact information.

#### 3.2 Availability

Liferay conducts continuous automatic and manual monitoring of the Liferay CI Services to proactively address any potential performance issues. Liferay CI Services furthermore provide for certain tools, which allow Customer to monitor its Customer Application.

Liferay will use commercially reasonable efforts to maintain Monthly Availability for the Liferay CI Services at or above 99.95%, except for: (a) Unscheduled Maintenance resulting in planned downtime of which Customer has been given advance notice or Scheduled Maintenance (together “**Planned Downtime**”), or (b) any unavailability caused by circumstances beyond Liferay’s reasonable control, including without limitation, force major, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Liferay employees), internet or web service provider failures or delays, or denial of service attacks (“**Exculpated Downtime**”).

“Monthly Availability” or “**MA**” is calculated using the following equation:  $MA = 100\% - ((DT/43800) * 100\%)$

“**DT**” or “**Down Time**” is defined as the total number of minutes of Complete Shutdown occurring in a calendar month that is not Scheduled Maintenance or Exculpated Downtime. For example, twenty-two (22) minutes of DT in a calendar month result in a Monthly Availability of 99.94%.

Customer may view information about the average downtime for all Liferay CI Services’ assets and the applicable region(s), including historical data about downtimes, root cause and solution, through the applicable Liferay CI Services website.

#### 3.3 Service Credits

In the event that Monthly Availability in a calendar months falls below 99.95%, Customer may request a service credit. Such request must be submitted to Liferay in writing no later than five (5) working days from the end of the concerned calendar months. The service credit amount shall be calculated by applying the percentage indicated in the table below to the pro rata portion of the Subscription Fees paid by the Customer for the use of the applicable Cloud Services Bundle in the concerned calendar month (“**Service Credits**”):

MA Percentage	Percentage of the Subscription Fees attributable to the concerned calendar month credited
99.80 to 99.94%	5%
99.50 to 99.79%	10%
Below 99.49%	25%

Service Credits owed by Liferay to the Customer shall be credited to Customer’s Account with the concerned Cloud Subscription and applied to future or additional purchases of Liferay Cloud Subscriptions. In the event of a termination of all of Customer’s Cloud Subscriptions by the Customer due to Liferay’s material breach of the Agreement, Liferay shall refund Customer the monetary amount (in the currency in which Subscription Fees were paid) equal to the Service Credits unused and remaining in Customer’s Account. In the event of a termination for any other reason, the Service Credits shall expire.



## SCHEDULE 1.C: LIFERAY DXP CLOUD SUBSCRIPTIONS

### 1. Liferay DXP Cloud Subscription

#### 1.1 Liferay DXP Cloud

“Liferay DXP Cloud” is Liferay’s Cloud Services Bundle offering of Liferay Software known as “Liferay Digital Experience Platform” or “Liferay DXP” preinstalled for development, deployment, management, use and hosting in the Liferay CI Services.

In addition to the Subscription Benefits applicable to the Liferay CI Services as set forth in Schedule 1. A, a Liferay DXP Cloud Subscription provides Customer the following Subscription Benefits during the Subscription Term and on a per Unit basis applicable to the Liferay DXP Cloud Subscription: Access to the Cloud Service known as “Liferay DXP Cloud”, Customer Portal Access (including access to Liferay Software known as “Liferay DXP”), Software Maintenance and Support for the Software.

Liferay will make available the Software, Updates and Documentation to Customer for download from Liferay’s Customer Portal. Copies of such Software, Updates and Documentation downloaded from Liferay’s Customer Portal and used for Development Purposes and Maintenance are governed by the DXP End User License Agreement located at: [www.liferay.com/legal/doc/eula/dxp/1001605\\_NA](http://www.liferay.com/legal/doc/eula/dxp/1001605_NA) (“**DXP EULA**”) and ,unless otherwise agreed, e. g. for purposes of migration to a more current version of the Software, limited to the version of the Software that Customer uses in the Liferay Cloud Infrastructure and to the Subscription Term of Customer’s applicable Cloud Subscription (and, for clarity, the EULAs shall not survive termination or expiration of the Agreement). For clarity, the usage rights for Instances used for Production, Non-Production or Backup Purposes are limited to the Instances of Liferay DXP Software preinstalled by Liferay for the Customer in the Liferay Cloud Infrastructure for which Customer has purchased Cloud Services Bundle Subscriptions. Each copy of Software provided for Development Purposes provides Customer an entitlement to use the Software limited to use on one (1) development workstation and for up to ten (10) unique IP addresses, as further described in the DXP EULA.

The Unit by which Liferay measures a Customer’s use of the Liferay DXP Cloud Subscription is an Instance of the Software component known as “Liferay DXP” preinstalled by Liferay for the Customer in the Liferay Cloud Infrastructure. The price per Unit is defined by the Sizing of an Instance and Designated Purpose. Customers must purchase the appropriate number and type of Liferay DXP Cloud Subscriptions equivalent to the number and Sizing of Instances of Liferay DXP as described in the following table:

Sizing	Number of vCPUs that will be accessible by each Instance	Memory assigned to each Instance
1	Up to eight (8)	Up to 8 GB
2	Up to twelve (12)	Up to 16 GB
3	Up to sixteen (16)	Up to 32 GB
4	Up to thirty two (32)	Up to 64 GB

\*Each Subscription provides for an unlimited number of Customer’s Users. Each Customer’s User can act as administrator of the applicable Account, enabled to add additional Customer’s Users to the Account.

If the number of Instances that Customer deploys, uses or executes exceeds the number of Instances for which Customer has an active Liferay DXP Cloud Subscription, Customer is required to purchase additional Liferay DXP Cloud Subscriptions to cover this exceeding number of Instances. If Customer’s Liferay DXP Cloud Subscription is used for an Instance that exceeds the allotted Sizing for such Instance, Customer is required to purchase the appropriate Sizing of Instance to cover the exceeded capacity. Customer’s use of the Liferay DXP Cloud Subscriptions is furthermore subject to certain capacity limitations as set forth in the Documentation.

Pricing for Liferay DXP Cloud Subscriptions depends on the Designated Purpose of each Instance. Liferay DXP Cloud Subscription pricing is available for the following Designated Purposes: Non-Production, Production or Backup.

Within each unique Customer Application Customer is required to maintain at least one (1) Subscription for Production Purposes and one (1) Subscription for Non-Production Purposes.

#### 1.2 Supplemental Software Conditions

Liferay DXP Cloud Subscriptions also include access to Software solutions and tools for download from Liferay’s website. Except for the cases listed below, the Software is licensed under the DXP EULA and includes access to Maintenance and Support for such Software.

- Some Software provided as part of Liferay DXP is designed to be used on workstations, e.g. Software provided for Development Purposes or to be used on the client-side as connectors to server based software. These Software components are identified at <https://liferay.com/legal/client-side> and subject to a different EULA located at [www.liferay.com/legal/doc/eula/clients/1001605\\_NA](http://www.liferay.com/legal/doc/eula/clients/1001605_NA) and limited to the Subscription Term of Customer’s applicable Cloud Subscription (and, for clarity, the EULAs shall not survive termination or expiration of the Agreement). Any Updates in response to Incidents reported for workstation and client-side installations of Software are generally limited to new versions and releases of the affected Software due to additional collaboration required with development teams for analysis of root causes. Liferay may nevertheless provide software fixes, updates, upgrades, enhancements, additions, corrections, modifications, when and if they are made available.
- **Free Liferay Subscription Apps.** Access to Free Liferay Subscription Apps is included with a Liferay DXP Cloud Subscription without additional Subscription Fees and made available in the “Subscription App” category of Liferay’s Marketplace (displayed as “Free” Apps), rather than through Customer Portal, subject to DXP EULA and limited to the Liferay DXP Cloud Subscription Term.
- **Liferay Lab Apps.** Liferay provides certain preview-based technology called “Liferay Labs Apps” without any Subscription Benefits, subject to the DXP EULA and limited to the Liferay DXP Cloud Subscription Term.

**1.3 Third Party Services**

Liferay DXP Cloud Subscriptions also include a third party service that provides for tools enabling tracking and supports tuning of the performance of the Instances of Liferay DXP Cloud utilized by the Customer (for purposes of this section “Third Party Services”). These Third Party Services are provided to the Customer by Dynatrace LLC (for purposes of this section “Third Party Services Provider”). As a pre-condition for the access to and use of the Third Party Services, Customer accepts and agrees to the Third Party Services Provider’s End-User terms, as set forth at: <https://www.dynatrace.com/company/legal/customers/> („End-User Terms“). The Third Party Services Provider is a third-party beneficiary of the Agreement with the full right to directly enforce the End User Terms against the Customer. Support will be provided by Liferay.

**2. Elastic DXP Cloud**

An Elastic DXP Cloud Subscription allows Customer to deploy, use or execute additional Instances of Base Subscriptions (as defined below) on-demand and in excess of the number of Instances for which Customer maintains active Liferay DXP Cloud Subscriptions (“**Elastic Deployment**”). Customer may enable Elastic Deployment subject to the terms and conditions of the Agreement by activating auto-scaling capability at the DXP Cloud console of the Liferay DXP Cloud Service.

Elastic Deployment is only available to Customers that meet the following requirements:

1. Customer must maintain at least two (2) Liferay DXP Cloud Subscriptions (“**Base Subscriptions**”).
2. Only Instances used for Production Purposes may qualify as Base Subscriptions (i.e., Instances used for Non-Production or Backup Purposes do not count).
3. Customer must have purchased the Base Subscription from Liferay or a Business Partner subject to the Agreement.
4. Elastic Deployment Instances include Support and Maintenance as applicable to the underlying Liferay DXP Cloud Subscription.

The Unit by which Liferay measures Customer’s Elastic DXP Cloud Subscriptions is the number of clock hours during which Customer utilizes each additional Instance. The total use of any Elastic DXP Cloud Subscriptions during a calendar quarter will be rounded up to the nearest clock hour.

The price per Unit is defined by the Sizing of the additional Instance that Customer utilizes:

Sizing	Number of vCPUs that will be accessible for each Instance	Memory
<b>1</b>	Up to eight (8)	Up to 8 GB
<b>2</b>	Up to twelve (12)	Up to 16 GB
<b>3</b>	Up to sixteen (16)	Up to 32 GB
<b>4</b>	Up to thirty two (32)	Up to 64 GB

Liferay will issue an invoice to Customer for Fees applicable to use of Elastic Deployment after each quarter that Customer deploys, uses or executes Elastic Deployment Instances and Customer will pay such invoice(s) in accordance with the Agreement. Unless otherwise specified in the applicable Order Form or another written agreement, the price per Unit is set forth on the pricing page accessible through Customer Portal and may be updated by Liferay from time to time.

Liferay will record the start time and end time of each connected Instance, as measured by the start time and end time of the JVM associated with the Instance (“Instance Uptime”). For the avoidance of doubt, the Instance Uptime may differ from other third-party calculations that rely on site availability vs. JVM activity, for example, due to the use of an elastic load balancer. Reported Instance Uptime may also differ from other calculations if Instances are abruptly shutdown through methods other than those recommended by Liferay. Chargeable Uptime is defined as the total Instance Uptime of all Instances that exceed the number of purchased annual Liferay DXP Cloud Base Subscriptions and will be rounded up to the nearest hour for billing purposes.

**3. Migrating Customer Application off of the Liferay Cloud Infrastructure**

Customer may, at any time during the Subscription Term of its valid Liferay DXP Cloud Subscription, migrate its Customer Application off of the Liferay Cloud Infrastructure to another hosting environment (e.g., on-premises, third party cloud, etc.). In the event of such a migration, Customer will be required to migrate all Instances of Liferay DXP Software utilized for purposes of the concerned Customer Application off of the Liferay Cloud Infrastructure. For clarification, for a specific Customer Application, Customer may not use some Instances of Liferay DXP within the Liferay Cloud Infrastructure and other Instances in another hosting environment. Liferay will provide Customer an activation key for each migrated Instance of the Software for the corresponding Designated Purpose (Production, Non-Production or Backup) for which Customer is maintaining an active Liferay DXP Cloud Subscription. Customer’s use of the Instances of the Liferay DXP Software outside of Liferay Cloud Infrastructure, including any Updates provided to the Customer as part of the Maintenance during the Term of Customer’s Liferay DXP Cloud Subscription and installed by the Customer outside of Liferay Cloud Infrastructure, provided within the migration process, is exclusively governed by the terms of the DXP EULA.

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**SCHEDULE 1.D: LIFERAY DXP CLOUD ADD-ON SUBSCRIPTIONS**

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**1. Enterprise Search Subscriptions**

For each Unit of the Liferay DXP Cloud Subscription that Customer purchases, Customer is required to purchase a Unit of the Enterprise Search DXP Cloud Subscriptions for the same Designated Purpose corresponding with the Designated Purpose of the underlying Unit of the Liferay DXP Cloud Subscription. Enterprise Search Add-On Subscriptions provide for a Third Party Software server preinstalled by Liferay in the Liferay Cloud Infrastructure and additional Third Party Software (“**Additional Software**”) with the following functionality:

The Enterprise Search Standard DXP Cloud Add-On Subscription includes certain search and additional monitoring capabilities.

In addition, the Enterprise Search Standard DXP Cloud Add-On Subscription includes Support and Maintenance for the Additional Software as applicable, provided that Support requires an active underlying Liferay DXP Cloud Subscription. Any provider of such Third Party Software will have no obligation to provide support directly to Customer.

The Additional Software is made available for download from the Third Party Software provider’s website with the purchase of the applicable Add-On Subscription and is licensed under the EULA(s) located at: [www.liferay.com/legal/enterprise-search-eula](http://www.liferay.com/legal/enterprise-search-eula). Any server-side Liferay Software that enables the use of the Additional Software provided under either Enterprise Search Add-On Subscription is governed by the terms and conditions of the Liferay DXP EULA as set forth in Schedule 1.C above.

The Unit for Enterprise Search Add-on Subscription is an Instance.

Enterprise Search Add-On Subscriptions and the Additional Software may only be used within the Liferay DXP Cloud Service.

**2. Liferay Paid Apps DXP Cloud Add-On Subscriptions**

Liferay Paid Apps are those Liferay Subscription Apps that are subject to Fees (displayed as “Paid” Apps) in the Liferay Marketplace and are not Free Liferay Subscription Apps. Liferay Paid Apps require an active Liferay DXP Cloud Subscription at the time of purchase. A Liferay Paid App Subscription may only be used with Liferay Software during the term of Customer’s valid Liferay DXP Cloud Subscription.

A Liferay Paid App Enterprise Subscription provides Customer the following Subscription Benefits during the Subscription Term and on a per Unit basis: Customer Portal Access, Maintenance and Support, provided that Support requires an active underlying Liferay DXP Cloud Subscription.

The Unit for Liferay Paid Apps Enterprise Subscriptions is an Instance.

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

**3. Liferay DXP Cloud Database Add-On Subscriptions**

For each Unit of the Liferay DXP Cloud Subscription that Customer purchases, Customer is required to purchase a Unit of the Liferay DXP Cloud Database Subscription for the same Designated Purpose corresponding with the Designated Purpose of the underlying Unit of the Liferay Cloud Subscription. Liferay DXP Cloud Database Add-On Subscriptions provide additional Third Party Software preinstalled by Liferay in the Liferay Cloud Infrastructure by default (“Additional Software”) for additional functionality as follows:

Non-Production Enterprise Database: a database encrypted at rest with a capacity of up to 100 GB

Production Enterprise Database: a database encrypted at rest with a capacity of up to 100 GB, multi-region for high-availability, provisioned IOPS for high performance.

Each Enterprise Database Add-On Subscription therefore includes Access to the Cloud Services, Support and Maintenance for the Additional Software, provided that Support requires an active underlying Liferay DXP Cloud Subscription. Any provider of such Additional Software will have no obligation to provide support directly to Customer.

The Unit for Enterprise Database Add-on Subscription is an Instance.

Enterprise Database Add-On Subscriptions and the Additional Software may only be used within the Liferay DXP Cloud Service.

**4. Designated Contact DXP Cloud Add-on Subscription**

Designated Contact Add-on Subscriptions are available as optional add-on Subscriptions to an active Liferay DXP Cloud Subscription. Designated Contact DXP Cloud 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.

**5. Extended Premium Support DXP Cloud Subscription**

The Extended Support DXP Cloud Subscription extends the benefits associated with the Premium Support Phase for Maintenance and Support of certain Liferay Software used by the Customer within the scope of its Liferay DXP Cloud Service beyond the end of Premium Support Phase, as defined in the EOSL Policy. Extended Premium Support DXP Cloud Subscriptions must be purchased before the Premium Support Phase ends (as defined in the EOSL Policy).

Each Extended Premium Support DXP Cloud Subscription requires an underlying and active Liferay DXP Cloud Subscription. For example, the Liferay Extended Premium Support Subscription is not available for Customer Applications for which Customer does not have an active Liferay DXP Cloud Subscription.

If purchased, the Extended Premium Support DXP Cloud 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 DXP Cloud Subscriptions are the same as for Customer’s underlying active Liferay DXP Cloud Subscription.