

This Addendum, which includes the documents incorporated by reference in this Addendum (together, the “Addendum”), describes the Support Benefits, Liferay Cloud Infrastructure and related terms, conditions, definitions, and exclusions applicable to the PaaS Experience product offering (“PaaS Experience”), which supplement certain Subscriptions described in the Enterprise Subscription Appendix (the “Appendix”). The specific services and Subscription Benefits provided by Liferay to Customer under PaaS Experience is subject to the scope, limitations, and exclusions set forth in this Addendum and an applicable Order Form.

Any capitalized terms used but not defined in this Addendum have the meaning defined in the agreement to which this Addendum is attached (physically or by reference), such as the Liferay Enterprise Services Agreement (the “Base Agreement” and collectively, with the Addendum referred to as “Agreement”) and the applicable Appendix.

IF CUSTOMER USES SUBSCRIPTION FOR A TRIAL TERM (AS DEFINED HEREIN), SUCH USE SHALL BE SUBJECT TO THE APPLICABLE PROVISIONS OF THIS AGREEMENT DURING THE TRIAL TERM.

## 1. Definitions

“**Account**” means an individual account a Customer User must create and use to access Cloud-Based Services.

“**CCPA**” means the California Consumer Privacy Act, Cal. Civ. Code § 1798.100 et seq., and its implementing regulations.

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

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

“**Customer’s Personal Data**” shall mean Personal Data provided by or on behalf of the Customer to Liferay through use of the Subscription Services and processed by Liferay on behalf of the Customer.

“**Customer User**” means a person using the Subscription Services on behalf of Customer (including, for example, an employee of Customer or Customer’s Affiliate, contractor or third-party service provider).

“**Data Protection Laws**” means the applicable data protection or privacy laws to the extent such laws apply to the processing of data within the scope of the Subscription Services.

“**End User**” means any third party who is not a Customer User that accesses and uses Customer Application through the web.

“**Environment**” means a logical deployment context provisioned on Liferay Cloud Infrastructure for implementation of Liferay Software. Each environment runs in its own Kubernetes namespace with its own activation key. As used in herein, “namespace” means a logical partition within a Kubernetes cluster used to organize, isolate, and manage groups of related resources (including workloads, services, and configuration) within the same cluster.

“**Environment Type**” means one of the use cases for Environments – either Production, Non-Production, User Acceptance Testing (UAT) or Disaster Recovery (DR) – each as further described at <https://support.liferay.com/w/cloud-native-quotas-and-limitations>.

“**External Offerings**” means software and/or services that Customer uses in connection with the Subscription Services and that are provided through third parties.

“**Liferay Cloud Infrastructure**” means the cloud-based infrastructure platform provided by Liferay for deployment and hosting of Liferay Software.

“**Machine Type**” means the configuration of allocated resources for an Environment, either “Standard” or “High Performance”.

“**Personal Data**” shall have the meaning assigned to it by Data Protection Laws.

“**Scheduled Maintenance**” is the Maintenance conducted at regular intervals and during the time windows specified at <https://help.liferay.com/hc/en-us/articles/360032562611-DXP-Cloud-Platform-Release-Schedule> (“Scheduled Maintenance Window”), which generally does not require the Infrastructure Services to be offline, but may lead to short periods of instability and downtime of up to one (1) clock hour.

“**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).

“**Unscheduled Maintenance**” is Maintenance outside of the Scheduled Maintenance Window, required to resolve issues that are critical (e.g. security patches, fixes for Severity 1 Incidents) for the Liferay Cloud Infrastructure.

## 2. Subscription Benefits

**2.1** PaaS Experience provides Customer with the following standardized benefits described in the subsections of this Section 2 (collectively, “**Cloud-Based Services**”).

### 2.2 PaaS Console

“**PaaS Console**” means the cloud-based administration console used to access and manage Liferay Cloud Infrastructure, Infrastructure Services (defined below), and any Units of Liferay Software preinstalled by Liferay for Customer in the Liferay Cloud Infrastructure, for purposes of deployment, management, development, integration and hosting of the Customer Application, and for which Customer has purchased a Subscription.

### 2.3 Infrastructure Services

“**Infrastructure Services**” means services provided on a “platform as a service” basis within Liferay Cloud Infrastructure, and subject to **Schedule A**, that enables deployment, use and management of Liferay Software deployed on Liferay Cloud Infrastructure.

## 3. Units and Fees

### 3.1 PaaS Experience

The Unit for PaaS Experience is a Customer Application. Liferay charges a Fee for the PaaS Experience based on the total number and types of Environments allocated to the applicable Customer Application.

### 3.2 Environments

Each Environment is assigned an Environment Type and a Machine Type. Machine Type is associated with an allocation of resources and certain limitations as identified at <https://support.liferay.com/w/cloud-native-quotas-and-limitations>. The UAT and DR Environments, if purchased and applicable to Customer’s PaaS Experience, will be (1) the same Machine Type as the Production Environment and (2) with respect to number of available Pods, limited to the applicable number of Production Pods, respectively. For clarity and avoidance of doubt, where applicable, the Non-Production Environment may be a different Machine Type than that

of the Production Environment. The specific quantity of and other applicable parameters for Environments are described in this Addendum and as identified in the applicable Order Form.

Customer is required to purchase a quantity of Environments equal to the total number of Environments that Customer deploys, uses, consumes or executes or otherwise applies Subscription Benefits upon. In addition, if Customer uses any of the Subscription Benefits to support or maintain Environments then Customer must purchase Subscriptions equal to the amount of Environments for which Customer used or applied Subscription Benefits.

### 3.3 Metrics

Each Unit of PaaS Experience, and the associated Environments, is allocated with certain amounts of consumption-based resources as described at <https://support.liferay.com/w/cloud-native-quotas-and-limitations> (each, a “Metric”). Customer may supplement the Metrics by purchasing additional resources on a pre-commitment and pre-paid basis by executing an Order Form. In the event of such order, any amounts specified in the Order Form shall be deemed added to the respective base amounts of the Metric allocated to Customer’s PaaS Experience Environments and any amounts purchased under an applicable prior Order Forms for the remainder the applicable Subscription Term.

Additionally, Liferay may invoice, and Customer shall pay in accordance with the Agreement, the fees associated with any overages to the Metrics. Unless otherwise agreed to by the parties in writing, such overages will be calculated on a monthly basis and invoiced by Liferay on a quarterly basis.

## 4. Use of the Services, Restrictions

### 4.1 Account

Customer is required to create an Account for each Customer User to access and use Cloud-Based Services by providing a valid email address and creating a secure password. Customer remains fully responsible for confidentiality of credentials used by Customer Users to access their respective Accounts and for any activity through those Accounts, either by End Users or third parties resulting of any unauthorized access to the Cloud-Based Services. Customers may not (and may not allow third parties to) access the Services or, provide any third party access to the Services, in a manner that is intended to avoid Fees or to circumvent maximum capacity thresholds for the Subscription Services or otherwise increase or alter the scope or level of Subscriptions ordered by Customer.

### 4.2 Restrictions

#### 4.2.1. General Restrictions

The rights granted to Customer under this Addendum do not authorize Customer and Customer will not (and will not allow any third party to): (i) distribute, sell, rent any parts of the Subscriptions to a third party; (ii) reverse engineer, translate, modify, loan, convert or apply any procedure or process to the Subscriptions 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 Subscriptions, Liferay Software or any trade secret information or process contained in the Subscriptions (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-Based Services, or create a derivative work of any part of the Subscriptions including but not limited to, any software utilized by Liferay in the provision of the Subscriptions; (iv) remove any product identification, trademarks, trade names or titles, copyrights, legends or any other proprietary marking in the Subscription Services; (v) disclose the results of any benchmarking of the Subscriptions (whether or not obtained with Liferay’s assistance) to any third party; (vi) use Subscriptions or Software for the purpose of building a competitive product or service to the Liferay Software or Subscriptions or copying the Software’s or Cloud-Based Service’s features or user interface; (vii) use the Subscriptions 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 Subscriptions in violation of any applicable laws (including, but not limited to, Data Protection Laws, export or IP laws) or for any illegal activities or promotion, solicitation or encouraging of illegal activities and substances; (ix) using Subscription Services in a manner that might affect availability and enjoyment of the Subscription 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 Subscription Services for any purposes that might impact life, health or environment or telecommunication services, as “miner” or “farmer” of cryptocurrencies or using Subscription Services to operate a general-purpose proxy or “open proxy”. For clarity and avoidance of doubt, distributing 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, even though open source licenses applicable to certain software packages may give Customer the right to distribute those packages (and this Addendum is not intended to interfere with Customer’s rights under those individual licenses).

#### 4.2.2. 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 4.2.1. In addition, Customer agrees that as a remedy in case of a breach as set forth in Section 4.2.1 (vii) above, Customer will pay Liferay the Fees for each Unit for which Customer utilizes Subscriptions in connection with software that is not Software as genuine pre-estimate of Liferay’s losses and costs associated with such breach.

### 4.3 Suspension and Termination, Retention of Customer Content

Without limiting other rights that Liferay may have, Liferay may suspend or terminate Customer’s use of Subscriptions, disable access to the Subscription Benefits for Customer or Customer Users, or immediately take down Customer Content, if Liferay reasonably believes Customer or Customer Users have breached the Agreement, applicable law or have violated or are violating any third party rights, in each case, without any liability to Customer and without obligation to refund any prepaid Fees to Customer and Customer will continue to incur applicable Fees for the Subscriptions 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 Customer.

### 4.4 Trial Use

Liferay may make the certain Subscriptions identified in Schedule A available on a trial, not-for-production, basis (each, a “**Liferay PaaS Trial Subscription**”) for the purposes of evaluating its functionality and capabilities, free of charge, for a period of thirty (30) days, unless terminated or extended by Liferay in its sole discretion (“Trial Term”). Notwithstanding anything to the contrary in this Addendum, each Liferay PaaS Trial Subscriptions include Customer Portal Access and Web-Based Services and do not include, and Liferay is not obligated to provide, Support, Maintenance and Legal Assurance during a Trial Term.

Customer may request Liferay PaaS Trial Subscriptions through Liferay’s website or through a Liferay Sales representative. Liferay PaaS Trial Subscriptions require completion of a registration form by Customer and Customer’s provision of certain information. Additional trial terms and conditions applicable to Liferay PaaS Trial Subscriptions may appear on the registration webpage. Any such additional terms and conditions are incorporated into the Agreement by reference and are legally binding with respect to Customer’s use of Liferay PaaS Trial Subscriptions.

Customer will not upload or store Customer’s Personal Data or Customer’s Confidential Information to the Subscription Services in connection with use under a Liferay PaaS Trial Subscription, and Customer will only use the Liferay PaaS Trial Subscription with non-production data. If Customer elects to upload or store data in connection with Customer’s use of a Liferay PaaS Trial Subscription, Customer acknowledges and agrees that Liferay shall have no liability with regard to any loss, destruction or corruption of such data and Customer shall hold Liferay and its affiliates harmless with respect to any violation of data protection laws.

LIFERAY WILL DESTROY, AND IS UNDER NO OBLIGATION TO RETAIN, ANY DATA CUSTOMER ENTERS INTO THE SUBSCRIPTION SERVICES, OR ANY CUSTOMIZATIONS MADE TO THE SOFTWARE OR SUBSCRIPTION SERVICES BY OR FOR CUSTOMER, IN CONNECTION WITH CUSTOMER’S USE OF LIFERAY PAAS TRIAL SUBSCRIPTIONS.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 7 OF THE BASE AGREEMENT (Exclusion and Limitation of Liability, Risk Allocation) OR ANY OTHER LIMITATIONS UPON CUSTOMER'S LIABILITY, CUSTOMER SHALL BE FULLY LIABLE TO LIFERAY AND ITS AFFILIATES FOR (I) ANY DAMAGES ARISING OUT OF CUSTOMER'S USE OF THE SUBSCRIPTIONS DURING THE TRIAL TERM, (II) ANY BREACH BY CUSTOMER OF THE AGREEMENT AND (III) ANY OF CUSTOMER'S INDEMNIFICATION OBLIGATIONS HEREUNDER.

## 5. External Offerings, Content, Linking

Certain External Offerings may be made available for use on or in connection with the Subscriptions. 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 of the External Offerings nor implies that the External Offerings will interoperate with any Subscriptions (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' providers, respectively, and do not apply to Liferay. Liferay and its licensors and vendors have no obligations and/or liability with respect to such third parties 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, Customer Application, and applicable Accounts, in each case 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 Subscriptions 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-Based Services, which should not be interpreted as endorsement by Liferay of such third-party sites or the vendor, products, services or content linked. 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 Subscription 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.

## 6. Customer Content, Feedback

### 6.1 Liferay's Rights In The Content

In order to provide Cloud-Based Services to Customer, Customer gives Liferay, its Affiliates, subcontractors, and any third party service providers on whose services Liferay may depend to provide the Subscription 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-Based 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-Based 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 to Liferay that Customer owns all rights in, or has received a valid license to use the Customer Content, with rights or license sufficient to enable any activities in connection with the Subscription Services. Customer must provide all required and appropriate warnings, information and disclosures as may be required due to the nature of the Customer Content.

### 6.2 Customer Responsibilities

**6.2.1.** Customer is solely responsible for the Customer Content used with or made available through Customer's use of the Subscription Services, including but not limited to the Customer Content's compliance with applicable laws (including any applicable export laws or Data Protection 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-Based Services to store, create, transmit, share, publish, modify, 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, disparaging, or that advocates racial or ethnic intolerance; or (vi) is profane, scandalous, pornographic, pedophilic, indecent, or otherwise objectionable; (vii) harm minors in any way; (viii) deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature; or (ix) infringes any patent, trademark, copyright or other proprietary rights. 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 Customer receives claiming that Customer Content violates laws, this Agreement, or a third party's rights, including, as applicable, notices under the applicable copyright laws, 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-Based Services or Subscriptions 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-Based Services.

**6.2.2.** 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 it 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.

**6.2.3.** Customer is solely responsible for assessing if the backup functionalities that Liferay provides as part of Cloud-Based 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 Cloud-Based Services. Liferay and/or any of its vendors are not responsible to Customer, Customer Users or any third party, if Content is lost or deleted.

### 6.3 Feedback

Within the scope of this Addendum, Customer may submit feedback, including comments, information, enhancement requests, recommendations, corrections, and ideas regarding the Subscriptions (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.

## 7. Non-Compliance

Customer will immediately notify Liferay if Customer suspects someone has breached Customer's obligations with respect to Customer's use of the Subscriptions, or has obtained unauthorized access to Customer's Accounts, the Customer Content and/or Cloud-Based Services. If Liferay has reason to believe that Customer or Customer Users have breached the Agreement, subject to confidentiality obligations of the Agreement, Liferay or its designated agent may inspect Customer's use of Subscriptions, including Customer's Accounts, 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 Accounts and/or Customer Content as may be reasonably requested by Liferay to ensure that Customer's use of the Subscriptions complies with the Agreement.

## 8. Data Privacy and Security

**8.1** Information as to whether, what and how Customer data may be processed through Subscription Services can be found at: <https://www.liferay.com/legal/cloud-services-data>.

**8.2** Customer agrees that for purposes of processing of Customer's Personal Data through the Subscription Services Liferay acts as data processor and is appointed and authorized to process such Personal Data on behalf of 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-Based Services to Customer but for no further purposes. The Parties agree that Customer's instructions are properly documented in the Agreement. Processing of Personal Data for any other purposes requires a prior written agreement between the Parties.

**8.3** In particular, when Processing Customer's Personal Data Liferay and Liferay Affiliates act as "Service Providers" as defined in the CCPA. Liferay and Liferay Affiliates shall not (a) sell, rent, release, disclose, disseminate, make available, transfer, or otherwise communicate orally, in writing, or by electronic or other means, Customer's Personal Data to another business or a third party for monetary or other valuable consideration; or (b) retain, disclose, collect, sell, use, or otherwise process Customer's Personal Data for any purpose other than for the specific purpose of, and as necessary for, performing services for Customer pursuant to a written agreement(s). For clarity, Liferay may not retain, use, or disclose the Customer's Personal Data for any other commercial purposes or outside of the direct business relationship between Liferay and any Affiliate of the Parties. This CCPA Certification survives expiration or termination of any other agreement(s) between Liferay and Customer. Existing terms in such agreement(s) remain in effect except that this certification controls in the event of a conflict with such terms.

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

**8.5** Throughout the term of the Agreement Liferay will maintain commercially reasonable and appropriate Technical and Organizational Measures ("TOM") to protect any Personal Data stored by Customer in the Cloud-Based Services. 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 Order Form Effective Date of the Order Form governing Customer's use of the applicable Cloud-Based Service.

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

**8.7** Either party shall inform the other party of any security incident resulting in unauthorized alteration, disclosure, destruction, or loss of Customer's Personal Data stored in the Cloud-Based Services without undue delay ("Security Incident"). The Parties shall cooperate in good faith to investigate the reasons and consequences of the Security Incident and take reasonable steps to address the Security Incident and prevent future Security Incidents. Liferay may provide such notifications either via email notification to the email address associated with the applicable Designated Contacts and/or notification within the Cloud-Based Services.

**8.8** 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 limited access to the Cloud-Based Services for up to a fourteen (14) day period starting from the date of receipt of Customer's request, solely for purpose of retrieval of Customer's Content, which includes Customer's Personal Data stored in the Cloud-Based Services. Liferay shall have no obligation to maintain and will irretrievably remove the Content upon expiration of a thirty (30) day period after expiration of Customer's Subscription that provides for access to the Cloud-Based Services.

**8.9** Where Customer is established in the EEA, Switzerland or UK and unless otherwise agreed between the parties in the applicable Order Form, the terms of the Data Processing Addendum available at [www.liferay.com/legal](https://www.liferay.com/legal) as of Order Form Effective Date ("DPA") apply to the processing of Customer's Personal Data by Liferay and are incorporated in the Agreement and Customer's execution of the applicable Order Form governing the use of Cloud-Based Services by the Customer shall be deemed as its execution of the DPA.

**8.10** Where the Customer is not established in any of the territories mentioned in the previous sentence, Customer may enter into the DPA with Liferay, by adding a reference to the DPA to the Order Form applicable to the relevant Cloud-Based Services, in which case the DPA will apply to the processing of Customer's Personal Data by Liferay and will be considered incorporated in the Agreement and Customer's execution of the applicable Order Form governing the use of Cloud-Based Services by the Customer will be deemed as its execution of the DPA.

**8.11** In any event of inconsistencies between the terms of the DPA and this Section 8, the terms of DPA shall prevail in relation to the Customer's Personal Data.

**8.12** For clarification, either party understands and agrees that processing of the business contact data of the employees or third parties involved in the initiation or maintenance of the Agreement, 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. Liferay processes such business contact data only for the purposes of the initiation and maintenance of the Agreement, performance or using Subscription Benefits of the Agreement, but for no other purpose in accordance with its privacy statement at: [www.liferay.com/privacy-policy](https://www.liferay.com/privacy-policy).

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

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

## 10. Migrating Customer Application off of the Liferay Cloud Infrastructure

Customer may, at any time during the Subscription Term, 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 Units (including applicable 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 Pods of Liferay Software within the Liferay Cloud Infrastructure and other Pods in another hosting environment. Liferay will provide Customer an activation key for each migrated Pod of the Software for the corresponding Designated Purpose (Production, Non-Production or Back Up) for which a Subscription is active. Customer's use of the Software outside of Liferay Cloud Infrastructure, including any Updates provided to Customer as part of Maintenance during the Subscription Term and installed by Customer outside of Liferay Cloud Infrastructure, provided within the migration process, is exclusively governed by the terms of the applicable EULA for the Software.

## 11. Auto-Scaling

PaaS Experience include a feature that allow Customer to deploy and use additional Pods of Liferay Software in excess of the number of Pods for which Customer maintains active Subscriptions ("Base Subscriptions") on an on-demand basis ("**Auto-Scaling**"). Customer may enable Auto-Scaling subject to the terms and conditions of the Agreement by activating the capability through the Cloud-Based Services.

Pricing for each Pod utilized through Auto-Scaling is based on the number of clock hours during which Customer utilizes each such Instance. For pricing purposes, total usage during a calendar quarter will be rounded up to the nearest full clock hour.

Liferay will issue an invoice to Customer for Fees applicable to use of Auto-Scaling after each quarter in which Customer deploys, uses or executes Auto-Scaling 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 Auto-Scaling usage, starting from the start time and ending at the end time, for each connected Pod ("**Pod Uptime**"). Liferay may invoice Customer for the total Pod Uptime of all Pods utilized through Auto-Scaling not covered by a Base Liferay SaaS Subscription, rounded up to the nearest whole hour.



## SCHEDULE A: MAINTENANCE AND UPTIME

### 1. Scheduled and Unscheduled Maintenance

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

If Liferay expects a downtime due to the Scheduled Maintenance, Liferay will notify Customer at least fourteen (14) days in advance. If Unscheduled Maintenance shall be required and Liferay expects any downtime due to the Unscheduled Maintenance, Liferay will notify Customer at least four (4) hours prior to the Unscheduled Maintenance. 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.

Liferay will perform Unscheduled Maintenance to address Severity 1 issues. Liferay will address Severity 2 and Severity 3 issues through Scheduled Maintenance.

### 2. Availability and Service Credits

#### 2.1 Monthly Availability

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

Liferay will use commercially reasonable efforts to maintain Monthly Availability for the Infrastructure 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 Infrastructure Services' assets and the applicable region(s), including historical data about downtimes, root cause and solution, through the applicable Infrastructure Services website.

#### 2.2 Service Credits

In the event that Monthly Availability in a calendar month falls below 99.95%, Customer may request Service Credits. Such request must be submitted to Liferay in writing no later than five (5) working days from the end of the concerned calendar months. "Service Credits" means an amount of credit granted by Liferay in connection with Liferay's failure to meet its Monthly Availability obligations. The amount of Service Credit amount shall be calculated by applying the percentage indicated in the table below to the pro rata portion of the Fees paid by Customer for the use of the applicable Cloud Subscription in the concerned calendar month:

**Table -2.2**

MA Percentage	Service Credit calculation percentage
99.80 to 99.94%	5%
99.50 to 99.79%	10%
Below 99.49%	25%

Service Credits owed by Liferay to 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 Customer due to Liferay's material breach of the Agreement, Liferay shall refund Customer the monetary amount (in the currency in which 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.