

## Maintenance

### 1 Modification to or Discontinuation of the Service

Vendor reserves the right at any time and from time to time to modify, temporarily or permanently, the Service (or any part thereof), provided such modification does not diminish the functionality of the Service to the Customer on which the Customer materially relies. Notwithstanding the foregoing, except for routinely scheduled down time, or as otherwise provided in this Agreement, Vendor shall use commercially reasonable efforts to notify Customer prior to any such modification; further, Vendor shall consider the Customer's validation needs and requirements in connection with any modification of the Service and, except as otherwise noted in Section 9.3, shall validate the Service as modified to the same extent provided in the Schedules. Customer acknowledges that Vendor reserves the right to discontinue offering the Service at the conclusion of Customer's then current Term. Customer agrees that Vendor will not be liable to Customer or any third party for any modification or discontinuance of the Service as described in this Section 9.

### 2 Modification to Third Party Software and Support Cost

In the event that Vendor incur any increased cost from Third party software licenses or annual support fees during the term of this agreement, Vendor reserves the right to pass these costs onto the Customer.

### 3 Maintenance

In order to perform maintenance, including infrastructure and application upgrades, there will be routinely scheduled down time as set forth in Schedule D. Customer shall give Vendor one (1) week notice in the event that such routinely scheduled maintenance conflicts with its operations at a critical time. Upon the receipt of such notice, the parties shall work together to find a mutually convenient time to perform such maintenance. Vendor further reserves the right on approximately a quarterly basis to issue new releases in which Vendor adds functionality to the Service. Customer acknowledges that these periodic major releases can take several hours to complete (up to eight hours). The time necessary to provide such periodic releases shall not be counted in any System Availability calculations. Vendor shall consult with the Customer and, unless otherwise agreed upon, shall install such major releases during routinely scheduled down time as set forth above. Customer shall be apprised of software upgrades and or patch releases to the Service; in addition, Vendor shall perform IQ validation with respect thereto, and provide Customer with copies of any applicable validation reports. In the event of a patch release, a full IQ validation may not be undertaken. It shall be the Customer's responsibility to perform any required UAT/PQ validation. These patches, fixes and service releases shall be performed in accordance with the Application Support Services described in Schedule C – Application Support and in accordance with the change control process.

In the event that Vendor, in its sole discretion, determines that any unscheduled maintenance is necessary, Vendor will use commercially reasonable efforts to notify Customer as soon as it becomes aware of such need.

Downtime shall begin to accrue as soon as Customer (with notice to Company) recognizes that downtime is taking place, and continues until the availability of the Services is restored. In order to receive downtime credit, Customer must notify Company in writing within one (2) business day from the time of downtime, and failure to provide such notice will forfeit the right to receive downtime credit. Such credits may

not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of Service Fees in any one (1) calendar month in any event.

Company will only apply a credit to the month in which the incident occurred. Company's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Company to provide adequate service levels under this Agreement.

### **Excused Downtime From SLA Calculations**

The Customer's Site shall be considered available to the extent any downtime is due to:

- regularly scheduled maintenance or service upgrades;
- intentional shutdowns due to emergency interventions and/or responses to security incidents;
- problems with third-party components for which fixes have not been provided by the vendor;
- content residing on the Customer's hosting environment;
- customer-managed hardware or software ;
- configuration changes initiated by the Customer;
- the Customer's failure to observe Vendor Hosting security and upgrade policies; or
- any outages caused by Vendor application support described in Schedule B
- any cause outside of Vendor's control.

Note: To be read along with the Service Level Agreement(SLA).

### **3Di Contacts**

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