

SEISMIC SERVICE LEVEL AGREEMENT (“SLA”)**1. Service Level Commitment**

- 1.1. Seismic’s goal is to provide 99.5% uptime with respect to Customer’s Services during each Fiscal Quarter of the Term, excluding Regularly Scheduled Maintenance (as defined in 1.2) and any Excusable Delay. For the purposes of this SLA, “Fiscal Quarter” means any three (3) month period beginning with the first Fiscal Quarter on February 1 of each year. If in any Fiscal Quarter an uptime of 99.5% is not met by Seismic and Customer was materially negatively impacted (i.e., attempted to log into or access the Services and failed due to the unscheduled downtime of the Services), Seismic shall provide, as Customer’s sole and exclusive remedy, a service credit equal to 20% of one Fiscal Quarter’s fees for use of the Services. For purposes of this Exhibit A, “Excusable Delay” means any delay or failure in the Services which is due to causes beyond the reasonable control of either Party hereto, including, but not limited to, issues caused by telecommunications and internet service provider(s), delays or failures involving hardware or software not within Seismic’s possession or control, acts of God, acts of the public enemy, acts of any governmental authority in its sovereign capacity, fires, floods, power outages, hurricanes, earthquakes, epidemics, quarantine restrictions, strikes or other labor disputes and freight embargoes.
- 1.2. Scheduled and Unscheduled Maintenance: Regularly Scheduled Maintenance time does not count as downtime. “Regularly Scheduled Maintenance” includes (i) planned downtime, which shall be any period outside of the hours of 6:00 a.m. to 9:00 p.m. in Customer’s tenant time zone, Monday through Friday and 8:00 a.m. to 5:00 p.m. in Customer’s tenant time zone Saturday, Sunday, and holidays, (ii) any downtime for which Seismic gives twenty-four (24) hours or more notice that the Services will be unavailable; and (iii) downtime caused by circumstances beyond Seismic’s reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems.
- 1.3. Seismic in its sole discretion may take the Services down for unscheduled maintenance and in that event will attempt to notify Customer in advance. Such unscheduled maintenance will be counted against the uptime goal. Customer is solely responsible for providing, at its own expense, all network access to the Services, including, without limitation, acquiring, installing and maintaining all telecommunications equipment, hardware, software and other equipment as may be necessary to connect to, access and use the Services.
- 1.4. Exclusive Remedy: Customers may receive service credits only for up to two Fiscal Quarters of Fees in any given calendar year. If Seismic fails to meet its uptime goal in three consecutive Fiscal Quarters, Customer may terminate this Agreement and will be entitled to a pro-rated refund of the unused Fees. Customer shall not exercise the rights without a reasonable basis or belief that the applicable uptime goal was not satisfied. THIS EXHIBIT A SETS FORTH CUSTOMER’S SOLE AND EXCLUSIVE REMEDY, AND SEISMIC’S ENTIRE LIABILITY, FOR ANY FAILURE TO MEET THE UPTIME GOAL.

2. Credit Request

In order to receive a credit under this Service Level Agreement, Customer must request such credit by emailing Seismic at support@seismic.com by the end of the applicable Fiscal Quarter. If Customer submits a credit request and does not receive a prompt automated response indicating that the request was received, Customer must resubmit the request because the submission was not properly received and will not result in a credit. Customers who are past due or in default with respect to any payment or any material contractual obligations to Seismic are not eligible for any credit under this Service Level Agreement. Seismic shall calculate any service level downtime using Seismic’s system logs and other records. Service credits will be applied on Customer’s next Seismic invoice following Seismic’s receipt of Customer’s request for credit and Seismic’s verification that the uptime goal was not met.