DEFINITIONS

1.1 “Service Credit Claim” a claim for a service credit in accordance with this SLA Terms.

1.2 “Service Year” is the preceding 365 days from the date of a Service Credit Claim by the Customer.

1.3 “Annual Uptime Percentage” is calculated by subtracting from 100% the percentage of 5 minute periods during the Service Year in which the Software was in the state of “Unavailable.” If the Customer has been using the Software for less than 365 days, the Service Year is still the preceding 365 days but any days prior to the Customer’s use of the Software will be deemed to have had 100% availability. Any downtime occurring prior to a successful Service Credit Claim shall not be used for future claims. Annual Uptime Percentage measurements exclude downtime resulting directly or indirectly from any Exclusion (defined below).

1.4 “Unavailable” means that the Software has no external connectivity during a five-minute period or that there is an unresolved Priority 1 or Priority 2 incident that has been escalated to the Chief Technology Officer as described in the SaaS Support and Maintenance Guide.

1.5 The “Eligible Credit Period” refers to the annual billing cycle in which the most recent Region Unavailable event included in the Service Credit Claim occurred.

1.6 A “Service Credit” is a credit, calculated as set forth below, that Dotmatics may credit back to the Customer.

SERVICE AVAILABILITY, COMMITMENTS AND SERVICE CREDITS

2.1 Dotmatics shall use commercially reasonable endeavours to provide at least a 99.95% Annual Uptime Percentage.

2.2 If the Annual Uptime Percentage drops below 99.95% for the Service Year, the Customer is eligible to receive a Service Credit equal to 10% of their Hosting Fees only owed for the Eligible Credit Period.

2.3 Dotmatics shall apply any Service Credits only against future Hosting Fees otherwise due from the Customer. Service Credits shall not entitle the Customer to any refund or other payment from Dotmatics. Service Credits may not be transferred or applied in any other way or to any other party. The Customer’s sole and exclusive remedy for any unavailability or non-performance of the Software or other failure by Dotmatics to provide the Software is the receipt of a Service Credit (if eligible) in accordance with the terms of this SLA Terms.

CREDIT REQUEST AND PAYMENT PROCEDURES
To receive a Service Credit, the Customer must submit a request by notifying Dotmatics in writing. To be eligible, the request must (i) include the dates and times of each incident of Unavailability that the Customer claims to have experienced; (ii) include the Customer’s server request logs that document the errors and corroborate the claimed outage (any confidential or sensitive information in these logs should be removed or replaced with asterisks); and (iii) be received by Dotmatics within fifteen (15) business days of the last reported incident in the request. If the Annual Uptime Percentage of such request is confirmed by Dotmatics and is less than 99.95% for the Service Year, then Dotmatics will issue the Service Credit to the Customer within a reasonable period of time. The Customer’s failure to provide a request and other information as required above will disqualify the Customer from receiving a Service Credit.

4 EXCLUSIONS

4.1 The Customer acknowledges that maintenance of the hosting equipment, facility, Software or other aspects of the Hosting Services may require interruption of the Hosting Services (Maintenance Events). Therefore availability calculations exclude unavailability, suspension or termination of the Software, or any other Software performance issues: (i) that result from Maintenance Events notified to the Customer; (ii) caused by factors outside of Dotmatics’ reasonable control, including any force majeure event or Internet access or related problems beyond the demarcation point of the Software; (iii) that result from any actions or inactions of the Customer or any third party; (iv) that result from the Customer’s equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within Dotmatics’ direct control); or (v) arising from Dotmatics’ suspension and termination of the Customer’s right to use the Software in accordance with this Agreement (collectively, the “Exclusions”). If availability is impacted by factors other than those explicitly listed in this Agreement, Dotmatics may issue a Service Credit considering such factors in Dotmatics’ sole discretion.

4.2 The Customer acknowledges and agrees that the terms of this SLA Terms relating to Service Credits constitute a genuine pre-estimate of the loss or damage that the Customer would suffer as a result of Dotmatics’ service delivery failure and are not intended to operate as a penalty for Dotmatics’ non-performance.