

# LUXSCI SERVICE LEVEL AGREEMENT

Version 2022.01.19

## 1. OVERVIEW

This Service Level Agreement (“SLA”) between LuxSci and Customer (also referred to herein as “you” or “your”) offers certain guarantees on the Services (also referred to herein as “Contracted Services”) provided to Customer in connection with the MSA. This SLA is automatically incorporated into the MSA by reference. Capitalized terms used herein but not defined shall have the meanings set forth in the MSA. In the event of a conflict between the terms of this SLA and the terms of the MSA or other agreement with LuxSci governing your use of the Contracted Services, the terms and conditions of this SLA apply, but only to the extent of such conflict.

### 1.1 TYPES OF SERVICES AND INFRASTRUCTURES

LuxSci provides its Contracted Services through two (2) types of “Managed Infrastructure.” Depending on your Contracted Services, you may be using one or both types of Managed Infrastructures. The Managed Infrastructure types, which depend on whether the Contracted Services provided to you through Managed Infrastructure are shared among other customers (“Shared Services”) or dedicated to you as a specific Customer (“Dedicated Services”), include:

**Shared Services:** Shared Services are those provided by LuxSci to Customer via server(s) that are *not* dedicated solely to Customer’s use.

**Dedicated Services:** Dedicated Services are those provided by LuxSci to Customer via server(s) that *are* dedicated solely to Customer’s use. There are two types of Dedicated Server Managed Infrastructures:

1. **Dedicated Virtual Servers:** Dedicated Server(s) provisioned as virtualized servers in a Cloud environment on a hypervisor that may host other servers. Unless you specifically ordered a physical server, your dedicated server is a virtual server.
2. **Dedicated Physical:** Dedicated Server(s) provisioned as physical hardware devices (i.e., these servers are not virtualized).

### 1.2. SHARED SERVICES FOR DEDICATED CUSTOMERS

If your Contracted Services include the use of Dedicated Services, you may also be using Shared Services for specific aspects of your Contracted Services that are not provided through the Dedicated Server(s). This is always the case unless the

Contracted Services explicitly include a completely independent Managed Infrastructure (i.e., a LuxSci POD) dedicated to you.

Shared Services often used by customers with some Dedicated Server(s) include, but are not limited to: WebMail access, WebMail acceleration, WebAide access, WebAide storage, Web-based administrative access, SecureForm processing, SecureLine™ Escrow message pickup, Inbound email filtering and processing, data backups, email archival, email access via MobileSync, network firewalls, network load balancers, centralized customer-management server(s), and email bounce processing. If you are a Dedicated Services Customer, you may use some or all of the above services through Shared Services, *depending on your specific Contracted Services*.

## 2. DEFINITIONS

- A. Availability:** The means the percentage of a particular calendar month (based on 24-hour days for the number of days in the subject month) that a specific Contracted Service is available. For servers, Availability refers to the amount of time that the server is up and reachable over the Internet via at least of one the services running on the server (i.e., SSH, SFTP, POP, IMAP, SMTP, HTTP, HTTPS, ActiveSync, database, etc.). For Services (excluding servers), Availability refers to the ability to access that Service from permitted locations external to the server itself. Availability is measured by LuxSci's monitoring tools, as verified by LuxSci.
- B. Contracted Services:** The specific Services and Dedicated Servers, as applicable, in Customer's recurring paid Agreement with LuxSci.
- C. Critical Infrastructure:** All power and HVAC infrastructure for Customer's Dedicated Servers.
- D. Dedicated Server:** A physical or virtualized server that is provisioned for Customer's sole use and which is listed in Customer's recurring paid Agreement with LuxSci, as applicable.
- E. Down Time:** The amount of time during a particular calendar month that a specific Contracted Service was not available, per the above definition of Availability.
- F. Down Time SLA Period:** Measured duration that a verified, non-excluded, SLA Event lasted. This duration is measured via LuxSci's monitoring tools, LuxSci's logs, LuxSci support staff, or other means approved by LuxSci management in its sole discretion. The Down Time SLA Period is the definitive time used to

determine what, if any, SLA Credit remedy is due to Customer because of an SLA Event.

- G. Emergency Maintenance:** Critical, unforeseen maintenance or software updates required for the security or performance of a server, the network, or the infrastructure.
- H. LuxSci POD:** A dedicated deployment of LuxSci's software on a set of servers and devices that does not depend on any other LuxSci servers or devices for the proper functioning of any aspect of the Contracted Services provided to Customer through this deployment.
- I. Scheduled Down Time:** Refers to scheduled, non-emergency Services Releases resulting in Down Time.
- J. Server Provider:** A company providing the data center, infrastructure, networking, and hardware for a particular server. LuxSci retains the right to change its Server Provider(s) in its sole discretion.
- K. Service Releases:** Upgrades to software, servers, database infrastructure, system configuration, and/or functionality.
- L. Shared Server:** A server that provides Shared Services for multiple customers and which server is not listed in Customer's recurring paid Agreement with LuxSci.
- M. SLA Event:** An incident or instance where the Availability of a Contracted Service is degraded enough to possibly warrant SLA remedies under this SLA, subject to verification by LuxSci, as described herein.
- N. SLA Track:** One of two tiers of this Service Level Agreement. The two tiers provide different SLA remedies, different server maintenance practices, and different degrees of active engagement with customers about maintenance.
- O. Weekends and Holidays:** Saturdays, Sundays, and the major US holidays: Thanksgiving, Christmas, New Year's Day, Memorial Day, Independence Day, and Labor Day.

### 3. MAINTENANCE AND SLA TRACK

This Section 3 describes how LuxSci performs maintenance for Customer. There are two SLA Tracks that may be applicable to your Agreement, “Standard SLA” and “Premium SLA” as described more fully below:

- A. Standard SLA:** This is the default SLA Track which applies to most customers. The Standard SLA Track also applies to all Shared Services, even for customers who have the Premium SLA Track for their Dedicated Services.
- B. Premium SLA:** This SLA Track is a paid level of service for Dedicated Services on Dedicated Servers for customers that require a high level of knowledge, control, and scheduling over changes to their servers. Premium SLA Track includes the following:
  - *Preferred maintenance window selection.*
  - *Higher-touch notices and coordination of updates.*
  - *Longer notice for emergency maintenance.*
  - *Higher degree of insulation from the potential impacts of software updates and changes.*

#### 3.1 MAINTENANCE WINDOW FOR SCHEDULED DOWN TIME

**Scheduled Down Time is performed during a scheduled maintenance window. The day of week and time of day of that maintenance windows are determined varies depending on the type of change and the type of SLA that Customer has selected.**

*Premium SLA customers interested in establishing a preferred 4-hour weekly window for maintenances should contact their account managers to request a list of available windows from which they can choose.*

<b>Standard SLA</b>	<b>Premium SLA</b>
Maintenance windows will vary. Customer has no choice of maintenance window.	Optional: A preferred 4-hour weekly window pre-selected by Customer (“Maintenance Window”) from available windows provided by LuxSci when Scheduled Down Time can occur.

### 3.2 EMERGENCY MAINTENANCE

LuxSci guarantees a certain minimum notice for Emergency Maintenance to count as such under this SLA. Emergency Maintenance by LuxSci’s vendors is always excluded from SLA credits, no matter what amount of notice is or is not given. While LuxSci will provide a specific amount of notice, Customer may choose to allow the Emergency Maintenance to occur *sooner* than specified in the notice to mitigate any undesirable effects that waiting could cause.

Standard SLA	Premium SLA
15 minutes minimum notice	12 hours minimum notice

### 3.3 SOFTWARE UPDATE ORDER

LuxSci performs rigorous quality assurance testing of all software updates before they are applied to Customer servers. However, software is complex and there is always a chance that unforeseen issues may arise during, or because of, a software update. For customers with the Premium SLA maintenance track, LuxSci updates their servers only after we have updated servers under the Standard SLA maintenance track. In this way, Premium SLA maintenance track customers will be less likely to be impacted by unforeseen issues related to software updates.

Standard SLA	Premium SLA
Updates applied to Standard SLA servers first.	Updates applied only after Standard SLA maintenance track servers have been updated. <sup>1</sup>

### 3.4 TRIVIAL SOFTWARE UPDATES

A “Trivial Software Update” involves zero to minimal Down Time (at most 5 seconds anticipated) and includes no backwards incompatible changes. This includes, for example, most updates to LuxSci’s custom software and most operating system software updates. Trivial software updates happen frequently, and no notice is generally given to Customer.

Standard SLA	Premium SLA
Performed on a rolling basis as needed.  Updates can happen at any time.	Performed on a rolling basis, but only: <ul style="list-style-type: none"> <li>Weekdays, between 9pm and 9am Eastern Time USA; or</li> </ul>

<sup>1</sup> Note: the Dedicated Servers for specific Premium SLA maintenance track customers can be updated outside of this ordering when approved by Customer and/or when the updates are specifically related to Customer’s requests or issues.

- Weekends and Holidays, any time

### 3.5 MINOR SOFTWARE UPDATES

A “Minor Software Update” involves a small amount of anticipated Down Time (5 to 30 seconds), but no backwards incompatible changes. This includes, for example, updates to system software packages that require restarting of complex services (e.g., apache, MariaDB database, etc.).

Standard SLA	Premium SLA
<p>Updates performed on a rolling basis as needed.</p> <p>Updates can happen at any time.</p> <p>No notice is generally given to Customer for these kinds of updates.</p>	<p>Updates performed during preferred Maintenance Window (if pre-selected by Customer), otherwise:</p> <ul style="list-style-type: none"> <li>• Weekdays, between 9pm and 9am Eastern Time USA, or</li> <li>• Weekends and Holidays, any time</li> </ul> <p>At least 5-day's notice will be given to Customer via support ticket and possibly also a phone call. Notwithstanding the foregoing, Minor Software Updates can also be scheduled with Customer's approval for a time sooner than the 5-day notice window.</p> <p>Customer can choose to defer most Minor Software Updates that are not security related for up to 30 days. Notwithstanding the foregoing, Minor Software Updates required for software consistency across our system may not be deferable.</p>

### 3.6 SIGNIFICANT SOFTWARE UPDATES

A “Significant Software Update” refers to a software update where more than 30 seconds of down time is reasonably possible, but no backwards incompatible changes are anticipated. This includes, for example, server reboots.

Standard SLA	Premium SLA
<p>Updates performed on a rolling basis, as needed:</p> <ul style="list-style-type: none"> <li>• Weekdays, between 9pm and 9am Eastern Time USA, or</li> <li>• Weekends and Holidays, any time</li> </ul> <p>At least 5-day's notice is given to Customer through our status web site (<a href="https://status.luxsci.com">https://status.luxsci.com</a>) and/or through a support ticket in Customer’s account.</p>	<p>Updates performed during the preferred Maintenance Window (if pre-selected by Customer), otherwise:</p> <ul style="list-style-type: none"> <li>• Weekdays, between 9pm and 9am Eastern Time USA, or</li> <li>• Weekends and Holidays, any time</li> </ul> <p>At least 10 days’ notice will be given to Customer via support ticket and possibly also a phone call. Notwithstanding the foregoing, Significant Software Updates can also be scheduled with Customer's approval for a time sooner than the 10-day notice window.</p> <p>Customer can choose to defer most updates that are not security related for up to 30 days. Notwithstanding the foregoing, Significant Software Updates required for software consistency across our system may not be deferable.</p>

### 3.7 BACKWARDS-INCOMPATIBLE SOFTWARE UPDATES

A “Backwards-Incompatible Software Update” is a required software update that is backwards incompatible and/or which requires Customer action. These types of changes could require Customer to modify their settings or software or make other changes to be compatible with the update. Such updates may include, for example, major version changes to web server, PHP, or database software. It also includes forced server migrations due to required operating system software changes.

<b>Standard SLA</b>	<b>Premium SLA</b>
<p>Updates performed on a rolling basis, as needed:</p> <ul style="list-style-type: none"> <li>• Weekdays, between 9pm and 9am Eastern Time USA, or</li> <li>• Weekends and Holidays, any time</li> </ul> <p>At least 30 days’ notice will be given. Notwithstanding the foregoing, Backwards-Incompatible Software Updates can also be scheduled with Customer's approval for a time sooner than the 30-day notice window.</p> <p>Notice to Customer is made through our status web site (<a href="https://status.luxsci.com">https://status.luxsci.com</a>), via support ticket, and/or phone call, and possibly other methods.</p>	<p>Updates performed during the preferred Maintenance Window (if defined), otherwise:</p> <ul style="list-style-type: none"> <li>• Weekdays, between 9pm and 9am Eastern Time USA, or</li> <li>• Weekends and Holidays, any time</li> </ul> <p>At least 90-day's notice will be given to Customer via support ticket and possibly also a phone call. Notwithstanding the foregoing, Backwards-Incompatible Software Updates can also be scheduled with Customer's approval for a time sooner than the 90-day notice window.</p> <p>Customer can choose to defer most updates that are not security related for up to 30 days. Notwithstanding the foregoing, Backwards-Incompatible Software Updates required for software consistency across our system may not be deferable.</p>



### 3.8 VENDOR MAINTENANCE WINDOWS

A “Vendor Maintenance Window” is a Customer-impacting maintenance window imposed on LuxSci by one of our vendors. These maintenance windows cannot generally be rescheduled by LuxSci or modified to accommodate Customer’s needs. *This type of maintenance is excluded from SLA Credits and is not controllable by Customer.*

<b>Standard SLA</b>	<b>Premium SLA</b>
<p>Performed at a date and time specified by LuxSci’s applicable vendor.</p> <p>Notice to Customer is made through our status web site (<a href="https://status.luxsci.com">https://status.luxsci.com</a>), via support ticket, and possibly other methods.</p>	<p>Performed at a date and time specified by LuxSci’s applicable vendor.</p> <p>Notice to Customer is made through our status web site (<a href="https://status.luxsci.com">https://status.luxsci.com</a>), via support ticket, and possibly other methods.</p> <p>Depending on the maintenance and its potential impact on Customer, LuxSci may also contact Customer via phone call (in LuxSci’s sole discretion) to make sure Customer is fully aware of and understands the maintenance and any steps that Customer may need to take.</p>

## 4. AVAILABILITY AND SLA CREDIT REMEDIES

### 4.1 SHARED SERVICE AVAILABILITY

**The monthly target service level for Shared Services used by Customer is 99.99% of the time, 24 hours/day, 365 days/year.**

This target service level applies to shared Contracted Services which may include:

- Email access via POP, IMAP
- Email sending via SMTP
- Hosted web site access
- Hosted database access
- WebMail
- SecureForm Processing
- SecureForm hosted PDF and web form availability
- SecureLine Escrow message pickup portal
- WebAide access
- Account administration access
- Inbound email processing and/or bounce processing (excluding Proofpoint)
- API Access
- MobileSync

#### 4.1.1 SHARED SERVICES: SLA REMEDIES

Subject to Sections 5 and 6, if the Availability of Customer's Shared Services is less than 99.99% in any calendar month during the term of the Agreement, LuxSci will issue a credit ("SLA Credit") to Customer in accordance with the following schedule in Figure 4.1.1. The SLA Credit will be calculated based on the monthly service charge for the affected Services. Note: the affected Services may be only a subset of Contracted Services.

The SLA Credit percentage is based on the following table.

**FIGURE 4.1.1**

<b>Service Availability</b>	<b>Down Time SLA Period Range*</b>	<b>SLA Credit Percentage</b>
99.99% - 100%	less than 4.3 min/mo	0%
99.9% - 99.98%	4.3 min - 43 min	5%
99.5% - 99.9%	43 min - 3.5 hrs/mo	10%
99% - 98.49%	3.5 - 7.2 hrs/mo	15%
97% - 98.99%	7.2 - 21.6 hrs/mo	20%
95% - 96.99%	21.6 hrs - 1.5 days/mo	25%
90% - 94.99%	1.5-3 days/mo	50%
89.99% & below	more than 3 days/mo	100%

*\*Estimated times based on a 30-day month.*

## **4.2 DEDICATED SERVICES AVAILABILITY**

### **4.2.1 NETWORK**

**The monthly target service level for the network used by Customer’s Dedicated Servers is 100% of the time, 24 hours/day, 365 days/year.**

Network Availability includes the functioning of Service Provider’s network infrastructure (including routers, switches, and cabling) supporting the Dedicated Servers; it excludes the networking hardware or software belonging to the Dedicated Servers (or their underlying hypervisors) themselves.

Network Down Time exists when a particular Dedicated Server is unable to communicate with the Internet due to an issue with the Service Provider’s network infrastructure. Network Down Time excludes issues caused by Customer-initiated changes to firewalls, and by automatic blocking of IP addresses by server monitoring or security systems.

Subject to Sections 5 and 6, if the Availability of Customer's Dedicated Server network is less than 100% in any calendar month during the term of the Agreement, LuxSci will issue a SLA Credit to Customer in accordance with the following schedule in Figure 4.2.1.

**FIGURE 4.2.1**

<b>Network Down Time SLA Period</b>	<b>SLA Credit Percentage</b>
Per 30 minutes of Down Time, rounded up	<i>5% of the monthly fee for the affected Dedicated Server(s)</i>

#### **4.2.2 CRITICAL INFRASTRUCTURE**

**The monthly target service level for the Critical Infrastructure for Customer’s Dedicated Servers is 100% of the time, 24 hours/day, 365 days/year.**

Critical Infrastructure includes the functioning of all power and HVAC infrastructure including UPSs, PDUs and cabling; it excludes the power supplies of the Dedicated Servers (or their underlying hypervisors) themselves.

Critical Infrastructure Down Time exists when a particular Dedicated Server is shut down due to power or heat problems.

Subject to Sections 5 and 6, if the Availability of Customer's Dedicated Server network is less than 100% in any calendar month during the term of the Agreement, LuxSci will issue a SLA Credit to Customer in accordance with the following schedule in Figure 4.2.1.

**FIGURE 4.2.2**

<b>Critical Infrastructure Down Time SLA Period</b>	<b>SLA Credit Percentage</b>
Per 30 minutes of Down Time, rounded up	<i>5% of the monthly fee for the affected Dedicated Server(s)</i>

#### **4.2.3 HARDWARE**

LuxSci guarantees the functioning of all hardware components and will replace any failed component at no cost to Customer. Hardware is defined as the Processors, RAM, hard disks, motherboard, power supplies, network interface cards, and other related hardware used by the underlying hypervisor or physical server.

All hardware-related Down Time SLA Periods exclude any additional Down Time that may be required to rebuild RAID arrays, reload operating systems and applications, or restore data from backup once the actual hardware-related SLA Event has been resolved.

#### 4.2.3.1 VIRTUAL SERVER HARDWARE

For cases where the underlying hypervisor has a hardware issue that will be fixed by the Server Provider, there are two scenarios:

- (a) As soon as the hardware issue is identified by the monitoring systems, the virtual server will be rebooted on a new hypervisor. LuxSci guarantees that this happens within 5 minutes of the underlying hardware issue being identified.
- (b) For *legacy* virtual servers that do not support scenario (a), hypervisor hardware replacement is guaranteed to be complete within one (1) hour from the time the hypervisor hardware problem is identified by Server Provider.

Both above cases are treated as potential sources of hardware Down Time.

Subject to Sections 5 and 6, if virtual server hardware is experiencing Down Time in any calendar month during the term of the Agreement, LuxSci will issue a SLA Credit to Customer in accordance with the following schedule in Figure 4.2.3.1.

**FIGURE 4.2.3.1**

Hardware Down Time SLA Period	SLA Credit Percentage
Less than or equal to the target timeframes outlined in 4.2.3.1.	0%
Each additional hour of Down Time, rounded up	5% of the monthly fee for the affected Dedicated Server(s)

#### 4.2.3.2 DISK STORAGE FOR VIRTUAL SERVERS

LuxSci guarantees that server disk drives will be mounted and accessible to servers 99.99% or more of the time that the server is up and functional. This is based on the underlying SLAs provided for data drives attached to public cloud servers by LuxSci’s Server Providers.

Subject to Sections 5 and 6, if any or all of server’s disk drives are not mounted or accessible, LuxSci will issue a SLA Credit to Customer in accordance with the following schedule in Figure 4.2.3.2.

**FIGURE 4.2.3.2**

Disk Drive Down Time SLA Period	SLA Credit Percentage
0% - 0.01% of the month	0%
Each additional hour of Down Time, rounded up	5% of the monthly fee for the affected Dedicated Server(s)

#### 4.2.3.3 DEDICATED PHYSICAL HARDWARE

Hardware replacement is guaranteed to be complete within one hour from the time the hardware problem is identified by Server Provider. For physical servers, the disk drives are physical components that fall under this Section 4.2.3.3.

Subject to Sections 5 and 6, if Customer's dedicated physical hardware replacement is incomplete within one (1) hour from the time the hardware problem is identified by Server Provider, LuxSci will issue a SLA Credit to Customer in accordance with the following schedule in Figure 4.2.3.3.

**FIGURE 4.2.3.3**

<b>Hardware Down Time SLA Period</b>	<b>SLA Credit Percentage</b>
Less than or equal to 1 hour	0%
Each additional hour of Down Time, rounded up	10% of the monthly fee for the affected Dedicated Server(s)

### 4.3 DEDICATED SERVICE AVAILABILITY

**LuxSci guarantees that the Contracted Services provided to Customer via Customer's Dedicated Server(s) will be available up to 100% of the time.**

This guarantee applies to any of the following Contracted Services when performed by Customer's Dedicated Servers:

- Email access via POP, IMAP
- Email sending via SMTP
- Hosted web site access
- Hosted database access
- WebMail
- SecureForm processing
- SecureLine Escrow message pickup portal
- WebAide access
- Account administration access
- Inbound email processing and/or bounce processing (excluding Proofpoint)

- API access
- Secure Marketing portal access

#### 4.3.1 DEDICATED SERVICES: SLA REMEDIES

Subject to Sections 4.3.2, 5 and 6, if the Availability of the Contracted Services provided to Customer via Customer’s Dedicated Server(s) is less than 100% in any calendar month during the term of the Agreement, LuxSci will issue an SLA Credit to Customer in accordance with the following schedule in Figure 4.3.1. The SLA Credit will be calculated based on the monthly service charge for the affected servers and/or Services, as appropriate. Note: the affected Services may be only a subset of Contracted Services.

The SLA Credit Percentage is based on Customer’s SLA Track for the Dedicated Servers providing the affected Service(s).

**FIGURE 4.3.1**

		SLA Credit Percentage	
Service Availability	Down Time SLA Period Range*	Premium SLA	Standard SLA
99.99% - <100%	less than 4.3 min/mo	5%	0%
99.9% - 99.98%	4.3 min - 43 min	10%	5%
99.5% - 99.9%	43 min - 3.5 hrs/mo	20%	10%
99% - 98.49%	3.5 - 7.2 hrs/mo	30%	15%
97% - 98.99%	7.2 - 21.6 hrs/mo	40%	20%
95% - 96.99%	21.6 hrs - 1.5 days/mo	50%	25%
90% - 94.99%	1.5 - 3 days/mo	100%	50%
89.99% & below	more than 3 days/mo	100%	100%

\* Estimated based on 30-day month

#### 4.3.2 DEDICATED SERVICES: SLA EXCLUSIONS

For SLA Events related to Dedicated Service Availability (see Section 4.3), the following (in addition to those exceptions and exclusions listed in Section 5) are excluded from eligibility for SLA Credit:

1. Service issues related to any other type of SLA Events, including, without limitation:

- a. Network Down Time
  - b. Critical Infrastructure Down Time
  - c. Hardware Down Time
  - d. Disk drive Down Time
2. Service issues resulting from server having insufficient resources for the tasks or usage demanded of it, including, without limitation:
    - a. Running out of disk storage space
    - b. Not enough memory (RAM)
    - c. Not enough CPU power
    - d. Not enough network bandwidth
    - e. Not enough disk I/O throughput
  3. Service and performance issues related to:
    - a. Storage of large amounts of email, large files, large numbers of files, etc., on the server.
    - b. Excessive concurrent or frequent connections to server.
    - c. Custom installed software or applications.
    - d. Custom, non-LuxSci-standard software, or service configurations.
    - e. Virus(es) or malware infecting Customer's hosted web site(s).
    - f. Misconfigurations in Customers' client-side software.
  4. Web site issues arising from Customer's web site code or settings. This includes, but is not limited to, web sites that are slow or failing due to poor-performing or bloated Customer-installed software.
  5. Database issues arising from Customer's SQL statements, database schemas, indices, or locking.

Customer needs to ensure that the server(s) are right sized for their usage patterns and changing needs, and that their applications and access patterns do not overwhelm the server's capabilities. Breach of any of the foregoing Customer obligations will preclude Customer from eligibility for SLA Credits.



## 4.4 VENDOR SERVICES

### 4.4.1 PREMIUM EMAIL FILTERING

LuxSci passes along the “Proofpoint Essentials SLA” offered by Proofpoint for their “Proofpoint Essentials” service to LuxSci Customers of LuxSci’s Premium Email Filtering service. Any SLA Credits applicable though Proofpoint’s SLA and approved by Proofpoint will be applied to the Customer’s Premium Email Filtering service fees for the calendar month in which the SLA Event occurred. The current version of Proofpoint’s SLA can be found here: <https://www.proofpoint.com/us/license>

### 4.4.2 SECUREVIDEO, SECURECHAT, AND OTHER SERVICES

For SecureVideo, SecureChat, and services provided though LuxSci vendors not otherwise listed in Section 4.4. LuxSci guarantees 99.5% Availability of these services. The sole and exclusive remedy for Availability less than 99.5% for any of these services is 1% of Customer’s monthly fee for said service per hour of Down Time of during the calendar month, up to 100% of the monthly fee for said service.

## 5. SLA EXCEPTIONS AND EXCLUSIONS

### 5.1 SLA EXCEPTIONS

Customer is ineligible to receive SLA Credits if any of the following conditions apply at any point during the occurrence of an SLA Event:

1. Customer’s account with LuxSci is delinquent. I.e., Customer has a past due balance with LuxSci;
2. Customer’s account is terminated by LuxSci for cause or by Customer with or without cause under the terms of the MSA or other related contract between Customer and LuxSci;
3. Customer’s account is suspended (in whole or in part) by LuxSci due to suspected abuse, fraud, or violation of any of the terms of LuxSci’s Acceptable Use Policy; or
4. Customer is in violation of LuxSci’s Acceptable Use Policy.

### 5.2 SLA EXCLUSIONS

Customer shall not receive any SLA Credits in connection with Down Time caused by or associated in whole or in part with:

1. Scheduled Down Time and Emergency Maintenance;
2. Emergency Maintenance by LuxSci's Server Providers;
3. Down Time reported or detected which is a false positive;
4. DNS or Domain Registry issues outside the direct control of LuxSci including, without limitation, DNS and Registry propagation issues, incorrect DNS settings, and domain name expirations;
5. Outages on the Internet at large that hinder access to your account and/or its servers. LuxSci is not responsible for browser, DNS, or other caching that may make your web site or email appear inaccessible when others can still access it. LuxSci guarantees only those areas of the Internet considered under the control of LuxSci and its Server Providers.
6. Circumstances beyond the reasonable control of LuxSci or Server Provider including, without limitation, acts of any governmental body, elements of nature or acts of God, acts of war, terrorism, riots, insurrection, sabotage, armed conflict, civil disorders, rebellions or revolutions, embargo, fire, flood, earthquake, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third-party services, failure of third-party software (including, without limitation, ecommerce software, payment gateways, chat systems, and other software not explicitly developed by LuxSci);
7. Misconfigurations by Customer;
8. Use of Contracted Services other than in accordance with any contractual agreements, user documentation, or other written instructions from LuxSci;
9. Customer's acts, omissions or errors (or the acts, omissions or errors of others engaged by or authorized by Customer), including, without limitation, custom scripting or coding, server or software administration by Customer, any negligence, willful misconduct, or use of Customer's account in breach of LuxSci's MSA or other related contract between Customer and LuxSci;
10. Issues with third-party email systems, including refusal of email by third-party email systems for any reason including blacklisting;
11. Delays in email delivery;
12. Delayed or inappropriately blocked or quarantined email by Proofpoint; and

13. Attacks by viruses, attackers, or automated systems, including Denial of Service attacks against LuxSci or Service Provider, against the DNS or the domain registration system, or against any LuxSci vendors or subcontractors providing affected Services.

## **6. CREDIT REQUEST AND PAYMENT PROCEDURES**

### **6.1 CREDIT REQUESTS**

In order to become eligible to receive an SLA Credit, Customer must make a written request for the SLA Credit by filing a support ticket in the LuxSci member's portal (<https://webmail.luxsci.com>). Each SLA Credit request must include the dates and times of the unavailability of Contracted Services, a description of the perceived SLA Event with sufficient detail to enable LuxSci to verify the same, and must be received by LuxSci within ten (10) business days after the end of the SLA Event. Your failure to provide the request and other information as required above will disqualify you from receiving a SLA Credit. If unavailability is confirmed by LuxSci and the issue is not excepted or excluded from SLA Credits, an amount appropriate for the actual Down Time duration and type of unavailability determined by LuxSci in its sole discretion will be applied within thirty (30) days of LuxSci's receipt of Customer's SLA Credit request. SLA Credits are applied as credit to Customer's LuxSci account that offsets current unpaid and/or future charges to Customer's LuxSci account. For the avoidance of doubt, SLA Credits can't be exchanged for cash under any circumstance.

### **6.2 MAXIMUM SLA CREDITS**

Notwithstanding anything to the contrary herein, the maximum amount credited to Customer in a particular month under this SLA shall not exceed the Customer's total fee for said month for the affected Contracted Services. SLA Credits are exclusive of any applicable taxes charged to Customer or collected by LuxSci.

### **6.3 SOLE REMEDY**

Customer acknowledges and agrees that the SLA Credits referenced in this SLA are Customer's sole and exclusive remedies and LuxSci's sole and exclusive obligations with respect to any failure or deficiency in the Availability of Customer's Services or any breach of this SLA, non-performance or other failure by LuxSci to deliver the Contracted Services, provided, that in the event that LuxSci does not satisfy the Availability level of 90.00% three times in any twelve-month period for any applicable Contracted Service, Customer shall have the right to immediately terminate the Agreement without further liability on written notice to LuxSci.

### **6.4 NON-CUMULATIVE REMEDIES**

Additionally, if multiple SLA Credit sections should apply to the same server or service for the same period, the maximum individual SLA Credit percentage across applicable sections will be used; SLA Credits across applicable clauses are not cumulative in any circumstance.