

HOSTING SERVICES: SERVICE LEVEL AGREEMENT (SLA)

1.0 DEFINITIONS

- 1.1 “**Availability**” means the availability that is possible for Customer to access the Hosting Services, and is expressed as a percentage and is calculated per calendar month (number of respective days/minutes), as follows:

(operating period – planned servicing period – downtime not attributable to Vue Storefront) –
downtime

$$\text{Availability} = \frac{\text{(operating period – planned servicing period – downtime not attributable to Vue Storefront)}}{\text{downtime}}$$

- 1.2 “**Downtime**” means the calculation on a per calendar month basis of the amount of time the Hosting Services are not available to Customer, and is calculated by taking the total number of minutes within a calendar month during which the Hosting Services are not available divided by the total number of minutes in a calendar month. Intermittent Downtime for a period of less than two consecutive minutes will not be counted towards any Downtime Periods.
- 1.3 “**Scheduled Downtime**” means Downtime resulting from Company or its service provider performing maintenance on the Hosting Services.

2.0 SERVICES

- 2.1 Customer requested Hosting Services (“**Services**”) from Company pursuant to an Order Form; and such Hosting Services are governed by the The Master License and Services Agreement between Vue Storefront Inc. (“**Company**”) and Customer (“**Agreement**”), the Order Form, and this Service Level Agreement (“**SLA**”).
- 2.2 During the term of the Order Form, Company will use commercially reasonable efforts to achieve a minimum Availability for the Hosting Services of ninety-nine point nine percent (99.9%).
- 2.4 Availability and Services Credit are determined on a calendar month basis during the Term.
- 2.5 This SLA states Customer's sole and exclusive remedy for any failure by the Company to meet the minimum Availability.
- 2.6 This SLA shall be effective for the term of the Order Form (“**Term**”).

3.0 MAINTENANCE

- 3.1 Scheduled Downtime is planned maintenance activities regularly carried out by Company or its service provider to maintain the functionality of the Hosting Services.

- 3.2 If there is a Scheduled Downtime Company shall give the Customer, in suitable form, at least seven (7) days advance notice of a Scheduled Downtime in regard to the type, extent, and duration. The Scheduled Downtime shall generally be carried out during typically off business hours periods depending on the Hosting location or in such a manner that use of the Hosting Services are not expected to be substantially impaired. If performance is reduced and/or lost in the course of usage during a Scheduled Downtime, the Customer shall have no claim for damages and Company will have no liability for defects.
- 3.3 Furthermore, failures and disruptions that are not attributable to Company in accordance with the terms and conditions for the use of the Hosting Services shall not be taken into account (e.g. force majeure, faults on the part of the Customer, or third parties' action for which Company is not responsible).

4.0 SLA EXCLUSIONS

- 4.1 The Availability does not apply to any outages, unavailability, suspension, or termination of the Hosting Services, or any other Hosting Services's performance issues (collectively, "**SLA Exclusions**"):
- a. That result from any actions or inactions including but not limited to negligence, abuse, misuse, and/or improper handling from the Customer or any third party;
 - b. That result from failure to follow the terms, guidelines, and/or exceeding the limitations described in the Company documentation, agreements, and the fair use policy;
 - c. That result from Company's supplier, third party, and/or Customer's equipment, software, firmware, other technology, or any combination (other than third party equipment within the Company's direct control);
 - d. Arising from the Company's suspension or termination of the Customer's right to access the Hosting Services in accordance with the Agreement, the Order Form and this SLA;
 - e. During the Scheduled Downtime;
 - f. That result from abuses or other behaviors that violate the terms of the Agreement;
 - g. Network unavailability or bandwidth limitations outside of the Company control; and
 - h. That are outside the control of the Company.

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