



## ADAQUEST UPTIME SERVICE LEVEL AGREEMENT (SLA)

You agree that we may modify this adaQuest Uptime SLA by posting a revised version on the adaQuest Website which is an integral part of adaQuest Terms of Service and by notifying You by email. It is your responsibility to read and understand adaQuest Uptime SLA and changes made to it. This Agreement was last updated on March 1st, 2015.

adaQuest shall use all reasonable commercial efforts, being no less than accepted industrial standards in this regard, to ensure that the adaQuest Services Covered are available to you 99.9% of the time in any calendar month. If it is not, you may be eligible to receive the Service Credits described below (the "adaQuest Uptime SLA").

Additionally, for all dedicated server plan with High-Availability (HA) option enabled, adaQuest shall use all reasonable commercial efforts, being no less than accepted industrial standards in this regard, to ensure that the adaQuest Services Covered are available to you 99.95% of the time in any calendar month. If it is not, you may be eligible to receive the Service Credits described below (the "adaQuest Uptime SLA").

### 1. DEFINITIONS

The following definitions shall apply to the adaQuest Uptime SLA.

**"Interruption"** is measured based on server side error rate and calculated using external server monitoring software ([www.uptrends.com](http://www.uptrends.com)), based on results from ping tests, web server tests, TCP port tests, and website tests.

**"Downtime"** means a period of thirty (30) or more consecutive minutes of Interruption experienced outside a Scheduled Maintenance. Intermittent Interruption experienced during the Scheduled Maintenance or Interruption for a period of less than thirty (30) minutes will not be counted as Downtime.

**"Monthly Uptime Percentage"** means the total number of minutes in the calendar month minus the sum of all Downtime suffered in the calendar month, divided by the total number of minutes in the calendar month.

**"Scheduled Maintenance"** means those times where adaQuest notifies you at least twenty-four (24) hours in advance of possible Interruption of Services for a period not to exceed four (4) hours excepted for maintenance that can't be technically achieved within a four (4) hours window..

Scheduled Maintenance is defined as any maintenance performed during Our standard maintenance windows: (i) Americas data centers: 21:00 Friday PST to 05:00 PST Monday inclusive, and weekdays between 21:00 PST and 05:00 PST; (ii) European data centers: 21:00 Friday GMT to 05:00 GMT Monday inclusive, and weekdays between 21:00 GMT and 05:00 GMT; (iii) Asian data centers: 21:00 Friday HKT to 05:00 HKT Monday inclusive, and weekdays between 21:00 HKT and 05:00 HKT; or (iv) Any other maintenance of which You are given at least Twenty-four (24) hour advance notice with an attempt to perform at non-peak services times. We may perform maintenance on some or all of the Service in order to upgrade hardware or software that operates or supports the Service, implement security measures, or address any other issues it deems appropriate for the continued operation of the Service. Scheduled Maintenance is not considered Downtime for purposes of this adaQuest Uptime SLA.

**"Services Covered"** means the services provided to you by adaQuest in accordance with adaQuest's Terms of Services excepted for custom configurations or configurations without High-Availability enabled. See adaQuest Uptime SLA Exclusion for more details.

**"Third-Party Applications"** means online, Web-based applications and offline software, services, customizations that interoperate with the Services but are provided by third parties.

### 2. SERVICE CREDIT

#### 2.1 PAYOUT SCHEDULE

**"Service Credit"** may be provided according to the following schedule:



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A credit equivalent to five percent (5%) of the services you have purchased during a calendar month added to the end of your billing cycle, if the Monthly Uptime Percentage for that calendar month is between 99.9% and 99.5% (between 43 minutes 48 seconds and 219 minutes).

A credit equivalent to ten percent (10%) of the services you have purchased during a calendar month added to the end of your billing cycle, if the Monthly Uptime Percentage for that calendar month is between 99.49% and 99.0% (between 219 minutes and 438 minutes).

A credit equivalent to twenty-five (25%) of the services you have purchased during a calendar month added to the end of your billing cycle, if the Monthly Uptime Percentage for that calendar month is between 98.99% and 95.0% (between 439 minutes and 2,190 minutes).

A credit equivalent to one hundred percent (100%) of the services you have purchased during a calendar month added to the end of your billing cycle, if the Monthly Uptime Percentage for any calendar month is less than 94.99% (more than 2,190 minutes)

Additionally, for all dedicated server plans with High-Availability (HA) option enabled, an additional credit equivalent to ten percent (10%) of the services you have purchased during a calendar month added to the end of your billing cycle, if the Monthly Uptime Percentage for that calendar month is between 99.95% and 95.0% (between 21 minutes 54 seconds and 2,190 minutes).

### 2.2 ELIGIBILITY

All Customers are eligible to receive a Service Credit.

### 2.3 MAXIMUM SERVICE CREDIT

The aggregate maximum number of Service Credits you can claim for any and all Downtime that occur in a single calendar month shall not exceed thirty days of Services added to the end of your billing cycle.

### 2.4 SERVICE CREDITS PAYOUT

For all month-to-month Services, Service Credits are applied on the next billing cycle and may not be exchanged for, or converted to, monetary compensation.

For all pre-paid Services, Service Credits are provided as a cash refund to be issued to You within thirty (30) days after the SLA Claims has been approved or as a credit on future Services.

## 3. SLA CREDIT CLAIM

### 3.1 HOW TO MAKE A CLAIM

To properly claim a SLA credit due, the Customer's Account Manager must submit an email to [support@vr-tad.com](mailto:support@vr-tad.com) within seven (7) days of the purported outage. Customer must include service type, "TAD" URL, Your IP Address, the time at which the outage occurred, contact information, and full description of the service interruption including logs, if applicable. The SLA claim will be researched by the appropriate adaQuest department manager and any credit issued will be issued to accounting and the ticket will be updated. SLA credits are issued as service credits on future billing cycles. SLA credits shall not be bartered or traded with other adaQuest customers. Please allow up to thirty (30) days for the process of SLA claims.

### 3.2 SLA CLAIM FAULT

Customers currently in arrears for monthly services do not qualify for SLA claims. Customers who have been in payment arrears two (2) or more times in the previous twelve (12) months do not qualify for SLA claims. Valid SLA claims will not be credited to the Customer's accounts until all abuse issues are resolved. Any Customer making false or repetitive claims will incur a one-time charge of fifty dollars (\$50) per incident for such claims. False or repetitive claims are also a violation of the ToS and may be subject to service



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suspension. Customers participating in malicious or aggressive internet activities, thereby causing attacks or counter-attacks, do not qualify for SLA claims and shall be deemed in violation of the AUP.

### 4. ADAQUEST UPTIME SLA EXCLUSIONS

The Uptime SLA does not apply to:

- a. custom hardware or software configurations; or
- b. service having features enabled by Third-Party Applications installed by You or by Us.

The Uptime SLA does not apply to any performance issues:

- a. caused by factors outside of adaQuest's reasonable control;
- b. that resulted from any actions or inactions of you or any third parties; or
- c. that resulted from your equipment and/or third party equipment (not within the primary control of adaQuest).

The Uptime SLA does not apply if at any time You are in default under the Terms of Service.

The Uptime SLA does not apply if at any time as determined by adaQuest in its reasonable judgment, as results from:

- a. Interruption due to changes initiated by You whether implemented by You or adaQuest on behalf of You;
- b. Interruption caused as a result of the You exceeding system capacity;
- c. Interruption due to operating system software revisions required by You and hardware/software configurations that are not adaQuest tested and approved;
- d. Interruption due to problems caused by Web site content or software supplied by You (e.g. faulty CGIs or third party applications);
- e. Interruption due to the acts or omissions from You, Your employees, agents, third party contractors or vendors, or anyone gaining access to adaQuest' network or to Your Web site at the Your request;
- f. Interruption caused by Acts of God or natural disasters;
- g. Any event or condition not wholly within the control of adaQuest; and violations of adaQuest' Acceptable Usage Policy;
- h. negligence or willful misconduct from You or others authorized by You to use the Services provided by adaQuest;
- i. Any failure of any component for which adaQuest is not responsible, including but not limited to all electrical power sources provided or managed by You, Your networking equipment, Your computer hardware, Your computer software or Your web site content;
- j. Any failure of resources or services provided by You including but not limited to Active Directory Domain Services; or
- k. Any failures that cannot be corrected because Your are inaccessible.

This adaQuest Uptime SLA states Your sole and exclusive remedy for any failure by adaQuest to provide the Services as a result of Downtime.