



## WebMD Ignite Platform Performance SLA

This Service Level Agreement (SLA), governs the availability of the WebMD Ignite Growth Platform Systems. It assumes an active subscription for applicable WebMD Ignite SaaS Application Services. Mercury Healthcare, Inc. DBA WebMD Ignite (“Vendor”) reserves the right to change, alter, replace, or otherwise modify this SLA at any time in its sole discretion.

### Version Control

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WebMD Ignite Platform Performance SLA	v1.3	May 2022
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## DEFINITIONS

1. "SaaS Platform" means the "production environment" only of the online, web-based platform provided by Vendor that is subscribed to by Client pursuant to the Subscription, and excludes "sandbox," "development," "test" and other non-production environments. (Service)
2. "Monthly Uptime Percentage" means  $((A - B) / A)$ , expressed as a percentage, where A is the total number of operating minutes in a calendar month minus scheduled downtime minutes, and B is the number of minutes of Unplanned Unavailability suffered in that calendar month
3. "Unplanned Unavailability" means the User is unable to access or use the platform or when significant and substantial, adverse operational impact occurs preventing any useful work from being done (P1 issues), but shall exclude Unavailability caused by, related to or arising out of the Exclusions.
4. "Users" means all individuals who are authorized to access the SaaS Platform pursuant to a Subscription to the SaaS Platform under the Agreement.
5. "Exclusions" means Unavailability caused by, related to or arising out of any one or more of the following: (a) Scheduled Downtime, (b) Force Majeure (c) suspension of access to the SaaS Platform in accordance with the Agreement, (iii) acts or omissions of Client or any third party; (iv) Client equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within Vendor's direct control); (v) maintenance services provided to Client.
6. "Scheduled Downtime", is downtime for Scheduled and Emergency Maintenance, to which Vendor will provide up to 5 days but not less than 8 hours of advance notice. Vendor will use commercially reasonable efforts to schedule downtime during off-business hours.
7. "Scheduled Maintenance" means maintenance performed as Vendor strives to ensure the highest level of availability for the SaaS Services. To do so, maintenance may require Vendor to take systems offline for brief periods of time in order to implement updates, patches, releases or changes.
8. "Emergency Maintenance" is any maintenance by Vendor of which the Client has less than 5 Business Days' advance notice. Vendor may schedule Emergency Maintenance if it is deemed necessary to avoid any immediate threat to the system.
9. "Service Credit" means three (3) days of Additional Subscription for each one percent (1%) (or fraction thereof) decrease in Monthly Uptime Percentage that falls below 99.5% in that calendar month (not to exceed fifteen (15) days of Additional Subscription with respect to such month).
10. "Additional Subscription" means a number of days added to the end of the Subscription term, during which the SaaS Platform will be made available to the Client without additional Subscription fee.
10. "Maximum Service Credits" means the aggregate maximum number of Service Credits to be issued by Vendor to the Client for any and all Unplanned Unavailability that occur in a calendar year. Maximum Service Credits will not exceed thirty (30) days of Service added to the end of the Term for the Service. Service Credits are provided on a "use it or lose it" basis and



may not be credited toward any other product or service, retained for use at a later time, or exchanged for, or converted to, any other form of compensation or credit and shall only serve to extend the Term of the Agreement without cost to Client.

## Contacting Vendor Healthcare Support

During the Subscription Term of an Order Form, Clients may contact Vendor Support to submit new support tickets or request updates on existing tickets.

## Service Availability

Service availability is defined in terms of high availability (resilience to foreseeable disruption through redundancy).

### High Availability

Vendor shall use commercially reasonable efforts to ensure a Service Uptime in accordance with the Service Uptime Benchmark, in any given calendar month of the Subscription Term, excluding the periods listed below in Section 4.4. If the Service Uptime Percentage is not achieved in a given calendar month, the Client will be eligible to receive Service Credits. This SLA states Client's sole and exclusive remedy for any failure by Vendor to meet the Service Uptime Percentage. Outages, access problems or limitations on bandwidth due to hardware, power, internet, or operating systems located at Client's site(s) are not included in any uptime calculations.

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#### Service Uptime Benchmark

99.5%\*

\*Subject to the Uptime Exclusions.

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Vendor reserves the right to, in its sole discretion, scale up and scale down all SaaS infrastructures, both horizontally and vertically, to efficiently support the deployment of licensed Vendor Services, software, applications and licensed entitlements.

### Service Uptime Exclusions

Vendor shall use commercially reasonable efforts to ensure Service Uptime is maintained in accordance with the Service Uptime Benchmark in any given month during the



Subscription Term for the applicable SaaS Application, excluding the following periods of unavailability (“Uptime Exclusions”) caused by:

- (i) scheduled or emergency maintenance performed by either Vendor or the Client; OR
- (ii) or resulting from termination as described in an Agreement between Vendor and Client; OR
- (iii) or resulting from suspension due to overdue payments; OR
- (iv) factors outside of Vendor’s reasonable control, including any Force Majeure event as described in an Agreement; OR
- (v) that result from any actions or inactions of the Client or any third party on behalf of the Client; OR
- (vi) or resulting from Client’s equipment, software or other technology and/or third-party equipment, software or other technology, contracted by the Client; OR
- (vii) Client’s use of the Service in a manner inconsistent with the applicable Product Documentation, Agreement, and/or any other guidance from Vendor; OR
- (viii) the Client’s use of the Service after Vendor advised the Client to modify its use of the Service; OR
- (ix) or attributable to acts by persons gaining unauthorized access to or use of the Service due to Client’s failure to maintain and control security and access to the Service; OR
- (x) or attributable to the acts or omissions of the Client or its employees, agents, contractors, or vendors, or anyone gaining access to the Service and/or the Support and Updates services by means of Client’s credentials or equipment; OR
- (xi) or resulting from, Vendor services hosted by 3rd party vendors

## Service Credits

The Service Uptime Benchmark is measured on a monthly basis. If Vendor fails to meet or exceed the Uptime Benchmark in any calendar month for circumstances within Vendor’s control, Client shall notify Vendor and Client shall be entitled to a

credit of three (3) days of Additional Subscription for each one percent (1%) (or fraction thereof) decrease in Monthly Uptime Percentage that falls below 99.5% in that calendar month (not to exceed fifteen (15) days of Additional Subscription with respect to such month).

In order to receive a Service Credit, Client must claim the Service Credit by contacting Support via the Support Portal on the Knowledge Center, within thirty (30) days after the end of the month for which the Service Credit is claimed. Failure to claim the Service Credit in accordance with the preceding sentence will constitute a waiver of all of the Client's rights and remedies with respect to that failure of the Service Uptime Percentage. The maximum aggregate number of Service Credits to be issued by Vendor for all failures of Monthly Uptime Percentage occurring in a single calendar month shall not exceed 15 (fifteen) days of Additional Subscription. Service Credits are provided on a "use it or lose it" basis and may not be credited toward any other product or service, retained for use at a later time, or exchanged for, or converted to, any other form of compensation or credit and shall only serve to extend the Term of the Agreement without cost to Client. Service Credits may not be used as, exchanged for, or converted to, monetary amounts or used to offset payments required to be made. The provisions of this paragraph constitute Client's sole and exclusive remedy, and Vendor's sole and exclusive liability, with respect to failures of Monthly Uptime Percentage.

## Disaster Recovery

Vendor shall maintain a disaster recovery plan (DRP) that is consistent with industry best standards. The DRP is designed to ensure identified critical capabilities are restored promptly in the event of a declared disaster or major system outage.

## Vendor Scheduled Maintenance

From time to time, Vendor may perform maintenance on the SaaS Services. These maintenance tasks update the Service to enable new capabilities and fix certain defects. In the event of Scheduled Maintenance:

- Vendor will use commercially reasonable efforts to notify Users up to 5 days but at least 8 hours of advance notice. Vendor will use commercially reasonable efforts to schedule maintenance during off business hours
- Vendor will notify Client's technical contacts as appropriate via email or service info ticket (provided their contact information has been provided to Vendor's Support team by Client).