This Multi-Tenant Platform Services Schedule ("**Multi-Tenant Platform Services Schedule**") provides additional terms and conditions under which Client has elected to purchase Multi-Tenant Platform Services from Datapipe as more particularly described in the Order Form(s). The SLA governing the Multi-Tenant Platform Services is set forth in this Multi-Tenant Platform Services Schedule.

## 1. DEFINITIONS:

"**99.9% Solution**" means a multi-component infrastructure which: (a) is designed to allow for a failover capability among the components within a single site, such that a single component failure will not significantly impact the ability of the solution to deliver resources to end users, and (b) is Concurrently Maintainable while in production mode.

"**99.99% Solution**" means a multi-component infrastructure which is: (a) designed to allow a failover capability among the components within multiple sites, such that a single component or site failure will not significantly impact the ability of the solution to deliver resources to end users after failover, and (b) is Concurrently Maintainable while in production mode.

"**Border Routers**" means any routers that connect Datapipe's internal network to a transit or peering provider via BGP. The External WAN interface up-linking the router to a Third Party fibre or cross-connect provider is not included in this definition.

"**Client Access Switch**" means the Datapipe-managed access switch up-linked to the Service Components.

"**Concurrently Maintainable**" means a multi-component system that allows for software updates to the operating system and the software stack, one component at a time, without significantly affecting the ability of such solution to provide resources to end users.

"**Datapipe Network**" means from the internal LAN-side Ethernet interface of the Border Routers to the Client Access Switch via all Datapipe-owned and managed networking hardware.

"**Emergency Maintenance**" means any critical unforeseen maintenance, upgrades or repairs needed to address the security, performance, or safety of any Client Service Components, Datapipe infrastructure and/or the Datapipe Network.

"**Hypervisor**" means a virtual machine manager hardware virtualization technique that allows multiple operating systems to run concurrently on a host computer.

"**Scheduled Maintenance**" means any maintenance at the Facility where a Virtual Server (as herein after defined) is located within the limitations set forth below, and of which Client is notified at least 72 hours in advance. Notice of Scheduled Maintenance shall be provided to Client via e-mail. Datapipe will use commercially reasonable efforts to conduct Scheduled Maintenance between the hours of 12:01 a.m. and 6:00 a.m. Facility local time Sunday.

"**vCenter**" means the centralized virtualization management tool for the vSphere suite which allows for the management of multiple VM Instances and virtual machines from different VM Instances through a single console application.

"**VMDK**" means a file format used in connection with virtual appliances and developed for use with VMware software products. Datapipe monitors the availability of the VMDK via the vCenter.

"**VMware Instance**" means the underlying VMware file system and Hypervisor exposed to the Client's operating system in the form of a VMDK. Every VMware instance is contained within a dedicated VMDK.

## 2. LIMITATION OF LIABILITY.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OR ANY THEORY OF LIABILITY INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, CONTENT OR BUSINESS INFORMATION, LOSS OF TECHNOLOGY, RIGHTS OR SERVICE, ANTICIPATED OR LOST REVENUE OR SAVINGS, LOSS OF CUSTOMERS OR CLIENTS, LOST PROFITS, LOST GOODWILL, LOST BUSINESS OR REPLACEMENT GOODS OR INTERRUPTION OR LOSS OF USE OF SERVICE OR EQUIPMENT OR ANY LOSS THAT COULD HAVE BEEN AVOIDED BY SUCH PARTY'S USE OF REASONABLE PRECAUTIONS OR DILIGENCE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES WHETHER ARISING UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR BREACH OF WARRANTIES.

UNLESS OTHERWISE SPECIFIED IN THE CALL OFF AGREEMENT, THE MAXIMUM CUMULATIVE LIABILITY OF EITHER PARTY OR ITS SUPPLIERS, CONTRACTORS AND SUBCONTRACTORS ARISING OUT OF OR RELATING TO THE SERVICES FOR ANY REASON WHATSOEVER (INCLUDING WITHOUT LIMITATION ANY PERFORMANCE OR NON-PERFORMANCE HEREUNDER, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, STATUTE OR OTHERWISE, SHALL IN NO EVENT EXCEED THE GREATER OF THE FOLLOWING:

- THE PRODUCT OBTAINED BY MULTIPLYING SIX (6) TIMES THE INITIAL MONTHLY SERVICE FEE PAYABLE (WHETHER PAID OR PAYABLE) BY CLIENT TO DATAPIPE; OR
- THE TOTAL AMOUNT PAID BY CLIENT TO DATAPIPE UNDER THE CALL OFF AGREEMENT DURING THE TWELVE MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO SUCH CLAIM.

THE ABOVE LIMITATION OF LIABILITY SHALL APPLY REGARDLESS OF WHEN THE CLAIM OR CLAIMS GIVING RISE TO SUCH LIABILITY OR LIABILITIES SHOULD OCCUR. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

THE ABOVE LIMITATION OF LIABILITY SHALL NOT APPLY TO EITHER PARTY'S CONFIDENTIALITY AND INDEMNIFICATION OBLIGATIONS UNDER THE CALL OFF AGREEMENT. RATHER, THE MAXIMUM CUMULATIVE LIABILITY OF EITHER PARTY ARISING OUT OF OR RELATING TO ITS CONFIDENTIALITY AND INDEMNIFICATION OBLIGATIONS SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT PAID OR TO BE PAID BY CLIENT TO DATAPIPE UNDER THE CALL OFF AGREEMENT DURING THE THREE (3) YEAR PERIOD PRIOR TO THE EVENT GIVING RISE TO SUCH CLAIM;

DESPITE ANY LIMITATIONS SET FORTH IN THIS SECTION, CLIENT SHALL BE LIABLE FOR ALL SUMS DUE OR PAYABLE UNDER THE CALL OFF AGREEMENT FOR THE SERVICSE PROVIDED, REGARDLESS OF AMOUNT, TOGETHER WITH ANY ADDITIONAL FEES, ATTORNEY FEES AND/OR COSTS THAT MAY BE INCURRED BY DATAPIPE.

## 3. AVAILABILITY

### 3.1. <u>VIRTUAL SERVER UPTIME SERVICE LEVEL.</u>

3.1.1. Datapipe will use commercially reasonable efforts to provide the specified solution monthly uptime ("**VM OS Availability Service Level")** with respect to operating system availability and hardware functionality for each Virtual Server that is a component of a Client Solution. "**VM OS Outage"** means the inability of a Virtual Server to communicate with the vCenter via the Datapipe Network due to operating system unavailability and/or failure of hardware functionality, and the period of a VM OS Outage is defined as "**VM OS Unavailability"**. VM OS Unavailability shall be measured and reported as provided in Section 3.1.3. The VM OS Availability Service Level does not extend to the functionality or availability of any Client applications residing on any Virtual Servers that are part of a Client Solution.

3.1.2. Datapipe will use commercially reasonable efforts to provide the specified monthly uptime with respect to operating system availability and hardware functionality for each Virtual Server which is a component of a Client Solution. The VM OS Unavailability shall be measured and reported as provided in

Section 3.1.3. The VM OS Availability Service Level does not extend to the functionality or availability of any Client applications residing on any Virtual Servers that are part of a Client Solution.

3.1.3. VM OS Unavailability shall be measured as the aggregate of all Verified OS Outage minutes during a calendar month, less any Excluded OS Outage Minutes in such calendar month, divided by the total of minutes in such calendar month. "**Verified OS Outage"** means the aggregate number of VM OS Unavailability minutes during a calendar month that have been claimed by Client using the approved procedure described in Section 3.1.3 and verified by Datapipe. **"Excluded OS Outage Minutes**" means any VM OS Outages arising directly or indirectly from Scheduled Maintenance, Emergency Maintenance, or those exceptions set forth in Section 7 herein. Client shall not be eligible for a service credit for VM OS Unavailability unless Client opens a ticket with Datapipe Support within 30 days of the claimed event of VM OS Unavailability and requests such service credit within 30 days of the end of the calendar month in which the VM OS Unavailability occurs. At the end of each calendar month, Datapipe shall provide Client a report of the Verified OS Outages during such month. Each month's performance statistics relating to the VM OS Availability Service Level shall be posted at the Client Portal. Datapipe shall credit Client's account as specified in Section 4 for the affected Virtual Server(s), subject to a maximum credit during any calendar month as specified in Section 6 of this SLA. Any such credits shall appear in the next monthly invoice issued to Client following confirmation of a Verified OS Outage.

## 4. SERVICE LEVEL CREDITS.

| 99.99% VM OS Availability | Service Credit<br>(as a % of Monthly Recurring Fee*) |
|---|---|
| >99.99% | No Credit |
| 99.90%-99.99% | 5% |
| 99.5%-99.89% | 15% |
| <99.5% | 25% |

**Based on a 30-day billing cycle.*

| 99.9% VM OS Availability | Service Credit<br>(as a % of Monthly Recurring Fee*) |
|---|---|
| >99.9% | No Credit |
| 99.5%-99.9% | 5% |
| 99%-99.49% | 15% |
| <99% | 25% |

**Based on a 30-day billing cycle.*

## 5. INCIDENT MANAGEMENT.

### 5.1. MANAGED HOSTING SEVERITY LEVEL DEFINITIONS.

"**Severity Level 1**" means the total lack of availability of the Services or availability of the Datapipe Network or mission critical application availability of the Services such that Client cannot continue its business due to the severity of the outage.

"**Severity Level 2**" means a material degradation of access to the Services or availability of the Datapipe Network, mission critical application availability of the Services, or production hardware components such that Client can continue operating its business, but in a negatively impacted and degraded mode.

"**Immediate Support Request**" means a ticket created by Client in the Client Portal with respect to a Severity Level 1 or Severity Level 2 event, which ticket creation is followed by Client initiating and participating in a telephone conversation with Datapipe Support with respect to the subject of that ticket.

### 5.2. COMMUNICATION DURING INCIDENT MANAGEMENT.

Communication is a key element in reporting and resolving service incidents. Unless otherwise noted, Datapipe and Client will communicate via the Client Portal during the incident management process.

- All communications shall include:
- Support ticket reference number
- Time and date of transaction in question
- Description of incident
- List of actions taken to verify and isolate the problem

### 5.3. OPENING/REPORTING AN INCIDENT.

Datapipe will send Client a notification in accordance with the Client's Solutions Escalation Action Plan (SEAP), advising that the Managed Hosting Services are unavailable. Regardless of whether Datapipe or Client reported the incident, Client is responsible for diligently cooperating with Datapipe in tracking and assisting in addressing the ticket until the incident is resolved.

### 5.4. WORKING THE INCIDENT.

Once an incident has been reported and a Client ticket created, Datapipe and Client will work together to address the incident. This process involves:

- An initial response to the incident report
- Status updates
- Escalation
- Communication and resolution times for working the incident

#### 5.4.1.Initial Response.

Upon receiving notification of an opened incident, Datapipe will respond to Client via the Client Portal. Response intervals vary depending on incident severity, as indicated in Section 6, "Datapipe Performance Standards".

#### 5.4.2.Status Updates.

Update intervals will vary depending on the incident severity as indicated in Section 6. While an Immediate Support Request or a Severity Level 1 event is being resolved, Datapipe will send periodic resolution updates.

## 6. DATAPIPE PERFORMANCE STANDARDS.

| Event Type | Description | Datapipe Performance Standard |
|---|---|---|
| *Severity Level 1 Event* | Initial response to event reported by Datapipe's monitoring system or Client | 10 minutes |
| | Datapipe will start to work on the resolution | 10 minutes |
| | Status update | Every 60 minutes |
| *Severity Level 2 Event* | Initial response to event reported by the monitoring system or Client | 10 minutes |
| | Datapipe will start to work on the resolution | 30 minutes |

| | | |
|---|---|---|
| | Status update | Every 2 hours |
| *Immediate Support Request* | Initial response | 5 minutes |
| | Datapipe will start to work on the resolution | 5 minutes |
| | Status update | Every 60 minutes |
| *Scheduled Maintenance* | Notification via e-mail | At least 48 hours before maintenance |
| *Datapipe Network Unavailability or Power Unavailability Post Mortem Report* | Incident report via e-mail | Within 48 hours of incident |

6.1. CREDITS.

If Datapipe fails to meet the service levels described in this Section 6 (the "**Incident Management Service Level**") in any given calendar month (an "**Incident Management Failure**"), Datapipe will credit Client in accordance with the following schedule (the "**Standard Service Credit for Incident Management**"):

| Monthly Cumulative Incident Management Failures | Service Credit (% of Monthly Recurring Fee for Managed Hosting Services*) |
|---|---|
| 3-5 | 5% |
| 6-10 | 15% |
| 11+ | 50% |

**Based on a 30-day billing cycle.*

In no event shall any single ticket result in more than one Incident Management Failure, for purposes of calculating Client credits pursuant to this Section 6.1.

## 7. EXCEPTIONS TO THE CREDIT PROCESS:

A credit will not be issued due to failures that are, as determined by Datapipe, in its good faith reasonable judgment, the result of:

- Client-initiated work independently generated by Client or Service interruptions requested by Client;
- Datapipe-initiated maintenance completed during Scheduled Maintenance or Emergency Maintenance;
- Client-required operating system software revisions and hardware/software configurations that are not Datapipe tested/approved;
- Client Content, Client Software, or Client Equipment;
- The acts or omissions of Client, its employees, agents, third-party contractors or vendors, or anyone gaining access to the Managed Hosting Services, the Datapipe Software, or the Client Software at the request of Client;
- Actions of Third Party providers;
- Violations of the AUP;
- Reasons of a Force Majeure Event;
- DNS issues outside the direct control of Datapipe;

- Patches or Antivirus updates deployed in production environments which contain code faults, flaws or other errors attributable to the third-party vendors that created such code;
- Any suspension of Services pursuant to the General Terms;
- A denial-of-service attack (DoS attack) or distributed denial-of-service attack (DDoS attack), wherein one or more compromised systems attack a single target, designed to make resources unavailable to its intended users; or
- Manufacturer or safety code-related shutdowns required for safety compliance.

## 8. LIMITED REMEDY AND MAXIMUM CREDITS AVAILABLE

The sole and exclusive remedy for the failure to meet the VM OS Availability Service Level and the Incident Management Service Level shall be the receipt of credits as provided in this SLA. In addition, the total aggregate credit available to Client in any calendar month for failure to meet the VM OS Availability Service Level and the Incident Management Service Level shall not exceed 50% of the Monthly Recurring Fee for the Multi-tenant Services for such calendar month.