

LuxCloud

TRUST · ENABLE · SCALE



SPECIFIC TERMS AND CONDITIONS

Update: 20.01.2016

Version: 1.0

User shall comply with LuxCloud's then current Specific Terms & Conditions ("STC"), as amended, modified or updated from time to time by LuxCloud, and other Terms & Conditions (collectively called "LuxCloud Terms & Conditions") which are made available via the LuxCloud website (<http://luxcloud.com>), or otherwise provided to the User.

The User acknowledges having read and understood these STC, as well as any document comprising the LuxCloud Terms & Conditions. By placing a Service order, User accepts the LuxCloud Terms & Conditions in their entirety and without reservation. It is the sole responsibility of the User to check at regular intervals and in any case before using the Service said LuxCloud Terms & Conditions. LuxCloud Terms & Conditions shall remain in effect for the entire term of the contractual relationship and any events or circumstances arising thereof.

LuxCloud Terms & Conditions in its entirety shall consist of LuxCloud General Terms of Service (as may be modified from time to time and available on the LuxCloud website), these STC, the ISV Terms included in the STC, and any applicable additional terms of use and/or license pertaining to the Service.

In the event of an inconsistency between a term and condition contained in any document of the LuxCloud Terms & Conditions, including any incorporated attachments, appendices, exhibits or other documents, the order of precedence, from the most to the least controlling, shall be:

- The ISV Terms;
- These STC;
- LuxCloud General Terms of Service; and
- Any other terms.

Definitions

Incident means (i) any single event, or (ii) any set of events, that give rise to Service Outages.

Maintenance Measures mean measures that ensure, amongst others:

- the optimization of the Service;
- the enhancement of the production volume of the Service;
- the reinforcement of safety and the stability of the Service.

The Maintenance Measures include in consequence any action related to the patch management and/or software upgrading.

Maintenance Window is a scheduled period designated in advance by LuxCloud, during which preventative maintenance may be performed and could cause Service Outages.

Minimum Monthly Uptime:

$$\text{MMU} = \frac{(\text{TM} \times \text{TU}) - \text{TD}}{\text{TM} \times \text{TU}}$$

MMU= Minimum Monthly Uptime

TM = Total number of minutes of the month

TU = Total number of users

TD = Total minutes of experienced downtime by all users of the month

Office Hours means Monday to Friday from 8a.m. to 5p.m. CET, excluding Luxembourg public holidays.

Response Time means the time within which LuxCloud will start to work on resolving the reported issue.

Service refers to the Sóshlr Solution provided to User.

Scheduled Downtime means any Service Outage that arise out of Maintenance Measures and that have been announced in a timely manner.

Service Fee means the Recurring Fees, Non-Recurring Fees and any other fees due under this Agreement.

Service Level means the performance that LuxCloud agrees to meet, as set forth in this SLA.

Service Outage means the minutes during which the Service was not available, excluding (i) Scheduled Downtime; and (ii) any unavailability due to circumstances described in Section “Limitations”, hereof.

User means any natural or legal person, company, corporation or any other entity benefiting directly or indirectly from the Service. For the avoidance of doubt, benefiting includes but is not limited to ordering, accessing and using the Service.

User Data or **User Content** means any form of content such as video, text files, databases, digital images, audio files and any other form of media stored on or transiting via the Service.

1. License

User hereby grants to LuxCloud a non-exclusive, royalty-free, worldwide right and license during the Initial Term and any Term thereafter to do the following to the extent necessary in the performance of Services, except that with respect to personal information included in the User Content, such license shall be limited to allowing LuxCloud to use Personal Information in accordance with its Privacy Policy:

Digitize, convert, install, upload, select, order, arrange, compile, combine, synchronize, use, reproduce, store, process, retrieve, transmit, distribute, perform display and hyperlink the User Content

Except for the rights expressly granted above, LuxCloud is not acquiring any right, title or interest in or to the User Content, all of which shall remain solely with User.

2. Data Management Policy

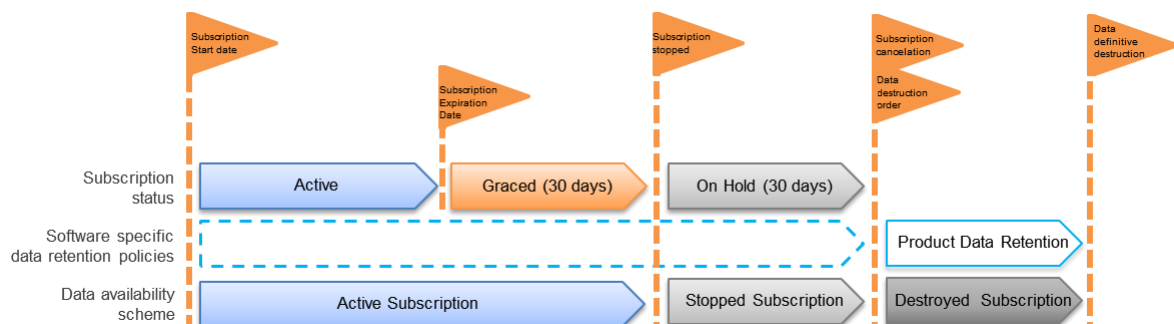
2.1. Storage Location

User Data is stored in the USA.

2.2. Data Management Policy

LuxCloud handles User Data with high precaution and in full transparency. Its data management policy applies to the whole lifecycle of a subscription and gives clear indication of the data availability for the following data availability schemes:

- **Active subscription scheme:** Subscription is active. The Service is ready and running. The User Data can be viewed and processed by authorized Users.
- **Stopped subscription scheme:** The subscription is automatically stopped if no renewal order has been placed within 30 days following the expiration date of the subscription. The Service is stopped and not accessible anymore. The User Data are withheld and the Service can be reactivated within the time lines mentioned in Table 2.
- **Destroyed subscription scheme:** Stopped subscriptions will automatically be destroyed after a period of 60 days. The Service cannot be reactivated. The Data can however be restored upon payable service request and within the timelines mentioned in Table 3.



Graphic representation of the subscription schemes

Table 1. Data management policy for active subscriptions

	Logs	User Data
Data	Logs are kept with an infinite retention. Logs can be processed by authorized Users.	User Data is accessible and can be processed by authorized Users.
Deleted item recovery	Items are soft deleted and can be restored.	Items are soft deleted and can be restored.
Backups	Back-ups are made every 24 hours and have retention of 14 days. User Data is accessible and can be processed by authorized Users.	Back-ups are made every 24 hours and have retention of 14 days. User Data is accessible and can be processed by authorized Users.
Disaster recovery	Backup renewed every 24 hours and can be recovered by Top Cloud XL after a re-installation of appropriate systems.	Backup renewed every 24 hours and can be recovered by Top Cloud XL after a re-installation of appropriate systems.

Table 2. Data management policy for stopped subscriptions

	Logs	User Data
Data	Logs are kept with an infinite retention. Logs can be processed by authorized Users.	User Data is accessible and can be processed by authorized Users.
Deleted item recovery	Items are soft deleted and can be restored.	Items are soft deleted and can be restored.
Backups	Back-ups are made every 24 hours and have retention of 14 days. User Data is accessible and can be processed by authorized Top Cloud XL super users only.	Back-ups are made every 24 hours and have retention of 14 days. User Data is accessible and can be processed by authorized Top Cloud XL super users only.
Disaster recovery	Backup renewed every 24 hours and can be recovered after a re-installation of appropriate systems.	Backup renewed every 24 hours and can be recovered after a re-installation of appropriate systems.

Table 3. Data management policy for destroyed subscriptions

	Logs	User Data
Data	Logs are kept with an infinite retention. Logs can be processed by authorized Users.	User Data can be processed by authorized Sólshlr super users only.
Deleted item recovery	Items are soft deleted and can be restored.	Items are soft deleted and can be restored.
Backups	Back-ups are made every 24 hours and have retention of 14 days. User Data is not accessible and can be processed by authorized Top Cloud XL super users only.	Back-ups are made every 24 hours and have retention of 14 days. User Data is not accessible and can be processed by authorized Top Cloud XL super users only.
Disaster recovery	Backup renewed every 24 hours and can be recovered after a re-installation of appropriate systems by Top Cloud XL.	Backup renewed every 24 hours and can be recovered after a re-installation of appropriate systems by Top Cloud XL.

3. Service Level Agreement (SLA)

3.1. Uptime Service Levels

LuxCloud guarantees the User the Minimum Monthly Uptimes put forward in the table below. If LuxCloud does not achieve the guaranteed Minimum Monthly Uptimes, then the User may be eligible for a Service Credit towards a portion of the Service Fee invoiced by LuxCloud for the Service in the relevant month.

Minimum Monthly Uptime	Service Credit
<99.5%	25%
<99%	50%
<95%	100%

In order to ensure maximum uptime and reliability, LuxCloud performs a weekly system Maintenance Measure routine during the following Maintenance Window:

Friday from 9p.m. to Saturday 3a.m. CET.

3.2. Support Level Guarantee

Support system. Any system issues can be reported to LuxCloud via our ticket logging facility, which is available to the Users 24/7/365, or an email can be sent to support@luxcloud.com.

Targeted ticket response times:

- Within office hours – 8 hours
- Outside office hours – 16 hours

Response Times will vary according to the severity level of the reported issues. While providing support services, LuxCloud shall use its best efforts but shall not guarantee any result.

3.3. Limitations

This SLA does not apply to any Service Outages:

- due to factors outside of LuxCloud's control;
- that result from the User's or third party hardware or software;
- resulting from the User's usage errors;
- occurring during pre-release, beta and trial Services (as determined by us);
- occurring during the Maintenance Window stated in section 3.1
- that result from unauthorized actions or ignored action requirements set forth by LuxCloud;
- that result from the User's failure to respond to LuxCloud's queries, to adhere to any required configurations, and follow any policies for acceptable use.

LuxCloud may have to fix unexpected security vulnerabilities and other bugs, and/or to take action in order to improve the usability or performance of the Service. Those actions might provoke unexpected Service unavailability.

LuxCloud will notify the User of potential suspensions within a reasonable prior delay. Additionally, LuxCloud shall make its best efforts to limit the suspension period.

If LuxCloud suspends or takes actions as described above, the User shall not be entitled to any Service Credit.

The User may not unilaterally offset any Service Fee invoiced by LuxCloud as a compensation for any performance or availability issue.

The treatment of questions, requests and change requests do not come under the scope of this SLA and is always subject to assessment as to whether professional Services costs will be charged. In such cases, an offer clearly detailing the work and charges will be proposed.

3.4. SLA Updates

SLA updates will become effective with the renewal of the Service. For the avoidance of doubt, if the User renews its Service, then the version of the SLA that is current at the time of renewal will apply for the renewal term.

3.5. Service Credit Claim

If LuxCloud does not meet the agreed Minimum Monthly Uptime, User may qualify for a Service Credit provided that they are able to substantiate their claim of any impact stemming from a Service failure.

For that purpose, the User must submit a Service Credit Claim as annexed in Exhibit 1 before the end of the following two Calendar Month in which the Minimum Monthly Uptimes were not met.

LuxCloud will evaluate the submitted information and make a good faith judgment on whether a Service Credit is owed. LuxCloud will use commercially reasonable efforts to process claims within forty five (45) days of receipt.

Please note that LuxCloud will only consider Service Credit Claims filed by Users that are fully compliant to any obligation arising out of the LuxCloud Terms and Conditions.

Service Credits owed will be applied against outstanding Service Fees.

4. ISV Terms

The Service may consist of one or more programs that are subjected to different Terms and Conditions, referred to as "ISV Terms". Any User is responsible for compliance with all the obligations set forth in the section 4.1

4.1. Terms and Conditions and Privacy Policy of the Associated Software

The ISV terms of the Service can be found under:

<http://www.topcloudxl.com/basekit-terms-and-conditions>

Exhibit 1. Service Credit Claim Form

User			
Company Name :		Contact Person	
Address :			
Phone :			
Fax :			
Email address :			

Outage # / Ticket #	Incident Date	Total Outage (in minutes)	Customer/User impact	Description of your attempts to resolve the Incident at the time of occurrence.