

# Service Level Agreement

## VMware vSphere® Advantage™

Dated: December 16, 2021

This Service Level Agreement (“SLA”) is subject to the VMware Cloud Service Offerings Terms of Service and the Service Description for the VMware vSphere Advantage service offering (the “Service Offering”) found at <https://www.vmware.com/download/eula.html>. Capitalized terms not defined in this SLA will have the meanings specified in the Terms of Service and the Service Description. We reserve the right to change the terms of this SLA in accordance with the Terms of Service.

### Availability

VMware will use commercially reasonable efforts to ensure that the cloud services listed below are available during a given billing month equal to the “Availability Commitment” specified in the table below.

Service	Availability Commitment
vSphere Advantage cloud services <ul style="list-style-type: none"><li>▪ Inventory Service</li><li>▪ Infrastructure operations</li><li>▪ VM Services</li><li>▪ License Management</li><li>▪ Upgrade for vCenter Server</li></ul>	99.5%

If the Availability of the cloud services is less than the Availability Commitment, then you may request an SLA Credit. Availability in a given billing month is calculated according to the following formula:

“Availability” = ([total minutes in a billing month – total minutes Unavailable] / total minutes in a billing month) x 100

### Unavailability and SLA Events

A cloud service will be considered “Unavailable”, subject to the Service Level Agreement Limitations set forth below, if VMware’s monitoring tools determine one of the following events (each, an “SLA Event”) has occurred.

The total minutes that the cloud service is Unavailable for a particular SLA Event is measured from the time that VMware validates the SLA Event has occurred, as defined below, until the time that VMware resolves the SLA Event such that the Service Offering is Available to you.

If two or more SLA Events occur simultaneously, the SLA Event with the longest duration will be used to determine the total minutes Unavailable.

Each of the following will be considered an “SLA Event” for purposes of this SLA:

- If the AWS infrastructure, on which we host the cloud services, is unavailable or down due to AWS issues, and not communicated in advance to customer, this will contribute to SLA

downtime. When none of the AWS services available and none of our customers are able to use the Service Offering's cloud services, an SLA Event will be triggered.

- The customer is not able to log into the cloud services or none of the cloud services are available, resulting in loss of usability for the customer.
  - Exclusions
    - At least one of the customer's users is able to successfully log into any of the cloud services.
    - Any one of the cloud services is available and accessible.
- If all of the cloud services are down continuously for five minutes
  - Exclusions
    - vCenter API or UI layer not responding
    - vCenter Server not in available and accessible
    - Customer hardware where ESXi hosts are running has issues
    - Any one of the cloud services is up and running, and customer can use it or see the data related to it.

You are not eligible for an SLA credit if any of the following conditions exist:

- Customer infrastructure has issues impacting the connectivity, data collection, access to VMware vCenter Cloud Gateway, or vCenter.
- Customer using wrong credentials to log into the cloud services
- Unable to connect to the customer's on-premises vCenter Server through the user interface for VMware vCenter Cloud Gateway, or by accessing the vSphere client for vCenter.
- Customer has modified the VMware vCenter Cloud Gateway or vCenter Server configuration in a fashion that is not supported by VMware.
- Compute, storage, or network unavailability or stability issues in the customer's on-premises infrastructure.
- VMware vCenter Cloud Gateway appliance is down or unreachable through the user interface for VMware vCenter Cloud Gateway, or by accessing the vSphere client for vCenter.
- The customer's on-premises infrastructure is unreachable through the user interface for VMware vCenter Cloud Gateway, or by accessing the vSphere client for vCenter.
- Customer's environment does not conform to VMware compatibility defined at <https://www.vmware.com/resources/compatibility/search.php>

The total minutes that a cloud service is Unavailable for a particular SLA Event is measured from the time that VMware validates the SLA Event has occurred, as defined below, until the time that VMware resolves the SLA Event such that the cloud service is Available to you.

If two or more SLA Events occur simultaneously, the SLA Event with the longest duration will be used to determine the total minutes Unavailable.

## SLA Credits

Each "SLA Credit" is an amount equal to the following: (1) the difference between (a) the Availability Commitment and (b) the actual Availability, for the cloud services, up to a 10% maximum, multiplied by (2) (A) the committed subscription fee, prorated to one month, (B) plus any overages for the billing month in which the SLA event occurred.

*By way of example only*, if the Availability Commitment is 99.5%, but the actual Availability is 98.5%, then the SLA credit percentage is 1% (i.e., difference between the Availability Commitment and the actual Availability). (NB: The maximum SLA credit percentage is 10%) If (i) the committed annual subscription fee is \$120,000, then (ii) the monthly fee is \$10,000, and (iii) there are no overage charges for the month, THEN the SLA credit equals 1% of the monthly fee (\$10,000), so the credit is valued at \$100.

## Service Level Agreement Limitations

The following will be excluded from any time-based calculations related to a cloud service being Unavailable:

- (i) scheduled maintenance where you have been notified at least 24 hours in advance,
- (ii) recurring or zero-impact maintenance that is generally applicable to all customers,
- (iii) your misuse of the Service Offering or any of the cloud services,
- (iv) force majeure events, denial of service attacks, viruses, or hacking attacks for which there is no commercially reasonable known solution, or any other events that are not within our control or that could not have been avoided with commercially reasonable care,
- (v) acts or orders of government,
- (vi) packet loss, network or internet problems beyond VMware's border router supporting our public internet connectivity, or
- (vii) bugs in code or services for which there is no commercially reasonable known fix (even if there is a known workaround).

You will not be eligible to receive an SLA Credit if:

- (a) you are delinquent on any payments for the Service Offering,
- (b) your use of the Service Offering is suspended pursuant to the Terms of Service, or
- (c) the SLA Event was due to your failure to meet your security responsibilities as set forth in the Agreement.

VMware's monitoring tools, data, and records will be the sole source of information used to track and validate Availability. Upon request, VMware will provide to you, within 45 days after a confirmed SLA Event, a copy of the Availability report that VMware makes generally available to customers.

## Service Level Agreement Claims

To request an SLA Credit, you must file a support request at <https://my.vmware.com> within thirty (30) days after the suspected SLA Event. VMware will review the request and issue an SLA Credit when VMware validates the SLA Event based on VMware's data and records.

SLA Credits will be issued to the person or entity that VMware invoices for the Service Offering, as a separate credit memo that can be applied towards a future invoice for the Service Offering. If your subscription term for the Service Offering expires or is terminated prior to the issuance of a Service Credit, the Service Credit will become void as of the date of the expiration or termination.

The Service Credits specified in this SLA are your sole and exclusive remedies for any SLA Events occurring during your subscription term for the Service Offering or for any other claim in connection with this SLA.