

## SERVICE LEVEL AGREEMENT

Edition 1/2022

This service level agreement (SLA) is entered into by and between you (**Customer, you or your**) and BLIO Ltd (incorporated in England and Wales with company number: 13289222) (**BackupLABS, Supplier, us or our**) and is effective as of the date that you subscribe for the Service under the Main Agreement (defined below).

### 1. Interpretation

The following definitions and rules of interpretation apply in this SLA.

#### 1.1

Definitions:

<b>Availability Targets</b>	the availability targets set out in the table in paragraph 7.1.
<b>Availability Target Credits</b>	the availability target credits set out in the table in paragraph 8.1.
<b>Commercially Reasonable Efforts</b>	the same degree of priority and diligence with which the Supplier meets the support needs of its other similar customers.
<b>Contact List</b>	a current list of Supplier contacts and telephone numbers to enable the Customer to escalate its Support Requests, including: <ul style="list-style-type: none"><li>(a) the first person to contact; and</li><li>(b) the persons in successively more qualified or experienced positions to provide the support sought.</li></ul>
<b>Customer Cause</b>	any of the following causes: <ul style="list-style-type: none"><li>(a) any improper use, misuse or unauthorised alteration of the Software by the Customer;</li><li>(b) any use of the Software by the Customer in a manner inconsistent with any then-current user instructions of the Supplier;</li><li>(c) the use by the Customer of any hardware or software not provided by the Supplier; or</li><li>(d) the use of a non-current version or release of the Software.</li></ul>
<b>Fault</b>	any Operational Fault or Vulnerability.
<b>Good Industry Practice</b>	the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.
<b>Help Desk Support</b>	any support provided by help desk technicians sufficiently qualified and experienced to identify and resolve most support issues relating to the Software.
<b>Higher-level Support</b>	any higher-level support provided by an individual on the Contact List.
<b>Known Vulnerabilities</b>	any Vulnerability that has either: <ul style="list-style-type: none"><li>(a) been assigned a Common Vulnerabilities and Exposures (CVE) number;</li><li>(b) been disclosed on the National Vulnerability Database available at the website operated by the US National Institute of Standards and Technology (NIST) from time to time; or</li><li>(c) been disclosed on the internet, or any open public database, such that it would be revealed by reasonable searches conducted in accordance with Good Industry Practice.</li></ul>
<b>Latent Vulnerabilities</b>	any instances of typical classes of Vulnerability. For example, buffer overflows, cross-site scripting (XSS) and Structure Query Language (SQL) injection.
<b>Main Agreement</b>	the software as a service agreement to which this service level agreement relates.
<b>Mitigate</b>	the taking of such reasonable steps that would be taken by a prudent supplier in accordance with Good Industry Practice to mitigate against the Vulnerability in question, which may include patching or coding changes, and the terms <b>Mitigated</b> and <b>Mitigation</b> shall be construed accordingly.
<b>Operational Fault</b>	failure of the Software to operate in all material respects in accordance with the Specification and Documents, including any operational failure or error referred to in the Service Level Table.
<b>Out-of-scope Services</b>	either of the following services: <ul style="list-style-type: none"><li>(a) any services provided by the Supplier in connection with any apparent problem regarding the Software reasonably determined by the Supplier not to have been caused by a Fault, but rather by a Customer Cause or a cause outside the Supplier's control (including any investigational work resulting in such a determination); or</li><li>(b) any Higher-level Support provided in the circumstances specified in paragraph 2.3.</li></ul>
<b>Service Levels</b>	the service level responses and response times referred to in the Service Level Table.
<b>Service Level Table</b>	the table set out in paragraph 5.1.
<b>Solution</b>	either of the following outcomes: <ul style="list-style-type: none"><li>(a) correction of an Operational Fault; or</li></ul>

- (b) a workaround in relation to an Operational Fault (including a reversal of any changes to the Software if deemed appropriate by the Supplier) that is reasonably acceptable to the Customer; or
- (c) Mitigation of a Vulnerability that is reasonably acceptable to the Customer.

**Support Hours**

Seven days a week, 24 hours a day including Bank Holidays.

**Support Period**

the Subscription Term and, if requested by the Customer, any period during which the Customer transfers the Services to an alternate service provider.

**Support Request**

request made by the Customer in accordance with this SLA for support in relation to the Software, including correction of an Operational Fault.

**Support Services**

maintenance of the then-current version or release of the Software, including Help Desk Support and Higher-level Support, but excluding any Out-of-scope Services.

**Vulnerability**

a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

1.2 All initial capitalised terms in this SLA shall have the meaning given to them in the Main Agreement, unless otherwise defined herein.

**2. Support Services**

2.1 During the Support Period the Supplier shall perform the Support Services during the Support Hours in accordance with the Service Levels.

2.2 As part of the Support Services, the Supplier shall:

- 2.2.1 provide Help Desk Support by means of the following telephone number 0044 3397 3082 and e-mail address support@BackupLABS.io;
- 2.2.2 commit appropriate resources to the provision of Higher-Level Support;
- 2.2.3 where Help Desk Support is not provided within the relevant Service Level response time and the Customer escalates its Support Request to an individual of appropriate qualification or experience on the Contact List, provide Higher-Level Support;
- 2.2.4 use Commercially Reasonable Efforts to:
  - 2.2.4.1 correct all Operational Faults notified under paragraph 4.3.1; and
  - 2.2.4.2 Mitigate against all Vulnerabilities notified under paragraph 4.3.1 or detected under paragraph 2.2.6
- 2.2.5 provide technical support for the Software in accordance with the Service Levels.
- 2.2.6 monitor the Software on a continuous basis during the Support Hours for Known Vulnerabilities or Latent Vulnerabilities.

2.3 Any Higher-level Support requested by the Customer to be provided by an individual whose qualification or experience is greater than that reasonably necessary to resolve the relevant Support Request shall be deemed an Out-of-scope Service, provided that an appropriately qualified or experienced individual was available at the time when the Higher-level Support was sought.

2.4 The Supplier may reasonably determine that any services are Out-of-scope Services. If the Supplier makes any such determination, it shall promptly notify the Customer of that determination.

2.5 The Customer acknowledges that the Supplier is not obliged to provide Out-of-scope Services.

**3. Fees**

3.1 The provision of Support Services on a remote, off-site basis (such as over the telephone or by e-mail) within the Support Period shall be included in the Subscription Fee.

3.2 The Supplier reserves the right to charge for the provision of Support Services outside the Support Period or at the Customer Site or the provision of Out-of-scope Services at such rates and on such basis as the Supplier may determine from time to time.

3.3 The Supplier shall be under no obligation to provide any Support Services in the circumstances described in paragraph 3.2.

**4. Submitting Support Requests and access**

4.1 The Customer may request Support Services by way of a Support Request.

4.2 Each Support Request shall include a description of the Operational Fault or Vulnerability and, where relevant, the start time of the incident.

4.3 The Customer shall provide the Supplier with:

- 4.3.1 prompt notice of any Faults which it becomes aware of; and
- 4.3.2 such output and other data, documents, information, assistance and (subject to compliance with all Customer's security and encryption requirements notified to the Supplier in writing) remote access to the Customer System, as are reasonably necessary to assist the Supplier to reproduce operating conditions similar to those present when the Customer detected the relevant Operational Fault and to respond to the relevant Support Request.

- 4.4 Save for where the Supplier reasonably determines that it requires access to the Customer Site to provide the relevant Support Service, all Support Services shall be provided on an off-site basis (such as over the telephone or by e-mail) from the Supplier's office.
- 4.5 The Customer acknowledges that, to properly assess and resolve Support Requests, it may be necessary to permit the Supplier direct access at the Customer Site to the Customer System and the Customer's files, equipment and personnel.
- 4.6 The Customer shall provide such access promptly, provided that the Supplier complies with all the Customer's reasonable security requirements and other policies and procedures relating to contractors entering and working on the Customer Site notified to the Supplier in writing reasonably in advance.

**5. Service Levels**

5.1 The Supplier shall use reasonable endeavours to:

5.1.1 prioritise:

5.1.1.1 all Support Requests based on its reasonable assessment of the severity level of the Fault reported;

5.1.1.2 Mitigation of each Vulnerability based on its reasonable assessment of the risk posed by such Vulnerability;  
and

5.1.2 respond to all Support Requests, and address all Vulnerabilities in accordance with the responses and response times specified in the table set out below:

Severity level of Fault	Definition	Service Level response and response time for Operational Faults	Service Level response and response time for Vulnerabilities
1	<p><b>Business Critical Failures:</b> An error in, or failure of, the Software that:</p> <p>a) materially impacts the operations of the Customer's business or marketability of its service or product;</p> <p>b) prevents necessary work from being done; or</p> <p>c) disables major functions of the Software from being performed.</p>	<p><b>Level 1 Response:</b> Acknowledgment of receipt of a Support Request within 6 Hours.</p> <p><b>Level 2 Response:</b> The Supplier shall:</p> <p>a) restore the Software to a state that allows the Customer to continue to use all functions of the Software in all material respects within 72 hours after the Level 1 Response time has elapsed; and</p> <p>b) exercise Commercially Reasonable Efforts until full restoration of function is provided.</p> <p><b>Level 3 Response:</b> The Supplier shall work on the problem continuously and implement a Solution within 1 week of receipt of the Support Request. If the Supplier delivers a Solution by way of a workaround reasonably acceptable to the Customer, the severity level assessment shall reduce to a severity level 2 or lower.</p>	<p><b>Level 1 Response</b> Where reported by the Customer: Acknowledgment of receipt of a Support Request within 6 Hours. Where detected by Supplier: Report details of Vulnerability to Customer within 3 Business Days.</p> <p><b>Level 2 Response:</b> The Supplier shall work on the problem continuously and implement a Solution as soon as practicable following either receipt of the Support Request or the Supplier's report to the Customer.</p>
2	<p><b>System Defect with Workaround:</b></p> <p>a) a Business Critical Failure in the Software for which a work-around exists; or</p> <p>b) an error or failure in the Software (other than a Business Critical Failure) that affects the operations of the Customer's business or marketability of its service or product.</p>	<p><b>Level 1 Response:</b> Acknowledgment of receipt of a Support Request within 6 Hours.</p> <p><b>Level 2 Response:</b> The Supplier shall, within 3 Business Days after the Level 1 Response time has elapsed, provide:</p> <p>a) an emergency software fix or workaround, or; and</p> <p>b) temporary release or update release, which allows the Customer to continue to use all functions of the Software in all material respects.</p> <p><b>Level 3 Response:</b></p>	<p><b>Level 1 Response</b> Where reported by the Customer: Acknowledgment of receipt of a Support Request within 6 Hours. Where detected by Supplier: Report details of Vulnerability to Customer within 3 Business Days.</p> <p><b>Level 2 Response:</b> The Supplier shall provide a Solution as soon as practicable.</p>

		The Supplier shall provide a permanent Fault correction as soon as practicable.	
3	<p><b>Minor Error:</b> An isolated or minor error in the Software that:</p> <p>a) does not significantly affect Software functionality;</p> <p>b) may disable only certain non-essential functions; or</p> <p>c) does not materially impact the Customer's business performance.</p>	<p><b>Level 1 Response:</b> Acknowledgment of receipt of the Support Request within 6 Hours.</p> <p><b>Level 2 Response:</b> The Supplier shall provide a permanent Fault correction within 7 Business Days after the Level 1 Response time has elapsed.</p>	<p><b>Level 1 Response</b> Where reported by the Customer: Acknowledgment of receipt of a Support Request within 6 hours. Where detected by Supplier: Report details of Vulnerability to Customer within 3 Business Days.</p> <p><b>Level 2 Response:</b> The Supplier shall implement a Solution within 7 Business Days after either receipt of the Support Request or the Supplier's report to the Customer.</p>

5.2 The parties may, on a case-by-case basis, agree in writing to a reasonable extension of the Service Level response times.

5.3 The Supplier shall give the Customer regular updates of the nature and status of its efforts to correct (or, where, relevant, Mitigate) any Fault.

**6. Other remedies**

6.1 If a Solution is not provided within the relevant Service Level response time, the Customer may escalate the Support Request to the parties' respective relationship managers as made known to each other on request.

**7. Availability Targets**

7.1 BackupLABS shall use reasonable endeavours to ensure that the Service is available as follows:

Minimum BackupLABS availability per month:	99.5%*
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The BackupLABS Service will be deemed unavailable if it cannot be reached from the BackupLABS servers (\*excludes down time for operating systems patches and updates).

7.2 The BackupLABS Online Backup Service shall not be deemed unavailable (without limitation) in the event of any of the following:

- 7.2.1 failure of the Customer connection to the BackupLABS Hosting Centre Infrastructure (e.g. via the public internet or the Customer's own network);
- 7.2.2 malfunction of the Customer's or customer's own computing systems upon which BackupLABS Online Backup Service is installed (including hardware, operating system or local software), including non-availability due to configuration issues;
- 7.2.3 malfunction of BackupLABS Online Backup;
- 7.2.4 malfunction of Service due either to incorrect installation or configuration of the BackupLABS Online Backup or use of the software on platforms not qualified for BackupLABS.

7.3 BackupLABS will use reasonable endeavours to ensure that a failure of either the main, or mirror site, is recovered as detailed in the table below:

Recovery time to re-establish full functionality and capacity at either the main or mirror site in the event of failure: 3 Business Days.
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**8. Availability Target Credits**

8.1 If BackupLABS fails to achieve the Availability Targets specified for the BackupLABS Online Backup Service above, and if the Customer requests BackupLABS to do so within five (5) Business Days after such target is not met, BackupLABS will issue to the Customer a credit rebate detailed in the table below:

BackupLABS Online Backup - Service availability over a period of a Month	Rebate (% of monthly recurring charge)
Less than 99.5% and greater than or equal to 98.0%	25
Less than 98.0% and greater than or equal to 95.0%	50
Less than 95.0%	75

8.2 The provision of an Availability Target Credit shall be an exclusive remedy for a particular Availability Target failure.

8.3 Availability Target Credits shall be shown as a deduction from the amount due from the Customer to the Supplier in the next invoice then due to be issued under the Main Agreement. The Supplier shall not in any circumstances be obliged to pay any money or make any refund to the Customer.

8.4 BackupLABS shall give the Customer monthly reports as to achievement of the Availability Targets and Availability Target Credits to which the Customer has become entitled.

**9. Communications**

9.1 In addition to the mechanisms for giving notice specified in clause 24 (Notices) of the Main Agreement, the parties may communicate in respect of any matter referred to in this SLA by e-mail (unless specified otherwise).

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