

## **Service Level Agreement (No-Backup)**

This Service Level Agreement ("SLA") covers performance guarantees for our online backup service for Business Users only, and is made between No-Backup ("No-Backup", "we", "us", "our") and you ("User", "you"). Defined terms have the same meaning as in the Terms and Conditions (where applicable). No-Backup may change the terms of this Service Level Agreement at any time by posting a revised version on its website. Notifications of updates will not be made directly to any individual or company. Continued use of the Services shall be deemed to constitute acceptance of any updates. The following SLA applies only to Business Users as set out in Clause 2.1 of the Terms and Conditions. The No-Backup data centres are architected to deliver the system uptime, security and reliability set out in this SLA.

### **System Availability Guarantee**

We offer a 99% uptime guarantee (excluding Maintenance and Exclusions as defined below and subject to the paragraph headed "Force Majeure"). If downtime exceeds this figure, we will refund 5% (five percent) of the User's base monthly recurring fee per full hour of downtime, up to a monthly maximum of 100% (one hundred percent) of the base monthly recurring fee.

### **File & Application Data Restore Guarantee**

Files and application data may be restored in accordance with Clause 1.5.2 and 1.5.3 of the Terms and Conditions, and the availability of the system will be as set out above under the heading "System Availability Guarantee". Where the User contracts for the recovery service for data onto an external USB hard drive or DVD, in accordance with Clause 1.5.6 of the Terms and Conditions, No-Backup will send these discs to the User within 24 hours of agreeing to provide such discs.

### **Disaster Recovery Guarantee**

In the event of a major data loss by the User involving the loss of entire servers and their contents, where such servers and files are legitimately backed up on the No-Backup System, we will make reasonable efforts to provide assistance to the User in order to restore the system to its original operational state. We will provide such support as is reasonably necessary to work with the User or its suppliers in order to ensure that system files and data files are restored to any replacement hardware subject to the condition that such replacement material is correctly configured, specified and available. There may be a charge for this service, which shall be agreed between No-Backup and the User prior to such service being provided.

### **Support Guarantee**

No-Backup will use its reasonable endeavours to respond to all non-critical support queries within 24 hours. If a query is critical (in No-Backup's reasonable opinion), No-Backup will use its reasonable endeavours to contact you within 3 business hours

### **Notification of non-performance**

To be eligible for compensation under the any of the above Guarantees, the User must notify No-Backup of a possible incident within 12 hours of No-Backup's failure to comply with the applicable Guarantee. Upon opening a support ticket, we will ascertain whether the failure was caused by an event within No-Backup's reasonable control. We will make reference to system log files to confirm the appropriate breach of the performance Guarantee. In the event of a disaster, notification of the actual disaster by email or telephone to the Support Team is acceptable, where the Support Team will investigate into the reported issue and use its reasonable endeavours to work with the User to restore the data.

### **Exclusions**

No-Backup shall not be deemed to have failed to meet any guarantee where the failure arises from:

1. failure of the User's telecommunication links or other telecommunications links or access circuits outside No-Backup's control which prevent access to the No-Backup systems, as set out in Clause 1.5.8 of the Terms and Conditions;
2. failure of the User to comply with the Contract or the User's negligence;
3. the User's configuration of the Product or any custom scripting or coding (e.g., Command Line Scripts running Pre-backup or Post-backup) by or on behalf of the User;
4. SLA breaches reported as a result of outages or errors of any No-Backup measurement system;
5. failure of the User's hardware equipment or software, or any other hardware or software installed on or connected to the Users computer or server which is outside the control of No-Backup; or
6. your failure to comply with any of the conditions set out in the Terms and Conditions.

**Maintenance**

Maintenance means:

1. any scheduled maintenance at the No-Backup Data Centres, where the User is notified 48 hours in advance by telephone, email or by a message posted on the No-Backup website. Maintenance can be scheduled on any day of the week, including weekends, and can be at any time of the day although we will use our reasonable endeavours to carry out scheduled maintenance outside normal business hours.
2. any emergency maintenance at the No-Backup Data Centres which has not been notified to the User in advance, but is reasonably necessary in order to ensure the continued provision of the Service.

**Force Majeure**

Neither party shall be liable for any failure or delay in performance of the Contract (other than an obligation to make payment), which is caused by circumstances beyond the reasonable control of that party including but not limited to fires, explosions, severe weather, industrial disputes, insurrection, riots, requirements or regulations or any civil or military authority, acts of war (whether declared or not), civil unrest, acts of God, earthquake, flood, riot, embargo, government act, terrorist action, DNS caching, propagation or other DNS issues outside No-Backup's reasonable control or failure or outage of any telecommunications links or other connections forming part of the internet which are not under the control of No-Backup.