

OPTIMIZEZY SERVICE LEVEL AGREEMENT

1. This Service Level Agreement (“SLA”) forms part of the Agreement between Optimizely and Customer with respect to the technical availability of the applicable Software Service or Managed Service (“Service”), and Customer’s rights and remedies in relation thereto.

2. **DEFINITIONS.** All capitalized terms not defined in this SLA shall have the meaning attributed within the applicable Agreement. Words denoting the singular include the plural and vice versa. Defined words include their grammatical forms.

2.1 **“Applicable Monthly Service Fee”** means monthly fee(s) set forth within the Agreement and/or Order. For the avoidance of doubt, in the event that any fee is described in the Order Form as an annual fee Optimizely will calculate the applicable monthly fee by dividing the annual fee by applicable monthly period, for example twelve months.

2.2 **“Applicable Monthly Period”** means the number of days within a calendar month that Customer’s Subscription is in effect.

2.3 **“Availability”** means the availability metric of the applicable Service and measured with two (2) decimal places (99.70%, 99.90%, for example).

2.4 **“Business Day”** means a day of the week that is not: a Saturday, Sunday, or any day which is defined as a Public Holiday.

2.5 **“Change”** means any modification of the Service.

2.6 **“Emergency”** means unavailability caused by factors outside of Optimizely’s reasonable control, such as unpredictable and unforeseeable events that could not have been avoided even if reasonable care had been exercised.

2.7 **“Environment”** is defined in the applicable Service Description, and for ease of reference in this SLA means the Customer’s production environment of the applicable, and it does not refer to an integration or pre-production or such other non-productive environments.

2.8 **“Infrastructure”** means the infrastructure (and associated services and/or code) as is made available by Optimizely as part of the Service.

2.9 **“Launch” or “Go-Live”** means the date on which both of the following have been completed: (i) the Service(s) is made fully available to Customer, its Authorized Users, end-users and/or its customers; and (ii) Customer’s production Environment has been publicly released.

2.10 **“Optimizely”** means the relevant Episerver and Optimizely group company under the applicable Agreement.

2.11 **“Optimizely Software”** is defined in the Software Services User Agreement, but in the absence of that definition in the applicable Agreement it means for the purposes of this SLA, Optimizely-owned software.

2.12 **“Public Holiday”** means: (i) if Customer’s primary business is domiciled in the Americas, any public or federal holiday in the United States of America; (ii) if Customer’s primary business is domiciled in Europe, Africa or in the Middle East, any public holiday in Sweden; or (iii) if Customer’s primary business is domiciled in Asia-Pacific (including Australia and New Zealand), any public holiday in Australia.

2.13 **“Service Credit”** means the percentage of the Applicable Monthly Service Fee awarded to Customer following Optimizely’s claim approval.

2.14 **“Technical Support Services” or “TSS”** means Optimizely’s customer support.

2.15 **“Third Party Material”** is defined in the Software Services User Agreement, but in the absence of that definition in the applicable Agreement it means for the purposes of this SLA, any software and /or product utilized by Customer from any party other than Optimizely and its Affiliates, including components, services, websites, integrations, code, and open-source software, other than Third Party Software.

2.16 **“Third Party Software”** is defined in the Software Services User Agreement, but in the absence of that definition in the applicable Agreement it means for the purposes of this SLA, any software (including open-source software), but excluding Optimizely Software, and other components, services, websites, integrations, and code, that may be recommended by Optimizely in the applicable Documentation for Customer’s consideration for utilisation in its use of the Service.

2.17 **“Usage Metric”** means usage metric for the applicable Service as set out in the applicable Order. Formerly called ‘Consumption Metric’.

3. SUPPORT

3.1 Optimizely’s current Support Policy is found here: <https://www.optimizely.com/legal/support-policy/>.

4. POSTPONEMENT AND SUSPENSION

4.1 **Postponement and Suspension of Service.** Optimizely reserves the right to: (i) postpone provisioning of the Service, (ii) postpone the Customer’s Launch; and /or (iii) suspend Customer’s access to the Software Service under any of the following circumstances outlined below -

4.1.1 If Customer or any of its Authorized Users:

4.1.1.1 breaches the access and use rights, including restrictions to the Service as contained in the Agreement, including the Customer Acceptable Use Policy;

4.1.1.2 breaches any applicable law in its utilisation of the Service, and that breach places (or may reasonably place) Optimizely in breach of applicable laws;

4.1.2 If either Customer's website or Customer's use of the Service (including its utilization of the Third Party Material) is:

4.1.2.1 being subjected to denial-of-service attacks or other similar disruptive activity;

4.1.2.2 being used to engage in denial-of-service attacks or other disruptive activity;

4.1.2.3 creating a security vulnerability for Optimizely for the applicable Service, or others, such as (for example) exposing Optimizely's IP net; or

4.1.2.4 causing unreasonable interference, disruption, load or other harm to the applicable Service, or to Optimizely's other customers, whether intended or otherwise.

4.2 The postponement and or suspension will be limited in time and extent as is reasonable and appropriate in relation to the risk, breach or other relevant impact.

5. AVAILABILITY

5.1 **Availability Calculation.** Availability is calculated per the Applicable Monthly Period according to the following formula:

$$\text{Availability} = 100\% - \frac{\text{UD (Unplanned Downtime)}}{\text{T (Launched time)}}$$

5.1.1 *For example:* If Optimizely monitored a Subscription with a Service running during a full calendar month consisting of 30 days, and hence 720 hours (which translates to 43,200 minutes), and in that timeframe, the Service had unplanned downtime for 20 minutes. To define the uptime and Unplanned Downtime percentages, Optimizely would perform the following calculation:

5.1.1.1 Total number of minutes Customer's Subscription had unplanned downtime: (20 minutes)

5.1.1.2 Total number of minutes Customer's Subscription had been launched: (43,200 minutes)

5.1.1.3 Divide the total number of minutes of unplanned downtime (20) by the total number of minutes the Subscription was launched (43,200), which equals 0.00046 (20 / 43,200 = 0.046%). The Unplanned Downtime percentage = 0.046% and the Availability percentage for this Subscription would be: 100% minus 0.046% = 99.95%.

5.1.1.4 Calculation Detail:

Service Credit Level (percentage %)	Service Level Period (minutes)
0%	720h down to 719h17m (43 minutes downtime)
10%	719h16m to 718h17m. (60m increment)
20%	718h16m to 717h17m. (60m increment)
30%	717h16m to 716h17m. (60m increment)
40%	716h16m to 715h17m. (60m increment)
50%	715h16m to 714h17m. (60m increment)

Note: the total credit for the period can become up to 50% of the monthly fee for the affected Service.

5.1.2 Unplanned Downtime (UD). Time in minutes the Service is unavailable (except for any exclusions defined in Sections 5.1.6, 5.3 and 5.4). Unplanned Downtime is calculated on a cumulative basis for the Applicable Monthly Period.

For example: Four (4) unplanned downtime periods of five (5) minutes each will be cumulated to twenty (20) minutes for the Applicable Monthly Period.

5.1.3 Unplanned Downtime Calculation. Unplanned downtime is calculated from the point when either Optimizely monitoring systems alert or Customer informs Optimizely that the Launched Service is unavailable to the point when the Availability has been restored.

5.1.4 Launched Time (T). The number of minutes in the Applicable Monthly Period after a Service was Launched and before the Service was decommissioned, or Subscription was terminated.

5.1.5 Method of Measurement. Optimizely checks the Service once per minute following the Launch of the Service, for which each "check" will be recorded as one (1) minute of Downtime and as a result, the Service will be measured as unavailable. For the avoidance of doubt, such "checks" shall not count towards Customer's Usage Metric limit, as set out in the applicable Order.

5.1.6 Exclusions of Unplanned Downtime. Unplanned Downtime does not include:

- 5.1.6.1** Custom code and configuration – lack of Availability caused by customization of the Service(s) by Customer or its Authorized User(s);
- 5.1.6.2** Emergency Downtime – include Emergency downtime of the Service(s). See Section 5.4 for details;
- 5.1.6.3** Lack of assistance – time during which Optimizely requires Customer’s assistance, and Customer is either not available nor able to assist Optimizely in solving an Incident or Problem;
- 5.1.6.4** Optimizely software patches not applied – lack of Availability caused by Customer’s failure to apply Optimizely software patches which were released by Optimizely for the Service;
- 5.1.6.5** Scheduled Downtime – Scheduled Downtime of the Service. See Section 5.3 for details;
- 5.1.6.6** Solution components – lack of Availability caused by Customer’s non-compliance with terms of use of Optimizely Software or Third-Party Software, including limitations and restrictions;
- 5.1.6.7** Third-Party Materials – lack of Availability caused by Customer’s utilization of Third-Party Materials in its use of the Services;
- 5.2** ***Service Monitoring.*** From and including the Launch of the Service, Optimizely monitors the Availability of the Service supported under this SLA, twenty-four (24) hours per day, except for during any Scheduled Downtime as outlined in Section 5.3 below. If the Service is unavailable, an alert will be sent to Technical Support Services and shall be addressed between the Parties in accordance with this SLA.
- 5.3** ***Scheduled Downtime.*** Downtime classified as Scheduled Downtime of the Service is subtracted from Customer’s defined Availability percentage for the applicable Service as calculated below:
- 5.3.1** Optimizely product patches – Product patches for the Service are applied based on a schedule that is set by Customer (itself, or through its authorized Business Partner or other authorized delegate) for that Service.
- 5.3.2** Planned maintenance – For larger maintenance work affecting the Service, Optimizely will announce the Scheduled Downtime **at least ten Business Days** in advance. Optimizely strives to perform planned maintenance outside of normal business hours for the Region where such maintenance is planned to take place.
- 5.3.3** Service deployments – Deployments requested by Customer may cause the Service to be unavailable for a brief period.
- 5.3.4** Change requests in the case of a platform-as-a-Service, permitted Changes to the Service as requested by Customer, which require downtime of the Service.
- 5.3.5** Manual web app restarts – In the case of a platform-as-a-Service, restarts triggered or initiated manually from the applicable PaaS portal.
- 5.3.6** Manual cache purging – In the case of a platform-as-a-Service, Cache purging triggered or initiated manually from the applicable PaaS portal.
- 5.4** ***Emergency Downtime.*** In case of an Emergency, Optimizely claims the right to schedule downtime without notice (although Optimizely will endeavor to provide notice as is possible and practical). To the extent Optimizely has control of any Emergency, Optimizely will seek to minimize Emergency downtime or limitation in time and scope as reasonably possible. Emergency Downtime is subtracted from the agreed Availability of the Subscription.

6. NOTIFICATIONS

6.1 ***Announcements.*** Announcements of scheduled downtime, emergency downtime, and general incidents which may affect the Service are made on the Optimizely’s Status Page at <https://status.optimizely.com> (“**Status Page**”). Customer may subscribe to information published on Optimizely’s Status Page. Notifications can be made available over email or SMS, among other options. Customer may request copies of log files that show Customer’s Use of the Services, as well as other statistics that Fees are based on. Log files are saved by Optimizely for no less than sixty (60) days after the issue date of the invoice. For the avoidance of doubt, Customer must subscribe to the Optimizely Status Page to receive such notifications.

6.1.1 Customer Specific Notifications. Notifications related to Customer’s specific solution can be made available over phone, email or SMS. Notifications are communicated to Customer technical contact defined in onboarding process form unless otherwise agreed in writing.

6.2 ***Reason For Outage (“RFO”).*** RFO Report will only be supplied (upon request) if the defined SLA level is expected to be breached or has already been breached.

7. SERVICE CREDIT(S) AND COMPENSATION

7.1 Optimizely will make every reasonable effort to ensure Customer is provided the maximum Availability of the Service(s).

7.2 Subject to section 7.5 below, if there is an Availability failure in a given month, Customer’s sole and exclusive remedy is the Service Credit for the affected Service, and Optimizely’s sole liability will be the issue of the applicable Service Credits, as outlined in Sections 7.6 to 7.8 below.

7.3 ***Production Environments Only.*** Service Credits only apply to production Environments provided as part of the Service(s) that are used in production and shall exclude non-production Environments.

7.4 Successive Monthly Availability Failures. In the event Availability falls by 0.20% for **three consecutive months**, or **four or more months during any twelve-month period**, Customer may, as its sole and exclusive remedy, terminate the affected Service by providing Optimizely with written notice **within thirty days** after the failure, and Optimizely's sole liability will be to refund to Customer its unused prepaid Fees, from the effective date of Customer's termination.

7.5 How to claim a Service Credit. For Customer to have the possibility to be awarded a Service Credit, Customer must contact Optimizely and submit a claim for such Service Credit. All Service Credit claims must be submitted to support@optimizely.com. Any Service Credit claim not submitted to support@optimizely.com will not be processed by Optimizely.

7.6 Service Credit Claim Period. Customer's claim for a Service Credit in accordance with this Section must be made within thirty (30) days following the end of the period for which the reduction is sought.

7.7 Reimbursement. Service Credits awarded by Optimizely to Customer will be made available in the following ways:

7.7.1 Primary solution - Service Credits are primarily made available as a credit on the next invoice from Optimizely for that Service; or

7.7.2 Secondary solution - Service Credits are secondarily made available as a credit on the next invoice from Optimizely for another Service; or

7.7.3 Final solution – in the absence of the primary or secondary solutions being available (for instance, the Agreement has been terminated), Service Credits will be made available as a refund to be paid by Optimizely to Customer.

7.8 Reservation. Optimizely reserves the right to deny any claim(s) for Service Credits if Customer has any overdue, undisputed invoices at the time.