

SLA (Service Level Agreement)

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Article 1 General

1.1 Introduction

This Service Level Agreement (“SLA”) covers the “Hosting” and “Cluster” Services. Cyberfusion offers different variants (a “plan”) of these Services. Depending on the plan purchased by the Customer, certain parts of this SLA may or may not apply.

1.2 Purpose of the SLA

The purpose of this SLA is to make agreements about the quality of the Services provided by Cyberfusion to the Customer. This takes shape by recording concrete and measurable key performance indicators. The SLA also aims to make agreements about mutual cooperation between Parties. This SLA therefore contains uniform procedures for contact between the Parties and the handling of any reports or requests from the Customer.

1.3 Compensation

The Customer may owe Cyberfusion additional compensation for the work performed under this SLA. Where this is the case, this is explicitly stated in the SLA. In general, this concerns compensation for work that is always charged afterwards on the basis of subsequent calculation at the applicable rates.

1.4 Duration and termination

The SLA automatically applies if the Customer purchases a Service that falls within the scope of this SLA. The SLA therefore has no separate duration or notice periods, but applies for as long as the Customer purchases the relevant Service. Termination of the relevant Service in accordance with the applicable terms and conditions therefore also leads to termination of this SLA.

1.5 Change

The SLA can be changed by Cyberfusion. In the event of a change, Cyberfusion will notify the Customer in Writing and/or via the Platform. Changes can be implemented with effect from a calendar month, whereby Cyberfusion will notify the Customer at least two (2) months before taking effect if the SLA is changed. If the Customer does not wish to agree to the proposed change, the Customer will have the option to cancel the Service to which the SLA relates in accordance with the conditions laid down in the Agreement on the basis of which the Service is provided. In the absence of notice of termination, the Customer is deemed to have agreed to the change announced by Cyberfusion.

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Article 2 Definitions

- 2.1** In this Service Level Agreement, some terms are capitalised. These terms, both singular and plural, always have the meaning given to them in the overview below. Other capitalised terms in this SLA always have the meaning described in the General Terms and Conditions.
- 2.2** **General Terms and Conditions**
Cyberfusion's general terms and conditions that apply to the Agreement, the most recent version of which can be consulted at <https://cyberfusion.io/legal>.
- 2.3** **Backup**
A backup copy of the data stored by the Customer within the Service.
- 2.4** **Availability**
The time period during which the Service can be accessed via the internet during a given month, expressed as a percentage calculated using the formula as set out in this SLA.
- 2.5** **Platform**
The online platform to which the Customer gains access in the context of the Agreement and with which the Customer can manage (parts of) the Service.
- 2.6** **Service(s)**
The services "Hosting" and/or "Cluster" which are provided to the Customer under the Agreement.
- 2.7** **Wanted Availability**
The level of Availability of the Service promised by Cyberfusion.
- 2.8** **Planned Maintenance**
Maintenance that takes place at times determined in advance by Cyberfusion, whereby maintenance can in any case take place during the following times: (a) the second Tuesday of every month from 11:00 PM to 6:00 AM; (b) the fourth Tuesday of every month from 11:00 PM to 6:00 AM.
- 2.9** **Incident**
The failure of the Service to meet the agreed specifications, as well as the situation in which there is unavailability of the Service that is not the result of Maintenance.
- 2.10** **Business Hours**
The hours from 09:00 to 17:30 on Working Days.
- 2.11** **Maintenance**
All maintenance work to be carried out by Cyberfusion, including both Planned Maintenance and Emergency Maintenance.

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- 2.12 Resolution Time**
The time that elapses between the moment that Customer submits a report of an Incident in accordance with this SLA and the moment that Cyberfusion proposes a Workaround to Customer or realises a definitive solution to the Incident.
- 2.13 Support**
Providing Written advice regarding the use and operation of the Service.
- 2.14 Response Time**
The time that elapses between the moment Customer submits an Incident report in accordance with this SLA and the moment Cyberfusion confirms to Customer that the Incident has been received for follow-up.
- 2.15 Emergency Maintenance**
Urgent Maintenance that, in the opinion of Cyberfusion, cannot be postponed and that takes place at a time that cannot be predicted in advance.
- 2.16 Rates**
The rates applied by Cyberfusion which are stated on <https://cyberfusion.io/content/full-product-list> and which may change from time to time.
- 2.17 Working Days**
Days other than Saturdays, Sundays, generally recognised Dutch holidays, or days for which Cyberfusion has announced that they are closed in writing or via the Platform for at least seven (7) calendar days.
- 2.18 Custom Request**
A request from the Customer for customisation of the Service that is not necessary for the Service to work in accordance with the Agreement.
- 2.19 Workaround**
A temporary solution for an Incident that does not or does not completely eliminate the cause of the Incident, but which limits the consequences of the Incident for the Customer.

Article 3 Applicability

- 3.1** This SLA relates to Cyberfusion's "Hosting" and "Cluster" Services. Depending on the Service purchased by the Customer, parts of this SLA may or may not apply. For example, where the term "Hosting" is used, that part is only relevant to Hosting and not to Cluster. The same applies the other way around. And where the term "Service" is used, this includes both "Hosting" and "Cluster" Services. Furthermore, this SLA makes a further distinction with regard to the "Hosting" Service, namely: "Hosting Plan Something", "Hosting Plan Everything", "Hosting Plan Enterprise". The plan purchased by the Customer also determines which parts of this SLA are relevant.
- 3.2** This SLA only applies to:
- resolving incidents;

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- handling custom requests;
- monitoring the Desired Availability;
- providing Maintenance;
- providing Support;
- making backups.

Article 4 Exceptions

4.1 Guarantees or performance obligations provided by Cyberfusion in this SLA, as well as any applicable arrangement in the context of service credits, do not apply if:

- have been made (by the Customer) or actions have been taken with regard to the Services that are not permitted under the Agreement;
- a failure by Cyberfusion to comply with this SLA is the result of errors in, or problems with, equipment, software or materials of third parties or of the Customer itself, which are not part of the Services and/or the use of which by the Customer is up to Cyberfusion prescribed;
- Customer has not followed any reasonable advice or instructions given by Cyberfusion regarding (use of) the Services, not fully or not timely;
- a failure by Cyberfusion to comply with this SLA is associated with a higher burden on the Services than is permitted under the Agreement; or
- the shortcoming is not attributable to Cyberfusion, for example because there is force majeure under the law and/or as described in the General Terms and Conditions.

4.2 Although any guarantees or results obligations of Cyberfusion will lapse in the situations described in the previous paragraph, Cyberfusion will still make every effort - at the request of the Customer - to support the Customer as well as possible. However, any costs incurred in this context will be borne by the Customer and will be charged to the Customer on the basis of the Rates.

Article 5 Reporting Incidents and Custom Requests

5.1 Customer designates a minimum of one and a maximum of ten contact persons who can contact Cyberfusion under this SLA. The Customer does this by authorising that the relevant contact persons via the Platform. At the request of the Customer, Cyberfusion may decide to increase the aforementioned maximum. The names and contact details of the contact persons are also recorded within the Platform.

5.2 Only the above Customer contact persons have the right to report Incidents and Custom Requests to Cyberfusion. Cyberfusion has the right not to process reports of Incidents if these reports have been made by persons other than these contact persons.

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5.3 When reporting a (possible) Incident or Custom Request, the following information must be passed on to Cyberfusion (in addition to any other information that Cyberfusion requests): company name of the Customer, name of the Customer's contact person for the relevant notification, current contact details (telephone number, mobile telephone number, e-mail address) of the Customer's contact person, description of the possible Incident or Custom Request, as accurate as possible, description of any steps already taken by the Customer (where relevant).

5.4 To report Incidents and Custom Requests, the Customer must use one of the means of communication below, which differ per type of SLA. If Incidents or Custom Requests are reported to Cyberfusion in a different way, correct handling may not take place.

Service	Fault (1)	Website issue (2)	Custom request (3)
Hosting Plan Something	N/A	N/A	N/A
Hosting Plan Everything	Phone	N/A	N/A
Hosting Plan Enterprise	Phone	N/A	N/A
Hosting Website SLA	N/A	Phone	N/A
Cluster	Phone	Phone	Email (support@cyberfusion.io) or Platform

'Phone' refers to the phone number +31 40 711 44 96.

5.5 Reports of Incidents, if amenable to further treatment by Cyberfusion, are classified into the priority levels below. The priority level is reasonably determined, based on the report by the Customer, by the Cyberfusion support employee who handles the report.

Level	Explanation
Fault (1)	The Service is offline, unusable or another form of failure of the Service to meet the agreed specifications.
Website issue (2)	This type of Incident exclusively concerns problems that are (partly) related to the applications, websites, etc. of the Customer itself.

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5.6 Incidents and Change Requests that have been correctly reported by the Customer will be processed and followed up by Cyberfusion during the periods mentioned below. The telephone number may only be called by the Customer outside Office Hours if the Customer believes that the Incident falls under the priority level Malfunction (1) or the priority level Website issue (2). If, in the reasonable opinion of Cyberfusion, the reported Incident does not fall under the priority level Malfunction (1) or priority level Website issue (2), Cyberfusion has the right to charge for the hours worked for this in accordance with the applicable Rates without prior consent from Customer and then handle the report in accordance with the correct priority level.

Service	Fault (1)	Website issue (2)	Custom request (3)
Hosting Plan Something	N/A	N/A	N/A
Hosting Plan Everything	24/7	N/A	N/A
Hosting Plan Enterprise	24/7	N/A	N/A
Hosting Website SLA	N/A	24/7	N/A
Cluster	24/7	24/7	Office Hours

Article 6 Handling reports

6.1 The Cyberfusion support employee will provide the Customer contact person with a confirmation of receipt of a report of an Incident within the Response Time.

6.2 Cyberfusion's support employee will inform the Customer contact person regarding the specific Incident by e-mail about the priority level that Cyberfusion has assigned to the Incident and, if (already) known, information about the cause and possible solution of, or Workaround for the Incident.

6.3 To provide feedback to the Customer, Cyberfusion must have valid contact details of the Customer contact person. The Customer is responsible for providing correct and up-to-date contact details. If the contact details known to Cyberfusion are incorrect due to an act or omission by the Customer, or if Cyberfusion does not provide timely feedback about the Incident is the result of circumstances that cannot be attributed to Cyberfusion, the time of feedback will be the attempt made by Cyberfusion.

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6.4 The table below shows how quickly Cyberfusion responds to reports of Incidents and Custom Requests. These are results obligations, unless otherwise stated.

Service	Fault (1)	Website issue (2)	Custom request (3)
Hosting Plan Something	N/A	N/A	N/A
Hosting Plan Everything	1 hour	N/A	N/A
Hosting Plan Enterprise	1 hour	N/A	N/A
Hosting Website SLA	N/A	1 hour	N/A
Cluster	1 hour	1 hour	No guarantee

6.5 Customer agrees to assist to the best of its ability in resolving the Incident. Customer will also grant Cyberfusion access to the places where the Service is installed or where the Incident can be resolved, to the extent that Customer can grant access.

6.6 For Incidents with priority level Disruption (1) or Website issue (2), Cyberfusion will strive to resolve the Incident as soon as possible.

6.7 Work performed by Cyberfusion with regard to Incidents with priority level Website issue (2) will be charged on the basis of subsequent calculation at the applicable rates. If resolving such an Incident is expected to take more than 10 hours or if 10 hours of work has already been completed, Cyberfusion will inform the Customer thereof. The Customer then and at any other time has the option to indicate to Cyberfusion not to carry out any (further) work. Cyberfusion will not charge any compensation if such an Incident is fully (demonstrably) attributable to Cyberfusion.

Article 7 Availability

7.1 Availability is determined by Cyberfusion on a monthly basis. The calculation of the Availability specified in Article 7.3 is always based on the formula described below.

$$B = \frac{Tm - \sum Om}{Tm} \times 100 \%$$

Tm = total number of minutes in the relevant month

∑ Om = (the sum of) the number of minutes of non-Availability in the relevant month

B = achieved Availability in the relevant month

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7.2 When calculating Availability using the formula described above, non-Availability as a result of force majeure, Maintenance or actions attributable to the Customer or its end users is not included.

7.3 Cyberfusion undertakes the following in the context of Availability of the Services.

Service	Desired Availability
Hosting Plan Something	100% (obligation of efforts)
Hosting Plan Everything	100% (obligation of efforts)
Hosting Plan Enterprise	99.9% (obligation of results)
Hosting Website SLA	N/A
Cluster	99.9% (obligation of results)

Article 8 Availability Monitoring

8.1 The Availability of the Services, as described above in Article 7, is measured by Cyberfusion in accordance with the following measuring method: Cyberfusion will take a sample of relevant data every five (5) minutes on the basis of which it is calculated whether the set standards have been achieved. If no sample can be taken for ten (10) consecutive minutes, a notification will be automatically sent to Cyberfusion.

8.2 If the measurements show that there is an Incident, Cyberfusion will make every effort to inform the Customer of this as soon as possible. The Incident is then handled accordingly Article 6 of this SLA. Furthermore, Cyberfusion will report to the Customer on the (realised) Availability upon request.

8.3 The results of the measurements determined by Cyberfusion and reported to the Customer serve as authentic evidence, unless the Customer provides counterevidence showing that Cyberfusion's measurement or calculation is incorrect.

8.4 Cyberfusion will respond to reports from Customer about alleged unavailability and after receiving a notification about unavailability of the Service mentioned above, in accordance with the Response Times stated in Article 6.

8.5 Cyberfusion will report the Actual Availability at the request of the Customer.

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Article 9 Consequences of not achieving Service Levels

9.1 In the event that Cyberfusion has failed to meet the Response Times referred to in Article 6, Cyberfusion will grant or credit a service credit equal to the fee stated below on a case-by-case basis, at the request of the Customer.

Service	Fault (1)	Website issue (2)	Custom Request (3)
Hosting Plan Everything	Monthly amount plan	N/A	N/A
Hosting Plan Enterprise	Monthly amount plan	N/A	N/A
Hosting Website SLA	N/A	Monthly amount SLA	N/A
Cluster	Monthly amount cluster	Monthly amount cluster	N/A

9.2 In the event that Cyberfusion has failed to achieve the Desired Availability referred to in Article 7, Cyberfusion will grant or credit a service credit equal to the compensation stated below for each period for which the Actual Availability is calculated.

Service	Service Credit
Hosting Plan Enterprise	Monthly amount plan
Cluster	Monthly amount cluster

9.3 If Cyberfusion, at the request of the Customer, determines that a service credit is owed, the Customer will be notified of this in writing and credited. If Customer believes that a service credit is owed while Cyberfusion has not granted it of its own accord, Customer must submit a request in Writing and provide evidence.

9.4 Credits to be paid out per month will never exceed the monthly amount payable under the Agreement for the relevant Service.

9.5 Any service credit owed by Cyberfusion to the Customer is regarded as a contractual penalty within the meaning of Article 6:92 of the Civil Code.

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Article 10 Maintenance

- 10.1** Cyberfusion may from time to time, at its sole discretion, perform Scheduled Maintenance on the Service. Cyberfusion will try to carry out such a decommissioning outside Office Hours as much as possible. Cyberfusion will endeavour to notify Customer of such Scheduled Maintenance at least seven (7) Business Days in advance. Planned Maintenance is not counted as unavailability in the calculation of Actual Availability.
- 10.2** Cyberfusion will endeavour to ensure that Scheduled Maintenance never exceeds a maximum of eight (8) hours.
- 10.3** If Emergency Maintenance of the Service is necessary in the opinion of Cyberfusion, this is permitted at all times. Cyberfusion will make every effort to announce the Emergency Maintenance as early as possible before its implementation. Due to the pressure that is usually involved with Emergency Maintenance, work may have already started when the announcement is made. Non-availability due to Emergency Maintenance is not included in the calculation of the Actual Availability.
- 10.4** Customer can request Cyberfusion to perform Maintenance. Cyberfusion is at all times entitled to refuse such a request, including but not limited to the situation where the performance of Maintenance may have an (adverse) effect on the compatibility with the Service and/or Actual Availability and/or outside the scope of this SLA and/or Agreement.

Article 11 Support and additional work

- 11.1** Cyberfusion provides Support for the delivery of the Service in the form of answering short questions, user support and other activities that Cyberfusion believes are supportive and can be performed quickly and easily.
- 11.2** In addition to the Support referred to in paragraph 1 and the other support activities in this SLA, Cyberfusion may be prepared to perform certain other activities on behalf of the Customer. At the request of the Customer or when the Customer has reported an Incident that, pursuant to Article 5 turns out to be a Custom Request, Cyberfusion can prepare a quotation for the work in the context of that request or that Custom Request.
- 11.3** In the following situations, Cyberfusion is entitled to charge costs for the handling of the relevant Incident or Custom Request without prior consent from the Customer in accordance with the applicable Rates.
- an Incident is attributable to the Customer;
 - one of the situations occurs within the meaning of Article 4.1.1 to Article 4.1.4;
 - the Customer has reported a Custom Request; or;
 - a situation occurs as described in Article 5.6.

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Article 12 Backups

12.1 The Backups are stored in a different geographic location than where the original data is stored.

12.2 The Backups created by Cyberfusion are, unless otherwise stated, primarily intended for catastrophic Incidents on the part of Cyberfusion. If the Customer requests Cyberfusion to restore or supply certain data without such Incidents occurring, Cyberfusion may charge the Customer reasonable costs for this without the prior consent of the Customer in accordance with the applicable Rates. In such a case, Cyberfusion cannot offer any guarantees regarding the restoration of the Backup, unless specific agreements have been made about this.

12.3 Cyberfusion will make every effort to make Backups for the Customer at the frequency stated below. Depending on the relevant Service, Cyberfusion enables the Customer to create and/or restore backups themselves.

Service	Cycle	Self-create backups	Self-restore backups
Hosting Plan Something	Every 24 hours	No	Yes, via Platform
Hosting Plan Everything	Every 24 hours	Yes, via Platform	Yes, via Platform
Hosting Plan Enterprise	Every 24 hours	Yes, via Platform	Yes, via Platform
Hosting Website SLA	Every 8 hours	Yes, via Platform	Yes, via Platform
Cluster	Every 24 hours*	No	No

** Customer can submit a Custom Request to adjust this interval. Cyberfusion will then inform the Customer about the options.*