



SERVICE LEVEL AGREEMENT

1. Definitions

- a. "Available" or "Availability" shall mean that percentage of time, as measured monthly, during which the Web Services are accessible via the Internet for use by Client. Availability will be expressed as a percentage calculated in accordance with the following formula:

$$\text{Availability} = (\text{Uptime minutes} - \text{Outage minutes}) \text{ divided by } (\text{Uptime minutes})$$

- b. "Outage" shall mean an unscheduled outage, unexpected disruption or downtime of the Web Services without prior notification to Client, lasting until the condition has been cleared. The following items are explicitly excluded from the definition of Outage and the calculation of Availability:
- i. Overall Internet congestion, slowdown, or unavailability;
 - ii. Unavailability of generic Internet services (e.g., DNS servers) due to virus or hacker attacks;
 - iii. Force majeure events as defined in the Agreement;
 - iv. Actions or inactions by Client or third parties beyond the control of Monetate;
 - v. Result of Client's equipment or third party hardware, software, integrations, or network infrastructure not within the sole control of Monetate;
 - vi. Planned upgrades and updates which occur weekly at a set time during non-peak hours; and
 - vii. Scheduled maintenance which will be scheduled with advance written notice to Client of at least five business days.
- c. "Planned Unavailability" means scheduled maintenance, upgrades, updates, and the like.
- d. "Uptime" shall mean a difference between (i) the total minutes in the applicable month and (ii) minutes in that month in which the Web Services are unavailable due to Planned Unavailability.

2. Service Level.

Monetate agrees that the monthly Availability of the Web Services shall be equal to or greater than 99.5% (the "Service Level")

3. **Reporting.** Upon Client's written request, Monetate shall provide the then-applicable monthly Availability report to Client. Monetate shall utilize the necessary measurement and monitoring tools and procedures to measure and report on Kibo's performance of the Service Levels. Monetate is solely responsible for collecting and analyzing raw data and accurately calculating Availability.
4. **Termination Conditions.** In the event that one of the failure conditions defined below occurs, Client may terminate the Agreement immediately upon written notice within thirty (30) days of the occurrence.
- a. Chronic Failure: The Web Services fail to achieve the Service Level for any four (4) months in a trailing twelve (12)-month period, or
 - b. Catastrophic Failure: The Web Services achieve 95% Availability or less in any calendar month.