



HOSTED SERVER SERVICE LEVEL AGREEMENT

This Service Level Agreement (“SLA”) sets forth the provisions and commitments relating to service quality between Blackfoot and Customer. This SLA may be added as a schedule to the Master Service Agreement General Terms and Conditions (“Terms”) between Customer and Blackfoot to the extent denoted on the Service Order.

1. Definitions

Unless otherwise designated in this SLA, capitalized terms in this SLA shall have the same meaning as set forth in the Terms.

1.1 The “Blackfoot Hosted Server” shall mean the Blackfoot owned and operated hosted server services (“**Services**”) running on a virtual machine infrastructure (“**Virtual Machine**”) including server operating system utilizing Microsoft Windows Server™, hardware, memory, storage, CPU processors and the physical environment housing the Virtual Machine including racks, HVAC, and power. Dedicated Internet access is included on the Blackfoot owned and managed network up to peering ports to the internet at large. The Blackfoot Hosted Server does not include customer premise equipment, including but not limited to Customer’s laptops, computers, routers, switches or firewall equipment.

1.2 “Interruptions” shall mean a Blackfoot caused complete loss of Service resulting in the inability to access the Blackfoot Hosted Server due to Blackfoot equipment malfunction or human errors for a continuous period of more than thirty (30) minutes. “Interruptions” does not include failure arising out of (a) any action taken by Customer or another person authorized to access Customer’s account, (b) the failure of systems, internet infrastructure, network equipment, power, facilities, connections or services provided by a third party to Blackfoot, or (c) application, software, or operating system failures, denial of service attacks, hacker activity, or other malicious event, or (d) any other Force Majeure Event.

1.3 “Maintenance Windows” shall mean both Scheduled Maintenance Windows (Customer will receive prior notice; 11PM – 5AM for Maintenance windows) and Emergency Maintenance Windows (because of immediate threats to Blackfoot systems or to Customer Blackfoot Hosted Server, Customer may receive no prior notice).

1.4 “Server Snapshots” shall mean a complete image of all content, configurations and applications on the Blackfoot Hosted Server taken from a point in time initially and adding only the incremental changes thereafter up to a defined limit of time and quantity images. Server Snapshots are, for example, used for restoring a Blackfoot Hosted Server back to an earlier point in time to address lost or corrupted data.



1.5 “Server Backups” shall mean a complete image of all content, configurations and applications on the Blackfoot Hosted Server taken at a point in time. Server backups are generally used for restoring a Blackfoot Hosted Server if need to rebuild a server, for example.

1.6 “File Backups” shall mean backing up individual files and groups of files for recovery of individual working files.

1.7 “Managed Services” shall mean Managed Services managed by Blackfoot on behalf of and in coordination with the Customer.

1.8 “Unmanaged Services” shall mean Unmanaged Services managed by the Customer.

2. General Standard – Parameters

2.1. Virtual Machine Availability Guarantee. The Microsoft Windows Server™ operating system, processor, RAM, hard disk, motherboard, NIC card, and Power Supply (**VM Hardware**) for Customer’s **Blackfoot Hosted Server** will function properly at all times (except during Maintenance Windows). This guarantee does not cover time required to perform applicable data restores and backups if required to replace faulty **Blackfoot Hosted Server** Hardware or at Customer’s request. Any Blackfoot breach of this guarantee will be referred to as a **“VM Hardware Breach.”**

2.2. Power and HVAC Availability Guarantee. The power and HVAC systems for Customer **Blackfoot Hosted Server** will function properly at all times (except during Maintenance Windows). Any Blackfoot breach of this guarantee will be referred to as a **“Power System Breach.”**

2.3 Network Connection Guarantee. The connection to the internet from Customer’s **Blackfoot Hosted Server** will function properly at all times. This guarantee excludes the Customer internet or transport connection from Customer’s remote location to the Blackfoot office to access the Services. Any Blackfoot breach of this guarantee will be referred to as a **“Network Breach.”**

3. Acceptable Use. Customer agrees not to use the Services to:

3.1 Violate any applicable local, state or federal law or regulation, including, but not limited to, any copyright, trademark, patent, anti-piracy, or other intellectual property law or regulation, or any export control or child pornography law, or encourage or enable others to violate any such law or regulation.

3.2 Transmit, distribute, publish, post, store, link, or otherwise traffic in information, software, or material that:

- 3.2.1** Constitutes, depicts, fosters, promotes or relates in any manner to child pornography, child erotica, bestiality, or non-consensual sex acts, or is otherwise obscene.
- 3.2.2** Encourages, glorifies, incites, or promotes illegal activity or drug use, excessive violence or cruelty, or Ponzi-type schemes.
- 3.2.3** Is fraudulent or facilitates phishing, hacking, or identity theft, or attempts to impersonate the identity of a third party.
- 3.2.4** Infringes upon a third-party business, intellectual property, contractual, privacy, or fiduciary right or improperly exposes trade secrets or other confidential or proprietary information.
- 3.2.5** Contains malicious applications or code of any type.
- 3.2.6** Makes or facilitates any form of computer, server, or network attack or disruption.
- 3.2.7** Compromises, disrupts, or degrades the normal and proper operation of any computer, server, or internet system, including Blackfoot's systems.
- 3.2.8** Is defamatory, libelous, threatening, harassing or abusive.
- 3.3** Send, post, host, enable, or facilitate any types of mail-bombs or SPAM ("SPAM" is defined as any type of unsolicited e-mail).
- 3.4** Use or provide open proxies or Internet Relay Chat (IRC).
- 3.5** Host any type of servers or other server applications that are frequent targets of denial-of-service (DDoS) attacks or other types of attacks.
- 3.6** Collect personal information such as email addresses, screen names or other personally identifiable information without the consent of the party so identified.
- 3.7** Customer's use of the Services is governed by the policies set out in this SLA. Blackfoot may amend this SLA and/or change Services from time-to-time and shall not be required to give Customer notice of such changes in the SLA or any of the Services.



3.8 If Customer is providing services to third parties, and as a result Customer uses the Services in a manner that violates this Acceptable Use Policy, Customer is responsible for that violation. As a result, Blackfoot strongly encourages Customer to incorporate these policies into Customer's own policies, or adopt policies that are no less restrictive than these are.

4. Credit for Interruptions

4.1 Except as set forth below, for every continuous thirty (30) minute period that Customer's **Blackfoot Hosted Server** experiences either a (a) VM Hardware Breach, (b) Power System Breach, (c) or Network Breach, Blackfoot will deduct five percent (5%) off the monthly recurring charges of Customer's next billing statement for the breached item (as an "**Interruption Credit**") and only for the level of Services that were in place at the time of the applicable breach. Customer may not receive multiple **Interruption Credits** for multiple breaches that occurred simultaneously, will not be paid in cash, and Customer's exclusive remedy is the Interruption Credit provided by this SLA.

4.2 Procedures. In order to qualify for an Interruption Credit, Customer must submit a request to Customer's Blackfoot Account Executive in Blackfoot's Sales Department. The length of each **VM Hardware Breach, Power System Breach, or Network Breach**, will be measured from the time the SLA Ticket is received, or from the start time of the Breach or Interruption that is validated by Blackfoot technicians to the time Blackfoot, in its sole discretion, considers the issue resolved.

5. Limitations

5.1 Interruption Credits given in any one month may never exceed 100% of the monthly recurring charge Customer incurs for using Services in a given month.

5.2 Anti-Virus / Malware Checking (Unmanaged). Blackfoot does not provide anti-virus or malware checking on servers configured by Customer's authorized personnel for **Unmanaged Services**. Customer is solely responsible for protecting all the Unmanaged servers and the hardware, clients, and software that interact with Unmanaged servers.

5.3 Data Restoration from Back-up Requests (Managed & Unmanaged). Blackfoot Cloud Servers are subject to regularly scheduled nightly incremental snapshots.

5.3.1 Managed Services: Data restore requests initiated by Customer may be initiated by a service request call made to Blackfoot's support number at 1-877-881-1155,



subject to availability of the relevant data. Blackfoot will take all reasonable actions to complete a data restore using **Server Backups, Server Snapshots** or **File Backups** within two (2) hours during normal business hours.

5.3.2 Unmanaged Services: Customers are able to create and manage up to three (3) backups and are solely responsible for backup restoration.

5.4 Data Retention.

5.4.1 Managed: Regularly scheduled nightly **Server Snapshots** of the Customer server will be retained for five (5) calendar days, thus providing the last five calendar days of data. Customer may optionally purchase additional **File Back-Up** services either from Blackfoot or a third party for longer backup periods of Customer data.

5.4.2 Unmanaged: Customer is responsible for data backup.

5.4.3 Managed and Unmanaged Services: Blackfoot is not responsible for retaining any of Customer's data after termination of Customer's account with Blackfoot. Customer data may be deleted upon a Customer account being terminated. Blackfoot will not restore, provide any storage media or send out any data pertaining to terminated Customer accounts. It is the Customer's responsibility to back-up and migrate Customer data prior to termination of Customer's account or any other action which can lead to deletion of any of Customer data from the Services.

5.4.4 Exceptions. Interruption Credits may not be issued (and any applicable Interruption Credits will be forfeited) if Customer account is past due or Customer account has been suspended or cancelled by Blackfoot for any reason.

5.4.5 Limitation of Liability. This SLA provides Blackfoot's only liability for malfunctions of, defects in, or any other performance-related issues associated with a particular Service. Customer's sole and exclusive remedies for Blackfoot's failure to comply with the guarantees and any other obligations set out in this **SLA** shall be the remedies set out in this document.

6. Technical Support

6.1 Technical Support. Blackfoot will use commercially reasonable efforts to assist Customer, through Customer's authorized account contacts, with setting up and



configuring Customer's account, accessing the Services, and resolving other issues related to the Services. Only Customer's authorized account contacts may request information, changes, or technical support pursuant to this SLA. Blackfoot's technical support response time depends on the complexity of the inquiry and support request volume, unless stated otherwise herein.

6.2 Compatibility. Blackfoot does not guarantee compatibility of the Services with any specific customer configuration of hardware or software (e.g., industry specific software, devices connection to the Service, custom applications, etc.). Customer is encouraged to discuss any technical and compatibility issues with Blackfoot technical support personnel prior to making changes.

6.3 Service Resources. Each **Blackfoot Hosted Server** is allotted CPU, storage, and RAM capacity on Blackfoot's Virtual Machine according to the Service selected by Customer. These resources can be changed by contacting Blackfoot, subject to then current price lists. Servers may stop accepting, processing or delivering Customer data, including files and e-mail messages, when the purchased resource limit is reached, thus causing a degradation in performance, Interruption or data loss. Blackfoot will not be responsible for such degradation, interruption, or loss of Service or Customer data, all of which will be excluded from calculation for Interruption Credits.