



Service Level Agreement (SLA)

between

“the Client”

and the Service Provider:

Mr Backup (Pty) Ltd Registration number 2010/015898/07, referred to herein as “*the Company*”, and jointly with the Client referred to herein as “*the Parties*”.

Effective Date: _____

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Managed Data Services

Mr Backup (Pty) Ltd registration number 2010/015898/07
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1. Agreement Overview

This Agreement represents a Service Level Agreement (“SLA” or “Agreement”) between the Parties for the provisioning of IT Data Services (“services”) required by the Client, and provided by the Company in terms of the quotation signed by the Parties as pertaining hereto (“sales order”). This Agreement remains valid until cancelled by written notice between the Parties, or superseded by a revised agreement mutually endorsed by the Parties. This Agreement outlines the parameters of the services covered as they are mutually understood by the Parties.

2. Goals & Objectives

The **purpose** of this Agreement is to ensure that the proper elements and commitments are in place to provide the services, and support and delivery thereof, to the Client by the Company in terms of the Sales Order. The **goal** of this Agreement is to obtain mutual agreement for the services between the Company and Client.

The **objectives** of this Agreement are to:

- Provide clear reference to service ownership, accountability, roles and/or responsibilities.
- Present a clear, concise and measurable description of service provision to the Client.
- Match perceptions of expected service provision with actual service support & delivery.

3. Periodic Review

This Agreement is valid from the **Effective Date** outlined herein. It is agreed that an annual review is preferred, however the current Agreement will remain in effect until renewed or cancelled in writing. The **parties** are mutually responsible for facilitating regular reviews of this document. Contents of this document may be amended or updated by mutual written consent between the parties.

4. Service Agreement

The following agreed detailed service parameters are the responsibility of the Company. However, the Company is dependent on **the Client** in the efficient execution of the services in terms of this SLA by any inherent limitations of the systems, networks, internet connectivity, and software utilized on **the Client** site(s), and secondly by the efficiency of the response of **the Client** in terms of **the Client’s** responsibilities and obligations recorded in this agreement, and the Company cannot be held responsible for losses incurred by **the Client** if due to the factors mentioned herein.

Annexure A hereto is a additional description of each of the services rendered to the Client in terms hereof if the standard service descriptions in Clause 4.1 and 4.2 do not adequately describe the service agreed to by the Parties in terms of the Sales Order

4.1. The following Services are covered by this Agreement if indicated by a circled YES confirmation alongside each Service.

A. Alive and well monitoring	YES / NO
B. Backup system basic monitoring and support of the tools used in the process	YES / NO
C. Backup system advanced monitoring and support of the tools used in the process	YES / NO
D. Daily management of backup instances and weekly basic reporting thereon	YES / NO
E. Daily management of backup instances and advanced reporting thereon	YES / NO
F. Physical media rotation to offsite storage, quantity per month ONE / TWO / FOUR	YES / NO
G. Managed end to end seeding and synchronization of daily data backup	YES / NO
H. Data Centre data storage	YES / NO
I. Data backup archiving	YES / NO
J. Client Rackmount hosting space at Mr Backup Data Centre	YES / NO
K. Company International Support Desk (“ISD”) support at labour rates	YES / NO
L. Business Continuity Plans and Services	YES / NO
M. Disaster Recovery Plans and services	YES / NO
N. Full Maintenance Agreement services onsite - see Annexure A if this service is applicable	YES / NO
O. Monthly system health check and change management assistance at labour rates	YES / NO
P. Other services – specify in Clause 6 below	YES / NO

4.2. Service descriptions: This section provides a detailed description of each of the standard services outlined in 4.1 above. Each description is provided as an outline of the service provided by the Company to the Client, and any additional description of the service is to be provided in the section “Additional Services” at the end of this SLA.

- Alive and well monitoring: This is a simple form of daily heartbeat monitoring which informs the Parties that the backup system deployed in terms hereof is powered on and is operating, and that the disk is fully operational. It also reports on available disk space. There is no guarantee of integrity of the data set and the Client is responsible for any data checks and verifications.
- Backup systems basic monitoring: Monitoring is described as the daily receipt of backup notifications pertaining to the service provided in terms hereof, and the subsequent correlation of the information received. Email notification is received from the backup devices on Client site(s), or alternatively via software installed at the Client offices on Client computer systems. The Company is reliant on Client owned

and managed internet and network connections to provide this service and cannot be held responsible for the provision of the services if the Client connections are not in working order.

- C. Backup systems advanced monitoring: As in B. above but with added features providing in depth information about the data set and backup statuses, usually through a console based software program.
 - D. Daily Management with basic reporting: This task entails the management of the data set as agreed with the Client, from source servers and systems to file level on a daily basis. This function involves the adherence to the Data Retention Policies and the backup methodology as agreed between the Parties. The reporting is as per the backup agent used by the Client and it's log file report which is mainly sent to the Client via an emailed PDF document.
 - E. Daily Management with advanced reporting: As in D. above, but with daily advanced reporting with Portal login and dashboard console, depending on the backup software used in the backup process.
 - F. Drive rotation: This involves the physical swapping of secondary backup copies on hard disk media within Mr Backup Systems on the Client sites. Technical support staff of the Company visit the Client's sites where rotations occur in terms hereof, remove the secondary drives with the latest backup of Client data thereon, and replace this with equivalent hard disk media. The rotations are carried out periodically as indicated in 4.1 above and this service requires the co-operation of Client with respect to access rights for Mr Backup technical staff, and with respect to ensuring the management of the backup to the secondary hard disk drives by assistance to ISD.
 - G. Seeding and synchronization: This seeding service entails the physical movement of replicated copies of Client specified data sets to a secure offsite location, and the daily synchronization service is the mirrored image replication of this data set to the offsite location of the via internet/network services.
 - H. Data Centre storage: This pertains to the storage of Client data at the Company's or Client's specified Data Centre and is valued in slots of 500 Gigabytes of data actually stored on physical media in the allocated data centre.
 - I. Archiving: This is a service which entails the copying of older data, as classified by the Client's Data Retention Policy, at specified intervals from storage media onto tape drive media or external hard disk media for the purposes of longer term offline storage by the Company. Live archiving is the same process but data is kept on systems that are connected at all times to the internet or company wide area network.
 - J. Rackmount hosting: This service entails a charge to the Client for the physical hosting of Client hardware systems pertaining to data backup in the mounting racks of the Company in a Mr Backup Data Centre.
 - K. ISD support: This is the live vocal or remote connection support provided to the Client by the ISD.
 - L. Includes M. Business Continuity and Disaster Recovery plans pertain to the assistance in the creation of the documents and the implementation of the plans as per the IT policies of the Client.
 - N. Maintenance Agreement: This is a monthly charged service which is effectively an insurance against further charges for on or off site support or maintenance of hardware purchased from the Company in terms of Annexure B hereto
 - O. Change Management and Health Checks: This is a preventative maintenance service provided as a fixed charge per month to conduct a monthly health check on the Client backup systems relevant to changes which may have occurred in the operating servers or computer systems of the Client. This service prevents changed data sets from not copying due to the incomplete process of Client change management of such data sets for backup purposes.
- 4.3. Client Requirements. Client responsibilities and/or requirements in support of this Agreement include:
- Payment for all support costs at the agreed interval in advance of the month in which the service is due
 - Reasonable availability to the Company of Client representative(s) for all issues relative to the service provided, and especially when resolving a service related incident or for any or all of the services above.
 - Daily emails notification of any onsite problems which may hinder or nullify the services provided by the Company in terms hereof.
 - Maintenance of computer servers, networking equipment and other related hardware and software items belonging to the Client which are relative to the provision of the services envisaged in this agreement.
 - Timeous notification of any change in the data set which is being backed up in terms hereof.
 - Provision of safe storage positions for Company data backup equipment installed at the Client site(s).
 - Provision of working electrical outlets at all times for Company data backup equipment at the Client site(s)
 - Provision of adequate network and external connections in accordance with the service provided.
 - Provision of a reserved static IP address for each unit of the Company equipment at the Client site(s).
 - Provision of remote access to the Mr Backup onsite units.
 - Opening of outgoing port 587 for secure SMTP transmission.
 - Opening of ports for SQL tool updates or for software used by the Company in the backup process.
- 4.4. Company Requirements, responsibilities and/or requirements in support of this Agreement include:
- Provision of the services, remote or otherwise, in an efficient and well managed manner at all times.
 - Meeting response times associated with service related incidents.
 - Appropriate notification to Client for all scheduled maintenance.

- Reporting to Client on the backup status weekly as per the services listed herein.
- Making Company representatives available to the Client for meetings or tele-calls when required.

4.5. Service Assumptions

Assumptions related to in-scope services and/or components include:

- Changes to services will be communicated and documented to all Parties.
- Changes are not in effect until signed by the Parties hereto.
- Services which remain unpaid by the Client in terms of this agreement will be turned off until such payment is received by the Company.

5. Service Management

Effective support of in-scope services is a result of maintaining consistent service levels. The following sections provide relevant details on service availability, monitoring of in-scope services and related components.

5.1. Service Availability and Coverage parameters specific to the service(s) covered in this Agreement are as follows:

- Telephone support : 8:00 A.M. to 5:00 P.M. Monday – Friday
 - Calls received out of office hours will be forwarded to mobile phones and best efforts will be made to answer / action the calls.
- Email support: Monitored 8:00 A.M. to 5:00 P.M. Monday – Friday
 - Emails received outside of office hours will be collected, however no action can be guaranteed until the next working day
- Onsite assistance guaranteed within 24 working hours during the business week

5.2. Service Requests

In support of services outlined in this Agreement, the Company will respond to service related incidents and/or requests submitted by the Client to email ISD@mrbackup.biz within the following time frames, and remote assistance will be provided in-line with these timescales dependent on the priority of the support required, and Maintenance Agreement Clients will receive priority response within the first 4 hours after reporting of the incident:

- 0-8 hours (during business hours) for issues classified as **High** priority – Server backups.
- 0-24 hours for issues classified as **Medium** priority – network/external connections.
- Within 5 working days for issues classified as **Low** priority – failed day user backup or skipped files.

6. Additional services:

Service descriptions provided hereunder are included in this SLA by special arrangement between the Parties.

7. EXCLUSION OF LIABILITY

7.1 Neither THE COMPANY nor any of its contractors, directors, shareholders, agents (whether duly authorised or not), employees or representatives shall be liable for any loss, liability, damage (whether direct or indirect), costs (including costs on an attorney and own Client scale) or expense whatsoever, howsoever arising or caused, unless any such loss, liability, damage, costs or expense was caused by a negligent or wilful act or omission of the Company, its contractors, directors, shareholders, agents, employees or representatives, as the case may be.

7.2 Notwithstanding 7.1, the Company shall not be liable for any consequential losses or damages whatsoever, howsoever arising, or caused, including but not limited to loss of profits and or Client data.

7.3 Any claims against the Company for any instances of negligence in terms of this agreement are limited to the amounts agreed between the parties as payable for each instance of such negligence by the Company's insurers.

8. BREACH AND TERMINATION

- 8.1 Subject to any other provision of this Agreement providing for the remedy of any breach of any provision hereof, should either party ("defaulting party") commit a material breach of a provision of this Agreement and fail to remedy such breach within 14 (fourteen) days of receiving written notice from the other party ("aggrieved party") requiring the defaulting party to do so, then the aggrieved party shall be entitled, without prejudice to its other rights in terms of this Agreement or in law to:
- 8.1.1. cancel this Agreement, provided the breach in question is a material breach of this agreement; or
 - 8.1.2. claim specific performance of all of the defaulting party's obligations without prejudice to the aggrieved party's right to claim damages.
- 8.2. Should either party commit any act which would constitute an act of insolvency in terms of section 8 of the Insolvency Act, 24 of 1936, as amended if that party were a natural person, or commit any act which deems it unable to pay its debts in terms of section 345 of the Companies Act 61 of 1973, as amended or suffers any material default judgement against it to remain unsatisfied for more than 30 (thirty) days after having become aware thereof, or does not institute proceedings within 30 (thirty) days of such judgement to have it set aside, or is liquidated, whether compulsorily or voluntarily or provisionally or finally, or compromises with any of its creditors, or endeavours or attempts to do so, then the other party shall be entitled to cancel this Agreement without notice to the other party.

9. DISPUTE

- 9.1. Save as otherwise provided in this Agreement, should any dispute of whatever nature arise in regard to the interpretation or effect of, or the validity, enforceability or rectification (whether in whole or in part) of, or the respective rights or obligations of the Parties under, or a breach or termination or cancellation of, this Agreement, then the Parties shall meet as soon as possible after such dispute arises in order to attempt to negotiate an amicable settlement of such dispute. Such meeting shall take place at such time and such place as is agreed upon between the Parties or, failing such agreement within 7 (seven) days after the Parties become aware of such dispute, at the Company's domicilium by not later than 30 (thirty) days after the Parties become aware of such dispute. Such negotiations shall be conducted in good faith.
- 9.2. If the Parties are unable to resolve the dispute in question within 14 (fourteen) days after the commencement of the negotiations referred to in 9.1, then the dispute shall, unless the Parties otherwise agree in writing, be referred by notice by one of the Parties for determination to an arbitrator ("arbitrator") in accordance with the remaining provisions of clause 9. The arbitrator shall be agreed upon between the Parties within 7 (seven) days of arbitration having been demanded, or failing agreement, be appointed by the Chairperson of the Law Society of South Africa.
- 9.3. Any dispute shall be referred to arbitration in terms of the arbitration laws for the time being of the RSA as amplified by this clause.
- 9.4. The arbitration shall be held as quickly as possible after it is demanded with a view to its being completed within thirty days after it is demanded, shall be final and binding on the Parties and may, at the instance of either party, be made an order of Court.

10. ASSIGNMENT

- 10.1. THE CLIENT shall not be entitled to cede, assign or otherwise transfer (collectively referred to as "transfer") all or any of its rights or obligations in terms of this Agreement without the prior written consent of the Company.
- 10.2. Save as provided in 10.3, the Company shall not be entitled to transfer all or any of its rights or obligations in terms of this Agreement without the prior written consent of the Client.
- 10.3. Notwithstanding the provisions of 10.2, the Company shall be entitled to transfer all or any of its rights or obligations in terms of this Agreement without the consent of the Client to any of its subsidiary or holding companies or to any subsidiary of its holding Company, as "holding Company" and "subsidiary" are defined in the Companies Act 61 of 1973, as amended, provided that prior to such transfer, the Company delivers to the Client a written undertaking that it shall continue to be bound by all the provisions of this Agreement.

11. FORCE MAJEURE

- 11.1. If either party is prevented from carrying out any of its obligations as a result of an act of God, strikes, lockout, fire, riot, flood, drought, war (whether declared or not), civil disturbance, state of emergency, inability to secure power, materials or supplies, embargoes, export control, international restrictions, shortage of transport facilities, any order

of any international authority, any court order, any requirements of any authority or other competent local authority, or any other circumstances whatsoever which are not within the reasonable control of such party ("force majeure"), such party will be deemed to have been released from its obligations to perform under this Agreement to the extent that, for so long as it is so prevented from performing, and to such extent, this Agreement will be deemed to have been suspended for the period concerned;

11.2 Without prejudice to the Company's rights in terms of 11.1 and/or in law, as soon as a party becomes aware that an act of force majeure is likely to cause a suspension of this Agreement, it shall give notice in writing to the other party, estimating the approximate duration of such suspension. The estimate shall not be binding and the party claiming force majeure shall give notice to the other party as soon as such force majeure ceases to operate.

12. GENERAL

- 12.1 This Agreement is the entire record of the agreement between the Parties concerning the subject matter thereof.
- 12.2 Neither party shall be bound by any express or implied term, undertaking, representation (whether negligent or innocent), warranty, promise or the like not recorded herein.
- 12.3 No alteration, variation, or cancellation by agreement of, addition, amendment to, or deletion from this Agreement shall be of any force or effect unless in writing and signed by or on behalf of the Parties.
- 12.4 No indulgence, extension of time, relaxation or latitude which either party ("the grantor") may show, grant or allow to the other ("the grantee") shall constitute a waiver by the grantor of any of its rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have then already arisen or which may thereafter arise.
- 12.5 The provisions of this Agreement shall be binding upon the successors-in-title and permitted assigns of the Parties.
- 12.6 To the extent that any provision of this Agreement is held to be illegal, invalid or unenforceable for any reason, such provision shall be severed from the remaining provisions of this Agreement, but without affecting or invalidating any of the remaining provisions of this Agreement, which shall continue to be of full force and effect.

13. Additional terms relative to this agreement:

14. Labour rates – updated from time to time as shown on our website www.mrbackup.biz

LABOUR & RESTORE	PRICE R	TERMS
Rate - on site / normal hours	660	Per hour, minimum 1/2 hour plus 1/2 hour travel
Rate - on site / after hours	1200	Per hour, minimum 1/2 hour plus 1/2 hour travel
Rate - calls to help desk	60	Per call - maximum 15 minute slots, or add another R60
Disaster restore charges	1500	Minimum charge in disaster + ADD labour rates after 1 hr
Rotation drive - unscheduled	300	Per recalled drive, add further R300 if out of hours
Help desk restore charges	150	Minimum charge file restoring from helpdesk

15. Domiciles of the Parties:

CLIENT: _____

COMPANY: UNIT E7, PRIME PARK, MOCKE ROAD, DIEP RIVER, 7801, CAPE TOWN, REPUBLIC of SOUTH AFRICA

16 CONFIDENTIALITY

16.1 The Parties intend that the details of this Agreement all be kept confidential

16.2 The Parties acknowledge that any information supplied in connection with this Agreement or in connection with each other's business affairs which has or may in any way whatsoever be transferred or come into the possession or knowledge of the other of them ("the receiving party") may consist of confidential or proprietary information, disclosure of which to or use by third Parties may be damaging to the party disclosing the information ("the disclosing party").

16.3 The receiving party therefore agrees to hold such information in the strictest confidence, to prevent any copying thereof by whatever means and not to make use thereof other than for the purposes of this Agreement and to release it only to such properly authorised directors, employees or third Parties requiring such information on a "need to know" basis for the purposes of this Agreement and who themselves agree not to release or disclose it to any other party who has not signed an agreement expressly binding itself not to use or disclose it.

16.3.1 The undertaking and obligations contained in this clause 11 do not apply to information which is publicly available at the date of disclosure or thereafter becomes publicly available from sources other than the Parties; or is already in possession of the receiving party prior to its receipt by or disclosure to such receiving party; or is required by law or any regulatory authority to be disclosed; or after being disclosed to the receiving party is disclosed by any other person to the receiving party otherwise than in breach of any obligation of confidentiality.

16.3.2 The Parties shall take such precautions as may be necessary to maintain the secrecy and confidentiality of such information in respect of its directors, employees, agents and representatives and in respect of any assignee, sub-contractor or distributor or any other person to whom such confidential information may have been or will be disclosed.

17. Approval

By signing below, the Parties hereto agree to all terms and conditions outlined in this Agreement and its Annexures A and B

Parties	Role	Signed and name	Approval Date
Mr Backup (Pty) Ltd	Company		
	Client		

ANNEXURE A

This Annexure A is a detailed listing of the services to be provided by the Company to the Client which specifies the expectancies of the parties in terms of this SLA agreement if the particular service is activated in terms of clause 4 thereof. RESTORATION OF DATA is not covered in terms of the standard SLA Agreement.

- A. **Alive and well monitoring**
Standard
- B. **Backup system basic monitoring**
Standard
- C. **Backup system advanced monitoring**
Standard
- D. **Daily management of backup instances and weekly basic reporting thereon**
Standard
- E. **Daily management of backup instances and advanced reporting thereon**
Standard
- F. **Physical media rotation to offsite storage, quantity per month ONE / TWO / FOUR**
Standard
- G. **Managed end to end synchronization of daily data backup**
Standard
- H. **Data Centre data storage**
Standard
- I. **Data backup archiving**
Standard
- J. **Client Rackmount hosting space at Mr Backup Data Centre**
Standard
- K. **Company International Support Desk ("ISD") support at labour rates**
Standard
- L. **Business Continuity Plans and Services**
Standard
- M. **Disaster Recovery Plans and services**
Standard
- N. **Full Maintenance Agreement services onsite - see Annexure A if this service is applicable**
Standard
- O. **Monthly system health check and change management assistance at labour rates**
Standard
- P. **Other services – specify in Clause 6 below**
Standard

NOTE: REPAIRS TO HARDWARE, CHANGE MANAGEMENT AT BACKUP SOURCE, BACKUP SOFTWARE SUPPORT, AND REPAIRS OF CLIENT DAMAGES TO EQUIPMENT, AS WELL AS ACTS OF GOD ARE ALL CHARGEABLE AT LABOUR RATES TO CLIENTS.

ANNEXURE B

BACKUP SYSTEMS

MAINTENANCE AND SUPPORT CONTRACT

1 SERVICES

Notwithstanding the signature date, THE COMPANY and THE CLIENT agree that THE COMPANY shall, with effect from the effective date of this SLA agreement, provide maintenance and support free of any charges for labour, travel or spares ("the Services") to THE CLIENT in respect of the systems purchased or hired in terms of the sales order pertaining to this SLA Agreement upon the terms and conditions stipulated in this agreement and hereunder. In terms hereof the services will be carried out by the Company telephonically, remotely via internet connection, or by physical visit to the Client's site.

2 SERVICE FEES

The fees payable in terms of this maintenance contract form part of the monthly Management Fees as indicated in the sales order pertaining to this SLA Agreement.

3. SERVICE EXCLUSIONS

3.1 Services do not include:

- 3.1.1 Repairs required which are due to any event beyond the reasonable control of either party, such as natural disasters, lightning, fire, water, acts of war, riots and strikes;
- 3.1.2 Repairs required where site conditions that do not conform to the product manufacturer's specifications, work performed or modifications made by non-Company personnel, abuse, malicious damage or any causes other than ordinary use of the Equipment by the Client, its contractors, employees, directors, agents or visitors;
- 3.1.3 Any IT or electrical work, reticulation or repairs to equipment which does not form part of the systems purchased in terms of the sales order pertaining to this SLA Agreement
- 3.1.4 Replacement of, or the recovery and reinstatement of any systems and/or data sets not pertaining to the systems purchased in terms of this SLA Agreement.
- 3.1.5 Change management of the data sets backed up in terms of this SLA agreement.
- 3.1.6 Restoration of data in the event of loss of data for any reason whatsoever.

3.2 All excluded services in 3.1 above will be chargeable in terms of clause 14 of the SLA Agreement of which this Annexure forms part.

4. RESPONSIBILITIES OF THE PARTIES

- 4.1 THE COMPANY agrees and undertakes to provide the Services described in this Annexure B, to THE CLIENT in respect of the Equipment as it may be from time to time in accordance with the terms and conditions contained in this SLA Agreement and its Annexures.
- 4.2 THE CLIENT agrees and undertakes to:
 - 4.2.1 inform THE COMPANY of any faults in or damage to the Equipment forthwith upon discovery of such faults or damage by logging a call with ISD and receiving an incident number;
 - 4.2.2 make available to the Company's representatives, upon their start of the repair process, such facilities and immediate access as may be necessary to enable THE COMPANY to render the Services;
 - 4.2.3 not to allow any person other than a representative of THE COMPANY to carry out repairs or make adjustments to the systems purchased in terms of this sales order and SLA Agreement
 - 4.2.4 allow the Equipment to be removed from the Premises by THE COMPANY for the purpose of performing their obligations in terms of this Agreement, subject to THE COMPANY returning the Equipment and re-installing it on completion of the Services;
 - 4.2.5 care for the Equipment in a manner, which accords with any reasonable recommendations and/or directions issued by the manufacturer of the Equipment and to store the Equipment in premises and conditions, which accord with such reasonable recommendations and/or directions;
 - 4.2.6 adhere to and comply with the terms and conditions stipulated by the manufacturer and/or supplier of any Equipment;
 - 4.2.7 not to solicit directly or indirectly for employment any employee or agent of THE COMPANY for a period of twelve (12) months following the termination of this Agreement.

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