

## Addendum SLA Service Level Agreement (SLA)

This Service Level Addendum (“SLA Addendum”) is incorporated into, and made a part of the Master Subscription Agreement (the “Agreement”) between Element and Customer (as identified in such Order Form). Any capitalized terms not defined herein shall have the meaning set forth in the Agreement.

### 1. Definitions.

- (a) “Available” or “Availability” means the Element Service is in an operable state, and the Element Service can be accessed through programmatic access (APIs, tags, HTTP requests/responses) or user interface access as applicable to the Element Service.
- (b) “Monthly Uptime Percentage” means the percentage of time within a given calendar month the Element Service is Available.
- (c) “Monthly Subscription Amount” means the contracted amount for the Element Services for the Subscription Term, divided by the number of months in the Subscription Term (excluding fees for implementation, managed, and professional services).
- (d) “Service Credit” is a credit, calculated as set forth below, that Element may credit towards future invoices to Customer.
- (e) “Incident” means a Severity 1 Incident, Severity 2 Incident, Severity 3 Incident or Severity 4 Incident.
- (f) “Severity 1 Incident” is a critical issue which causes Customer’s production use of an Element Service to be stopped, or so severely impacted that Customer cannot reasonably continue use of the Element Service. For example, if no users are able to log in to Element Unify, or data integration endpoints are completely unresponsive, Element would consider that a Severity 1 Incident.
- (g) “Severity 2 Incident” is a major issue which causes important Element Service features to be unavailable with no acceptable workaround, but Customer’s production use is continuing. For example, if templates are unavailable, but the Element Service is otherwise Available that would constitute a Severity 2 issue.
- (h) “Severity 3 Incident” is a minor issue which causes important Element Service features to be unavailable (but a workaround is available), or less significant Element Service features to be unavailable, but Customer’s production use is continuing.
- (i) “Severity 4 Incident” is a trivial issue that does not materially impact the Element Service and Customer’s production use is continuing.
- (j) “Response Time” means the amount of time between Element learning of an Incident or Customer’s notification to Element of an Incident, and Element acknowledging notification of the Incident and assigning resources to commence resolution of the Incident.
- (k) “Resolution Time” means the amount of time from Response Time within which Element’s goal is to resolve the Incident and restore the adversely impacted Service’s functionality to normal operation.
- (l) “Operating Environment” means the compute resources or customer IT processes associated with a Customer’s installation of the Element Service. These include, but are not necessarily limited to, Azure Virtual Machines, Azure Storage, Azure Networking, other Azure services, and customer IT policies, procedures, or the like.

**2. Service Uptime Commitment.** Element will use commercially reasonable efforts to make the Element Service available with a Monthly Uptime Percentage of at least 99.9% during any month (the “Service Commitment”). In the event the Element Service does not meet the Service Commitment, Customer will be eligible to receive a Service Credit as described below.

**3. Service Credits.** Service Credits are calculated as a percentage of the Monthly Subscription Amount for the specific Element Service for the month in which the Service Commitment for such Element Service was not met in accordance with the schedule below. Element will apply any Service Credits only against future payments. If Customer has prepaid in full for all

Services under the Agreement, in the event the Agreement expires and is not renewed, Customer will be entitled to a refund of the Service Credit amount upon written request to Element within thirty (30) days' from expiration of the Agreement. Customer's sole and exclusive remedy for any failure of the Element Service to meet the Service Commitment is the receipt of a Service Credit in accordance with the terms of this SLA Addendum. Service Credits may not be transferred or applied to any other Customer account.

- If the Monthly Uptime Percentage is less than 99.9% but equal to or greater than 99%, then the Service Credit will equal 10% of the Monthly Subscription Amount.
- If the Monthly Uptime Percentage is less than 99%, then the Service Credit will equal 20% of the Monthly Subscription Amount.

**4. Credit Request and Payment Procedures.** To receive a Service Credit, Customer must submit a request by sending an e-mail message to [sla@elementanalytics.com](mailto:sla@elementanalytics.com). To be eligible, the credit request must (a) include a reasonably detailed list of the instances of unavailability that together evidence Element's failure to meet Service Commitment in a given month; (b) include, in the body of the e-mail, the dates and times of each incident that Customer claims to have experienced; (c) include Customer's additional information (e.g. server request logs) that document and enable Element to corroborate Customer's claimed outage (any confidential or sensitive information in these logs should be removed or replaced with asterisks); and (d) be received by Element within ten (10) business days after the end of the month in which the Service Commitment was not met. In order for Credit to be awarded, Element must be able to independently verify the instances of unavailability reported by Customer pursuant to this Section 4.

**5. SLA Exclusions.** The Service Commitment does not apply to any Element Service unavailability or other performance issues: (a) caused by factors outside of Element's reasonable control, including any Force Majeure Event or Internet access or related problems beyond the demarcation point of Element's network; (b) that result from any actions or inactions of Customer or any third party; (c) that result from Customer's equipment, software or other technology or third party equipment, software or other technology (other than third party equipment within Element's direct control); (d) arising from the suspension and termination of Customer's right to use the Element Service in accordance with the Agreement; or (e) arising from scheduled downtime for system or network maintenance.

**6. Chronic Outage Termination Right.** In addition to the Service credit remedies described in Section 3 above, if the Monthly Uptime Percentage is less than 97% for 2 consecutive months or any 4 months in a rolling twelve (12) month period, then Customer will have the right to terminate the Order Form for the adversely affected Element Service and receive a refund of any amounts paid in advance attributable to periods after the effective date of termination. In order for such termination to be effective, written notice of such termination must be received by Element within thirty (30) days following the month in which the right to termination arose.

**7. Element Technical Response Time and Resolution Time Objectives.** Element will respond to Incidents and undertake resolution of Incidents in accordance with the following:

Severity Level	Initial Response Time	Resolution Time Objective
<b>Severity 1:</b> Critical Defect	2 hours	4 hours
<b>Severity 2:</b> Major Defect	4 hours	2 business days
<b>Severity 3:</b> Minor Defect	Within 1 business day	30 days



<b>Severity 4:</b> Trivial Defect	Within a reasonable timeframe	When commercially reasonable
--------------------------------------	-------------------------------	------------------------------

**Increasing Severity Level.** Incidents may be raised by one level of severity at the discretion of Element based on the severity of impact on Customer.

**Decreasing Severity Level.** Incidents may be downgraded by Element for any of the following reasons:

- The issue is not reproducible, and is no longer impacting the Customer.
- Analysis by Customer or by Element determines that the severity of the issue is low enough to warrant the downgrade.
- A suitable workaround is provided, whether temporary or permanent, which reduces the impact of the issue to that of a lower severity category
- Element determines Customer is not providing the required cooperation and access necessary to enable resolution of the issue.

**Root Cause Analysis (“RCA”).** Element will perform an internal RCA for Severity 1 Incidents within 48 hours of a Severity 1 Incident being communicated to Element, and will be available upon request by Customer within five (5) days after resolution of the Incident.

**Exclusions.** Element shall have no obligation to support: (i) altered or damaged Element Services; (ii) any Element Service that is not the then-current release or immediately preceding release; (iii) Element Service problems caused by Customer’s negligence, abuse, misapplication, or use of Element Services other than as specified in Element’ user manual, or other causes beyond the control of Element; (iv) third party products not provided by Element; or (v) changes made by the Customer to the Operating Environment (e.g., Microsoft Azure). Element shall have no liability for any changes in Customer’s Operating Environment which may be necessary to use Element Services.

**8. Support Services.** Element provides support services 24 hours a day, 7 days a week (24x7) for Severity 1 Incidents and Severity 2 Incidents. Support services for Severity 3 Incidents and Severity 4 Incidents are available during Element’s normal business hours: Monday – Friday, 8:00am – 6:00pm local time (excluding holidays). Element’s offices are located in San Francisco, CA (PST). Element’s support email is [support@elementanalytics.com](mailto:support@elementanalytics.com).

**9. Element Team.** Element will, throughout the Subscription Term of each Order Form, designate one or more employee(s) whose role is to liaise with the Customer and ensure successful implementation and operation of the Element Service. The Account Team will be responsible for onboarding and will partner with the Customer by acting as an advisor on both tactical and strategic matters to help ensure the Customer is seeing the benefit of the Services and help ensure mutual collaboration. The Account Team will also advise on recommended training opportunities and act as a point of escalation when needed for technical assistance.

**10. Business Continuity and Disaster Recovery.** Throughout the Subscription Term, Vendor will maintain a commercially reasonable and industry standard business continuity and disaster recovery plan designed, implemented and tested to guard the Element systems against performance failures and to return the Element systems to full functionality as soon as reasonably practicable in the event of performance failures including, without limitation, those arising from a Force Majeure Event.