

# SERVICE LEVEL AGREEMENT

NETWAYS Web Services

## 1. SCOPE

This Service Level Agreement applies to all services provided by the NETWAYS Web Services of NETWAYS Managed Services GmbH (NMS). The relevant products and services are specified in detail in the corresponding product and service descriptions.

## 2. GENERAL REGULATIONS

- 2.1. NMS will provide credits to the Customer if the availability outlined in this document, the product and service descriptions, or the contract is found to be negligently not met.
- 2.2. Explicitly excluded from this Service Level Agreement are all cases attributable to:
  - 2.2.1. force majeure (e.g., DDoS, strike),
  - 2.2.2. disruptions that lie outside the sphere of influence and action of NMS (e.g., DE-CIX routing problems),
  - 2.2.3. negligence on the part of the Customer, its employees, or its vicarious agents,
  - 2.2.4. service disruptions due to changes to the service mandated by the Customer or made mandatory by legal or regulatory requirements,
  - 2.2.5. as well as planned and pre-announced activities of NMS.
- 2.3. This SLA applies only if the following conditions are met:
  - 2.3.1. The Customer ensures that all contact information is up to date at all times and that the Customer can be reached at all times.
  - 2.3.2. The Customer accepts any scheduled or unscheduled maintenance on the service that NMS is required to perform.
  - 2.3.3. The Customer is not in default on any payments due.

## 3. ERROR CLASSES

Error class 1	Critical error	Critical large-scale service outage that disrupts service in its entirety.
Error class 2	Substantial error	Substantial outage that partially disrupts service or causes major delays.
Error class 3	Moderate error	Outage of services with no or insignificant impact on the availability of the systems
Error class 4	Other errors	

## 4. AVAILABILITY OF NETWORK CONNECTIVITY, POWER, AND AIR CONDITIONING

- 4.1. NMS guarantees the availability of the network connection on the first network interface where either the Customer's equipment or rental or Cloud equipment is connected to the NMS network backbone. If the Customer's systems are redundantly connected via several network interfaces, the entire network connection is considered to be available if at least one network interface is available. A network connection is considered available if the corresponding network port can exchange data with at least one node outside the NMS network infrastructure.
- 4.2. NMS guarantees the availability of the power supply at the first delivery point of the power supply. If the racks are equipped with multiple circuits to increase availability, the power supply is considered available if at least one circuit is live.
- 4.3. NMS ensures the availability of air conditioning in the data centers. Air conditioning is considered available if the room temperature at the front (intake side) of the server racks, measured in the center, does not exceed a maximum temperature of 25 degrees Celsius.
- 4.4. The availability, in %, is calculated as follows:  $\text{Availability (\%)} = 100 * ( (\text{agreed service time} - \text{unplanned downtime during service time}) / \text{agreed service time} )$ . The agreed service time does not include scheduled maintenance time windows. Downtime is defined as the period between proper notification of the fault and restoration of availability during the agreed service time. Agreed availabilities always refer to the annual average. Availability is considered ensured if there are no errors of error classes 1 or 2.

## 5. AVAILABILITY

NMS guarantees the Customer the following availability per month for systems operated in NMS data centers:

- 5.1. Data center infrastructure (power supply, air conditioning): 99.99%
- 5.2. Network infrastructure (Uplink routers, Cloud gateways, TOR switches): 99.95%
- 5.3. For services and resources:
  - 5.3.1. Virtual machine „volume“: 99.9%
  - 5.3.2. Virtual machine „local disk“: 99.5%
  - 5.3.3. VPC gateway: 99.9%
  - 5.3.4. Block storage: 99.9%
  - 5.3.5. S3 storage: 99.9%
  - 5.3.6. LBaaS: 99.5%
  - 5.3.7. VPNaaS: 99.5%
  - 5.3.8. K8s Control Plane: 99.5%
  - 5.3.9. Managed database: 99.5%
- 5.4. SaaS products: 99.0%
- 5.5. For rental hardware, we guarantee an availability of 99.0% per month. Deviations from this will be stated explicitly in the respective contract. We can only guarantee these availabilities for rental hardware if the respective systems are covered by a service contract in line with the availability.
- 5.6. Excluded from the availability are the maintenance windows agreed upon in the Maintenance Intervals and in the Agreement.
- 5.7. NMS must be granted the right by the Customer to carry out maintenance work necessary to maintain the system within the maintenance windows previously agreed upon with the Customer.
- 5.8. A failure of one of the systems or services specified under 5 must last for at least a period of five minutes. Outages of less than five minutes are not counted toward outage time.
- 5.9. Availability of „local disk“ resources can be guaranteed only if a snapshot or backup is available for recovery. The Customer must explicitly confirm any required restore. The time between the Contractor's request and the Customer's confirmation is excluded from the calculation of availability.

## 6. RESPONSE TIMES FOR CUSTOMER REQUESTS

- 6.1. NMS response times are defined as follows in accordance with the corresponding error classes:

Error class 1	2 hours
Error class 2	4 hours
Error class 3	8 hours
Error class 4	Next business day

- 6.2. Response time is the period of time between the receipt of the request, interrupted by hours outside the agreed support level, and the response by the Contractor.

## 7. SERVICE LEVEL

- 7.1. NMS provides services at different service levels, which are defined as follows:
  - 7.1.1. 8x5, during business hours: Monday through Friday from 9:30 a.m. to 5:30 p.m. German time, excluding German or Bavarian holidays.
  - 7.1.2. 24x7, scheduled, outside business hours: Monday through Friday from 5:30 p.m. to 9:30 a.m. – Saturday, Sunday, and German and Bavarian holidays from 12:00 a.m. to 11:59 p.m.
  - 7.1.3. 24x7, emergency: Monday through Friday from 5:30 p.m. to 9:30 a.m. – Saturday, Sunday, and German and Bavarian holidays from 12:00 a.m. to 11:59 p.m.

- 7.2. In principle, within the support level „24x7, emergency“, support is only provided in case of emergencies. An emergency exists specifically if the systems managed by the Contractor can no longer be reached by the Customer (see error class 1). In the case of highly available systems, such as cluster systems, error class 1 is only present if the highly available system itself is no longer accessible by the Customer. In addition, individual services can be added as error class 1 by the Customer after consultation with the Contractor.

## 8. PROVISION OF CREDITS

- 8.1. In the event of failure to meet the contractually agreed service levels, NMS shall provide the Customer with a credit.
- 8.2. The amount of the credit will be 5% of the monthly invoice amount of the affected service per 0.1% shortfall in the stipulated availability per month.
- 8.3. If the specified response times are not met, NMS will provide a credit of 50% of the cost incurred for the service per incident.
- 8.4. The maximum amount of the credit is principally 50% of one month's fee for the service in question.
- 8.5. The request for provision of a credit must be received by NMS no later than 5 days after the end of the calendar month for which a credit is requested. The date of receipt is determinative for timely receipt.
- 8.6. The total amount of credits provided by NMS to the Customer per service and operating year is limited to one month's compensation for the respective service or product.

## 9. MAINTENANCE WINDOWS AND MAINTENANCE WORK

- 9.1. Regular maintenance windows are scheduled to maintain and improve the performance and stability of the services or to enable preparations for the proper operation of the services. During this period, periodic planned and unplanned maintenance work will be performed on the systems of NMS and its suppliers. Any resulting disruptions to service availability will not be counted as downtime and will therefore be considered as service time provided.
- 9.2. NMS will notify the Customer at least three business days in advance of any scheduled maintenance that will affect or interrupt the Customer's service and will occur outside of the normal maintenance window. In case of emergencies, maintenance windows may also be announced with less notice.

## 10. LIABILITY

- 10.1. In the case of server leasing and operation, NMS assumes no strict liability whatsoever for initial defects of the server. Subsequent complaints on the grounds of obvious or hidden defects are, therefore, excluded.
- 10.2. Liability due to interruption, malfunction, or other events causing damage, which are based on the telecommunication services of NMS or third parties for which NMS is liable, is limited to the amount of recourse possible for NMS against the respective provider.
- 10.3. NMS only assumes liability for damages, regardless of the legal basis, if an essential contractual obligation (cardinal obligation) is culpably violated in a manner that endangers the purpose of the contract or for culpably caused damages from injury to life, body, or health. Furthermore, the exclusion of liability in paragraphs 1 and 2 will not apply to damages caused by gross negligence or intent. The limitation of liability also applies in the event of fault on the part of a vicarious agent of the provider.
- 10.4. If the breach of an essential contractual obligation (cardinal obligation) is not due to gross negligence or intent, the liability of NMS will be limited to such typical damages or such typical extent of damages that were reasonably foreseeable at the time of the conclusion of the contract.
- 10.5. NMS only assumes liability in the event of non-compliance with the service level if NMS is exclusively responsible for the non-compliance. In particular, this does not apply to
- 10.5.1. Outages for which NMS is not directly responsible, including but not limited to external DNS server outages, electronic attacks on the network infrastructure of NMS and our suppliers, and outages of any part of the internet beyond the control of NMS.
- 10.5.2. Failures that are the fault of the Customer.
- 10.5.3. Outages caused by inbound/outbound hacker attacks (DDoS).

- 10.5.4. Failures due to incorrect or insufficient maintenance of the operating system by the Customer or the Customer's own software.
  - 10.5.5. Failures resulting from improper use of Customer-owned software or failure to install, operate, and maintain software in accordance with the manufacturer's guidelines or as specified by NMS.
  - 10.5.6. Failures incorrectly reported to the Customer due to errors in internal or external monitoring and surveillance services.
  - 10.5.7. Outages caused by maintenance windows and planned or unplanned work by NMS or its suppliers.
- 10.6. If NMS is required to pay damages for any reason, any credits made under the Service Level Agreement will be applied against such damages.
- 10.7. Moreover, NMS will not assume any contractual penalties of the Customer, which the Customer is obliged to pay to third parties due to non-compliance with the Service Levels.

## 11. SEVERABILITY CLAUSES

Should individual provisions of this Service Level Agreement be or become invalid or unenforceable in whole or in part, this will not affect the validity of the remaining provisions of the respective individual agreement. The same applies in the event that the relevant agreement contains a loophole. In place of the invalid or unenforceable provisions or in order to fill the gap, an appropriate provision will be applied which, as far as legally possible, comes as close as possible to the original intention of the contracting parties.