

1. Scope

- 1.1. As an essential part of the currently valid contractual relationship with the customer, these conditions (“SLA”) govern the conditions for the provision of services offered by TM Technologies, LLC. (“TM Tech”). The conditions are to be understood only as a contractually defined minimum content of the entitlements of the customer and supplement the provisions of the General Terms and Conditions as well as the Terms of Service (TOS) and the service specifications.
- 1.2. TM Tech can amend the SLA at any time without stating the reasons, also effective for an existing contractual relationship. TM Tech will inform the customer about changes 10 working days before they come into force.

2. System Components / Service Availability of the Services of TM Tech

- 2.1. During configuration of the hardware, system software and system-related software, particular attention was paid to the availability of the whole system and the performance from the customer’s perspective, based on the requirements of the customer. The further scalability of the computer systems is ensured.
- 2.2. TM Tech makes it possible for the customer to access a flexible and virtual infrastructure (Infrastructure as a Service – IaaS) on servers, storage devices or networks that are not for exclusive use by the customer, and makes these available to the customer. The services are provided in real-time, managed and charged according to use.

In order to maintain the security of the customer’s data center, firewalls and 24/7 monitoring by system administrators are available.

- 2.3. TM Tech guarantees an availability of the IT infrastructure of 99.95% as an annual average. Excluded from this are times during which availability cannot be upheld on the grounds of technical or other problems which are not under the influence of TM Tech (including force majeure - see Section 1.7 of the TOS, culpable third parties and planned maintenance work, etc. in accordance with Section 2 of the TOS). This applies also if the customer makes demands on the system capacity provided in a manner contrary to the terms of contract.
- 2.4. TM Tech may temporarily prevent or restrict access to the services if this is required for the security of the network operation, maintenance of the network integrity, particularly to avoid serious interferences in the network, the interoperability of services and by data protection laws.

TM Tech will carry out necessary maintenance work as far as possible during times of low usage. The duration of maintenance work should not exceed 4 hours each calendar quarter. If a temporary loss or limitation of service over a longer period is necessary, TM Tech will notify its customers of the type, extent and duration of the impairment at least 10 days in advance if this is objectively possible under the circumstances and the notification would not delay the elimination of any disruptions that have already occurred. The restrictions mentioned above do not count as times of non-availability.

- 2.5. Qualified personnel (system administrators) are available to the customer at TM Tech, 24 hours a day, 365 days a year for troubleshooting hardware and infrastructure problems.

They can be reached as follows:

- via e-mail: support@tmtechnologies.us
- by phone at 702-830-4074 option #2

A trained system administrator will contact the customer after receiving the fault report in order to solve the problem. Work to resolve the problem is carried out within the scope of the technical capabilities of TM Tech while taking into account the contractual obligations. There is no entitlement to have the problem resolved within a certain time.

- 2.6. If data transmission is impaired outside of the data networks operated by TM Tech or its partners, e.g. through line failure or interference at other providers or telecommunication suppliers, this does not constitute a problem to be resolved by TM Tech.

Likewise not applicable as times of non-availability are the periods in which TM Tech limits or blocks access to the individual products and/or services on the grounds of an acute threat to its data, hardware and/or software infrastructure or the data, hardware and/or software infrastructure of the customer through external hazards (e.g. viruses, Trojans), or because of a serious threat to the security of the network operation or the network integrity. When taking such a decision, TM Tech will respect as far as possible the rightful interests of the customer, inform the customer immediately about the measures taken and do everything that is reasonable to lift the access limitation or block without delay.

- 2.7. The responsibility of TM Tech for the components used for the provision of service ends at the data interfaces between the data center and the public data networks, or the data network of the customer where there is a direct connection to its data network on the basis of a contractual agreement.

3. Faults and Troubleshooting

- 3.1. TM Tech will remedy faults in the IT infrastructure required by the customer in accordance with the service specifications or in accordance with the following provisions.
- 3.2. The customer must check the services provided by TM Tech for obvious and recognizable faults without delay and, if found, inform TM Tech thereof. The customer must notify faults which are not obvious as soon as possible after becoming aware of such. Furthermore, the customer must take the required measures which make it possible to identify and reproduce the fault or damage and its cause, or which simplify and speed up remedying the fault.
- 3.3. If services of TM Tech are deficient, TM Tech is obliged to carry out necessary remedial work (at least two attempts) within a reasonable period of time. If the remedial work should fail, the customer may demand a corresponding reduction in payment for the duration of the deficient service, notwithstanding any legal provisions.

If the deficiency in the service is caused by the use of software/programs or service components which TM Tech has purchased (or licensed) from a third party for the purpose of providing the service, the warranty rights of the customer are limited to the extent of the rights to which TM Tech is entitled over the third party. TM Tech is insofar as is possible entitled to assign these rights to the customer.

The customer is not entitled to remedy the fault itself and demand reimbursement of the necessary costs for this.

- 3.4. In the event of a fault in the network and/or another service, the customer must inform TM Tech immediately about the fault. After the responsible customer service department receives the fault report, a trained system administrator will contact the customer and TM Tech will implement measures within the scope of its technical capabilities to resolve the problem within a reasonable (or assured) period of time.
- 3.5. TM Tech accepts no responsibility for faults which can be attributed to unauthorized changes made by the customer, the customer's personnel or other agents (third parties) or which have not been reported in good time in accordance with 3.2 and 3.4. If TM Tech in such a case eliminates the interference or remedies the fault, the associated costs must be reimbursed in accordance with the usual rates charged by TM Tech.

4. Exclusions to the Responsibility of TM Tech

The obligations assumed in the above SLA are also not applicable in the event of the following faults:

- Non-fulfillment of the SLAs caused by the customer or customer software;
- Faulty software/programs installed by the customer;
- Planned maintenance of which the customer was informed within the minimum notification period;
- Faults caused by the manufacturer in the standard software used upon which the TM Tech infrastructure is based (e.g. MS Windows Server) and/or hardware;
- Emergency maintenance;
- Force majeure.