

Jemeer Computer Services (JCS) BV

SERVICE LEVEL AGREEMENT – 'BEST EFFORT'

Parties

- **Jemeer Computer Services BV**, having its registered office at Henninkstraat 14 in 1435 HM, Rijsenhout, Chamber of Commerce number 34306528 and duly represented by E. Bouterse and/or J. Kemperman (hereinafter: "the **Contractor**");
- **[NAAM OPDRACHTGEVER]**, having its registered office at [ADRES OPDRACHTGEVER] in [PLAATS OPDRACHTGEVER], Chamber of Commerce number [KVK OPDRACHTGEVER] and duly represented by **[VERTEGENWOORDIGER]** (hereinafter: "the **Client**");

Whereas

- the Contractor has granted the Client a right of use for the Service;
- the Client requires maintenance and support services for the use of the Service;
- the Client needs to obtain certain guarantees regarding the availability of the Service;
- the Contractor is able to supply maintenance and support services for the use of the Service to the Client on the conditions included in this Agreement;
- the Contractor ensures the availability of the Service on the conditions provided in this Service Level Agreement;
- the parties wish to lay down the agreements applicable between them regarding the maintenance and support services and service levels in this Service Level Agreement.
- This service level agreement is based on '**Best Effort**'
- For any other form, an agreements must be made about covering services and equipment.

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Have agreed as follows

NATURE, CONTENT AND TERM OF THE AGREEMENT

- 1.1. This document constitutes the Service Level Agreement (hereinafter: "the SLA") for the Service provided by the Contractor. The purpose of the SLA is to lay down the service standards, which is achieved by describing relevant aspects, establishing performance standards and laying down the consequences of failing to achieve these standards.
- 1.2. This SLA and the provision of the Service are subject to the Contractor's General Terms and Conditions. The Client confirms to have read these General Terms and Conditions and to agree with their contents.
- 1.3. Terms in this document starting with an initial capital letter have the same definitions as those in the Contractor's General Terms and Conditions, subject to any explicit provisions in this document to the contrary. Additional definitions are included in the last article of this SLA.
- 1.4. If any provisions of the SLA and the General Terms and Conditions prove to be mutually incompatible, the relevant provisions of the SLA will take precedence over the relevant provisions of the General Terms and Conditions.
- 1.5. The SLA starts from the moment of the first delivery of the Service and is entered into for the same period as the Agreement under which the Service is delivered. The SLA is automatically terminated on the date on which the Agreement ends. Termination of the Agreement shall also terminate this SLA.

CONTACT DETAILS

- 2.1 The Client shall use of the following contact details of the Contractor to report Errors:

When		E-mail address	Telephone number
Within Hours*	Office	Best Effort	+31 88-0913300
Outside hours **	office	N/A	N/A

* for standard office hours an additional SLA needs to to be setup to guarantee higher response times (best effort SLA is free of charge)

** for outside the office hours an additional SLA needs to be setup

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PRIORITY LEVELS AND ERROR HANDLING

- 3.1 Errors are reported by the Client to the Contractor according to the schedule mentioned in article 2. If incidents are reported to the Contractor in any other way, for instance by other telephone numbers or e-mail addresses, proper handling cannot be guaranteed.

When reporting an Error, the following information must be passed on to the Contractor:

- a) the Client's company name;
- b) name of the contact person regarding this Error at the Client;
- c) contact details (telephone number, (mobile) phone number, e-mail address) of that contact person;
- d) description of the Error, as accurately as possible;
- e) description of the steps already taken by the Client.

- 3.2 The Client agrees to assist to the best of its ability in rectifying the Error.

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- 3.3 The Errors, provided that they are susceptible of further handling by the Contractor, are classified in the following priority levels:

Level	Description	Note
1	High	Complete unavailability of the Service.
2	Average	Partial interruption / reduced performance of the Service.
3	Low	Problems with limited implications for the Client.

The priority level will be determined in fairness by the Contractor's support staff member who will handle the Error.

The column below shows the Contractor's effort in dealing with Errors, for each priority level:

Priority level	Response time	Recovery time		
		Within Hours	Office	Outside office hours
1	8 hours	16 hours		N/A
2	16 hours	32 hours		N/A
3	24 hours	40 hours		N/A

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- 3.4 The Contractor's support staff will notify the contact person at the Client of the specific Error by e-mail within the Recovery Time:

- a) The priority level of the Error; and - if known -:
- b) The cause and the solution of the Error.

In order to provide feedback to the Client, the Contractor must have valid contact details of the contact person for the specific Error at the Client. The Client is responsible for providing accurate and up-to-date contact details. If the contact details known to the Contractor are not accurate due to an act or omission on the part of the Client, or if the Contractor's failure to provide timely feedback on the Error is the result of circumstances for which the Contractor cannot be held accountable, then the time of feedback will be the time when an attempt to give feedback was made by the Contractor.

- 3.5 The Contractor will use an escalation procedure to be used if an Error cannot be solved within a certain time (Recovery Time). During this procedure, the Client will deploy all reasonably available resources (including, if it deems this necessary, external technical engineers) to speed up the resolution of the Error. During the escalation procedure, any specific agreements on the resolution of the Error will also be made with the Client. During the escalation procedure, the Contractor will keep the Client informed (during Workdays), as much as may reasonably be expected, of the progress in resolving the Error.

AVAILABILITY

- 4.1 The Contractor endeavours to provide 99.8% Service availability for twenty-four (24) hours a day, seven (7) days a week throughout the year, qualified as the Desired availability.
- 4.2 Available means that the Service can be accessed and used by the Client. Failures of the connection and/or equipment that are beyond the Contractor's control, including the connection and/or equipment of the Client itself, are not included.
- 4.3 The Actual Availability is calculated monthly by the Contractor as follows:

$$DB = \frac{GB - \sum G}{GB} * 100\%$$

"DB" = Percentage of Actual Availability;

"GB" = Desired availability in minutes;

"G" = The number of minutes that an Error occurs.

- 4.4 Non-availability caused by force majeure or Maintenance shall not be considered an Error in the calculation of the Actual Availability.

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MONITORING AVAILABILITY

- 5.1 For the purpose of determining compliance with the guarantees promised in article 4, the Contractor shall take a sample of relevant data every five minutes. An average will be calculated on the basis of these samples. This average determines whether the set standards are exceeded, unless the Client provides evidence to the contrary.
- 5.2 If no sample can be taken (e.g. due to hardware failure of the components concerned), a notification is automatically sent to the Contractor. In the event of non-availability, the Contractor shall notify the Client within the period specified in article 3.3.
- 5.3 Upon the Client's request regarding alleged non-availability and upon receipt of a notification regarding the non-availability of a Service, the Contractor will respond in accordance with the response times referred to in article 3.4.
- 5.4 If the cause of the (alleged) non-availability cannot be determined remotely, the Contractor or its subcontractor will conduct a physical inspection of the hardware upon the Client's further request. If the further request proves to be unjustified, the Contractor will charge the Client a service fee in accordance with the Price List.
- 5.5 The Contractor guarantees a recovery time of no more than 32 hours for the elimination of unavailability.

MAINTENANCE

- 6.1 The Contractor or its subcontractor may from time to time, at its discretion, perform maintenance on the Service. The Contractor will endeavour where possible to carry out such maintenance outside Workdays. The Contractor will make every effort to notify the Client of such maintenance at least 5 days in advance. Maintenance will not affect the guarantees specified in Article 4.
- 6.2 The Client may request the Contractor to perform maintenance. The Contractor is entitled to refuse such a request, including but not limited to the situation in which the performance of maintenance may have a (negative) effect on compatibility with the Service and/or Actual Availability and/or is not covered by the scope of the Agreement.

BACKUP

- 7.1 Back-ups of the Service are made daily to a cloud service provider. These back-ups are not accessible to anyone but the Contractor.
- 7.2 The proper method of making backups is checked at least once (1) a month. If so desired, this can also be done at the request of the Client; checks will then be the Client's responsibility.
- 7.3 The Client may request the restoration of the data within the Service by restoring the backups. If costs are involved in restoring the backups, the Contractor shall notify the Client as soon as possible in advance. The costs for restoring backups will be borne by the Client.

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PUNISHMENT (Option 1)

- 8.1 In the event that the Contractor fails to meet the response obligations in accordance with the Response or Recovery times specified in Article 3, the Contractor will pay a penalty for each subsequent hour during which no response or recovery is forthcoming, equal to one thirtieth of the monthly amount owed for the Service in question.
- 8.2 In the event that the Contractor fails to comply with one or more of the guarantee provisions in Article 4, the Contractor will pay a penalty for each day (or part thereof) that a guarantee provision is not complied with, equal to one thirtieth of the monthly amount owed for the Service concerned.
- 8.3 This penalty amount replaces any damages that Client could claim for the non-performance.
- 8.4 If the Contractor discovers on his own initiative or at the request of the Client that a fee is due, the Client will be notified and the amount will be credited on the next invoice.
- 8.5 If the Client believes that a fee is due and payment by the Contractor fails to be made, the Client shall make a request to that effect in writing and, if requested, submit proof.
- 8.6 Payable fees shall, for the respective month, not exceed the total amount of the monthly fee.

PENALTY CLAUSE (option 2)

- 8.7 If the Service is not provided within the agreed service levels (Article 3 or 4), the Contractor shall owe the Client an immediately due and payable penalty of 2 percent of the total price involved in the Agreement for each day that the breach continues up to a maximum of 15 percent. The penalty will be offset against the payments owed by the Client.

SUPPORT PROVIDED BY THE CONTRACTOR

- 9.1 The Contractor provides Support when rendering the Service in the form of [WORK] and other activities which, according to the Contractor, are supportive and can be carried out quickly and easily.
- 9.2 In addition to the Support referred to in paragraph 1, the Contractor is prepared to perform certain other work for the Client. On the Client's request, the Contractor shall draw up an offer for the work concerned. The Contractor shall never be obliged to perform such other work for the Client.

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DEFINITIONS

10.1 In addition to the definitions used in the General Terms and Conditions, the definitions below are used in this SLA. These definitions have an initial capital letter throughout and are used in the singular and plural:

- 10.1.1.1 **Start Time:** the time at which the Contractor commences rectification of the Error, after the Response Time has expired, as determined by the Contractor;
- 10.1.1.2 **Actual Availability:** the number of minutes that the Service has actually been available during a certain period, as described in the SLA;
- 10.1.1.3 **Service:** SaaS, hosting, VOIP, (X)DSL (as described in the offer/agreement).
- 10.1.1.4 **Error:** the substantial failure to meet the functional specifications expressly agreed upon in writing between the Parties. An Error only exists if the Client is able to demonstrate this;
- 10.1.1.5 **Desired availability:** the degree of availability of the Service sought by the Contractor;
- 10.1.1.6 **Helpdesk:** the service point of the Contractor where the Client can address complaints, questions and/or remarks regarding the Service;
- 10.1.1.7 **Recovery Time:** the time between (i) the time at which the Contractor has detected an Error or the Client has reported an Error and (ii) the time at which the Error is resolved, (the Error in) the Service is replaced, or a workaround is created, as determined by the Contractor;
- 10.1.1.8 **Support:** the provision of verbal (by telephone) and written (including e-mail) advice concerning the use and operation of the Service;
- 10.1.1.9 **Maintenance:** The performance of repairs, precautionary measures and regular inspection of the Services as well as planned maintenance.
- 10.1.1.10 **Response Time:** the time between (i) the time when the Client has made a notification of an Error and (ii) the time when the Contractor sends a response to the Client of receipt of the notification, as determined by the Contractor;
- 10.1.1.11 **Workday:** between 9 a.m. CET and 5:30 p.m CET. on Mondays to Fridays, with the exception of public holidays recognised in the Netherlands.

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Contractor

Client

date

date

name

name

signature

signature

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