

Appendix 2 – TERMS REGARDING SERVICE LEVELS FOR IT OPERATIONS SERVICES AND COMMUNICATIONS SERVICES

1. Background

These terms regarding service levels for IT operations services and communications services governs and defines what service levels, for instance in the form of accessibility, reaction time and response time, which the Supplier undertakes to provide to the Customer, as well as remedies available to the Customer in case the Supplier fails to fulfil these Terms.

Definitions

The following definitions, regardless of being used in plural or singular, in definite or indefinite form, have the meaning specified below when being used with an initial capital letter.

- 1. **"Agreed Service Level"** Means the service level or service levels agreed by the Parties regarding Accessibility, Reaction Time and Customer Support.
- 2. **"Agreed Service Time Operations"** Means the time during which Agreed Service Level for Accessibility is measured. Unless agreed otherwise, the Agreed Service Time Operations is every day of the week, 24 hours a day, all year.
- 3. **"Agreed Service Time Support"** Means the time during which Agreed Service Level for Customer Support is provided. Unless agreed otherwise, the Agreed Service Time Support is business days, Monday to Friday, 8 AM – 5 PM.
- 4. **"Agreed Service Time Maintenance"** Means the time during which Agreed Service Level for Reaction Time is provided. Unless agreed otherwise, the Agreed Service Time Maintenance is business days, Monday to Friday, 8 AM – 5 PM.
- 5. **"Agreement"** Means the agreement regarding IT operations services and communications services that the Parties have entered into as well as included appendices of which these Terms constitutes an appendix.
- 6. **"Failure Classification"** Means the classifications of failures of different priorities as defined in the table below.

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Classification of failure	Series of failures that prevent production in the system.	Failure that does not prevent production in the system, but impacts the	Failure of less serious character and which does not in a significant way	Failure of minor impact on the system, for instance a failure in pr

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7. **"Customer"** Means the customer that purchases the Service from the Supplier under the Agreement.
8. **"Customer's Software"** Means software owned by the Customer or software the Customer has the right to use.
9. **"Customer's Equipment"** Means computers or other equipment owned, leased or rented by the Customer.
10. **"Supplier"** Means the Party providing the Service under the Agreement.
11. **"Supplier's Software"** Means software owned by the Supplier or software the Supplier has the right to use.

12. **"Supplier's Equipment"** Means computers, servers, infrastructure or other equipment owned, leased or rented by the Supplier.
13. **"Downtime"** Means the time within Agreed Service Time Operations where Accessibility is not met, after a deduction of Allowed Downtime. Downtime is calculated from the time the failure of Accessibility is reported in accordance with section 7 until the System is Accessible. When Accessibility is determined in accordance with the formula in section 2.1.18 below, failures for which the Supplier bears no responsibility, according to section 6, shall not be included.
14. **"Party"** Means the Supplier or the Customer, named separately.
15. **"Parties"** Means the Supplier and the Customer, named together.
16. **"Reaction Time"** Means the time within Agreed Service Time Maintenance running from a reported failure in accordance with section 7 until the Supplier initiates work resolving the problem.
17. **"System"** Means, regarding operations, a specifically priced part or application within a Service, or in case of absence of such, the part of the Service affected by an interruption, or, regarding maintenance, the systems or applications the Supplier have an obligation to maintain under the Agreement.

18. **"Accessibility"** Means accessibility to a System which means the System is accessible during the relevant measure time. Accessibility is measured using the Supplier's monitoring system and is calculated according to the following formula:

$$\text{Accessibility (\%)} = \frac{\text{ASTO} - \text{AD} - \text{DT}}{\text{ASTO} - \text{AD}} \times 100$$

ASTO = Agreed Service Time Operations

AD = Allowed Downtime in time

DT = Downtime (time for interruption outside for which the Supplier's bear no responsibility under section 6 is not included in Downtime)

An example of applying the formula follows

below¹.

19. "Allowed Downtime"

Means an interruption on the basis of the following circumstances:

- a) planned service and maintenance communicated to the Customer in advance; or
- b) other interruption on the Customer's request or with the Customer's approval.

The number of incidents of Allowed Downtime related to section a) shall, unless agreed otherwise, not exceed one per month.

20. "Service"

Means one or several IT operations services or communications services provided by the Supplier to the Customer under the Agreement.

21. "Third Party"

Means a natural or legal person not a Party to this Agreement.

22. "Terms"

Means these terms regarding service levels for IT operations services and communications services.

23. "Virus"

Means all computer code on purpose developed to disturb, destroy, damage or prevent the functioning of software, hardware or a computer system, in a way not intended by the developer of such software, hardware or computer system.

Accessibility

Agreed Service Level for Accessibility per System measured per calendar month is:

99,9 %

Reaction Time

Agreed Service Level for Reaction Time per System, measured per occasion, is:

Priority	Number of h below Agreed Service Time Maintenance
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¹ Agreed Service Time Operations (ASTO) per month is 30 business days x 24 hours = 720 hours, Allowed Downtime in time (AD) is 4 hours
Downtime = interruption is 3 hours and the time period for which the Supplier is not responsible according to section Interruptions is one hour. Subsequently, DT is 2 hours
Accessibility according to the formula is:
 $\frac{720 - 4 - 2}{720 - 4} = 99,72\%$

1	1 h
2	8 h
3	24 h
4	48 h

If a failure is classified as priority level 1) Critical failure, the Supplier shall work continuously, including outside Agreed Service Time to resolve the problem until it is resolved, provided that the Customer cooperates with the Supplier to the extent the Supplier deems necessary. In case of disagreement regarding the classification of a failure as priority 1 for resolving the problem according to this section 4.2, the opinion of the Supplier shall take precedence, however only after consulting the Customer and after trying to reach an understanding with the Customer in the question on the basis of the individual circumstances to the extent that can reasonably be required. Unless agreed otherwise, the Supplier has the right to charge time outside Agreed Service Time Maintenance according to a separate price list. Reporting of a failure shall be made to the Supplier by telephone for Agreed Service Level for Reaction Time to apply for failures classified as priority level 1) Critical failure.

Customer Support

If the Service Customer Support (Helpdesk) is included among the agreed Services the Following Agreed Service Levels for Customer Support shall apply (where the response rate within the specified response time for received phone calls and e-mail messages from permitted users under Agreed Service Time Support measured per calendar month is specified):

	Response rate	Response time
Telephone	99 %	15 minutes
E-mail	99 %	4 h

Interruptions outside of the Supplier's scope of responsibility

The Supplier is not responsible for an interruption or another breach of Agreed Service Level, if the Supplier can show that this has been caused by any of the circumstances specified below and under provided that such circumstance is not directly attributable to the Supplier:

1. failure in the Customer's Equipment or the Customer's Software, unless the Supplier is responsible for the failure in such equipment or software under the Agreement,
2. failure in the Supplier's Software or the Customer's Software, unless the Customer's Software is exempt from the Supplier's responsibility according to section a) above, which constitutes a Third Party product and if the Supplier cannot resolve or bypass the failure despite a trying to do so in a workmanlike manner,
3. circumstance outside the Supplier's scope of responsibility for the Service, for instance failure in communication or other

products or services from a Third Party which the Supplier not expressly has taken responsibility for,

4. other circumstance for which the Customer is responsible under the Agreement,
5. virus or other attack on security provided the Supplier has taken security measures in accordance with requirements agreed between the Parties, or, if there are no such requirements, taken security measures in a workmanlike manner or circumstances defined as force majeure or equivalent limitation of responsibility according to the Agreement.

For such interruptions or other lack of fulfillment of Agreed Service Levels related to a cause specified in section The Supplier is not responsible for an interruption or another breach of Agreed Service Level, if the Supplier can show that this has been caused by any of the circumstances specified below and under provided that such circumstance is not directly attributable to the Supplier: above, the Supplier may undertake to follow up and handle the process to solve the problem in accordance with instructions from the Customer. In such cases, the Supplier charge the Customer on the basis of current accounts in accordance with at all times applicable price list.

Reporting interruption or failure

An interruption or failure is reported when it has been registered in the Supplier's failure management system. An interruption or failure may be registered through an alarm from the supplier's monitoring system, the Customer's reporting of a failure in accordance with section 7.2 or after the Supplier's discovery.

The Customer is responsible for ensuring that a failure is reported in accordance with agreed means of communication. A report of failure shall include a relevant description of the failure, contact details to affected users, impact on affected Systems or affected application. A report of failure made by the Customer between 5 PM and 8 AM, the following day, must be reported by telephone, or in relevant cases, by alarm from the Supplier's monitoring system in order for Agreed Service Levels for Reaction Time to apply during this time period. If such report of failure between 5 PM and 8 AM, is made by other means of communication than telephone, such report will be handled in the Supplier's failure management system 8 AM the next business day.

Failure Classification

In case of disagreement regarding priority of Failure Classification, the question shall be escalated in accordance with the specific plan referred to in section 10.1.

Measuring

Unless agreed otherwise, the Supplier is responsible for financing and implement functions to measure the service levels for Accessibility, Reaction Time and Customer Support.

Monitoring

The Parties may agree to a specific plan, which describes how deviations and disturbances shall be reported between the Parties.

Price deduction for failed performance of Agreed Service Levels

Accessibility

If the Accessibility falls below Agreed Service Level for Accessibility for System, the Customer has the right to price deduction of the monthly fee with the percentage specified below for the operation of the relevant System:

Accessibility specified in percent	Percentage of price deduction
< 99,9 %	5 %
< 99,8 %	15 %
< 99,7 %	20 %
< 99,6 %	25 %

Reaction Time

If the Reaction Time exceeds Agreed Service Level for Reaction Time for the System, the Customer has the right to price deduction of the monthly fee per occasion specified below for the relevant System, in case the relevant System refers to the Customer's standard environment.

Time (in number of h) exceeding the Reaction Time	Percentage
>1	5 %
>2	15 %
>3	20 %

Customer Support

If the service level for Customer Support falls below Agreed Service Levels for Customer Support, a price deduction with the percentage specified below is applied on the monthly fee for Customer Support:

5 %

The Supplier's liability towards the Customer for failure to provide Agreed Service Level or Agreed Service Levels is limited to a maximum price deduction per month of 25 % of the monthly fee for the System unless agreed otherwise.

If an interruption or a failure means that the Customer may be entitled to price deduction on the basis of failure to provide different Agreed Service Levels related to one and the same incident, only one price deduction shall apply related to this incident.

The Customer loses its right to demand price deduction, if such demand is not presented at the latest in the end of the calendar month following the month the report of failure is provided in accordance with section 7.1.

The Supplier is liable for failure to provide the Agreed Service Levels only in accordance with these Terms. In addition, the Customer has no right to rescission, damages or other compensation or remedies related to failure to provide the Agreed Service Levels unless derived from intentional acts or gross negligence.