

SERVICE LEVEL AGREEMENTS (SLA)



CLOUD & HEAT
THE CLOUD THAT HEATS HOMES WORLDWIDE

SERVICE LEVEL AGREEMENTS (SLA)

Cloud&Heat GmbH, Königsbrücker Straße 96, 01099 Dresden, Germany

1. Scope

- 1.1 The following Service Level Agreements (SLA) apply to all agreements concluded between Cloud&Heat and the customer. The version valid at the moment of the conclusion of a contract is decisive. The SLA are a binding contract content in conjunction with the Standard Business Terms and the Service Specification.
- 1.2 The SLA stipulate the availability and the response time of the support team concerning services offered by Cloud&Heat and utilised by the customer.

2. Amendments to the Service Level Agreements

- 2.1 Cloud&Heat may amend the SLA at any time in the event of a legitimate interest and update them to reflect changed circumstances. In particular, a legitimate interest includes changes in law or the rulings of the highest court, changes in market conditions, currency conversion or similar events. Any amendment is expressly communicated to all customers in writing or by e-mail six (6) weeks before the effective date of the amendment. If the customer objects the amendment within six (6) weeks, the prevailing version of the SLA will remain applicable. The SLA, as amended, is deemed to have been agreed to if the customer does not object or give notice of termination within such six-week period or continues to use services provided by Cloud&Heat after the effective date of the amendment. Cloud&Heat undertakes to specifically inform the customer of his/her right of objection upon commencement of the objection period, and of the consequences of any further use of services, when communicating amendments to the SLA.
- 2.2 The provisions of para. 1 notwithstanding, the SLA may also be amended by means of an amendment agreement. The same applies to an amendment to the Service Specification (cf. Section 2.2 therein) and the Standard Business Terms (cf. Section 3.2 therein).

3. Availability of services

- 3.1 The services of Cloud&Heat are performed on a platform which is operated in a computer centre specifically for this purpose. The availability of services amounts to 99% per year on average. The services are provided according to existing capacities and the access selected by the customer, in general 24 hours a day. In case of major maintenance which requires an interruption in services, the customers will be informed one week beforehand to the extent that Cloud&Heat itself receives timely notice of such work. Interruptions in services which occur during scheduled maintenance work are not covered by the availability clause.
- 3.2 Cloud&Heat will perform required maintenance work in low-use periods to the extent that this is possible.
- 3.3 Cloud&Heat may temporarily block or limit access to the services to the extent that this is required for the security of network operations, maintenance of the network integrity, particularly the prevention of serious network malfunctions, the inter-operability of services and data protection provisions.
- 3.4 Qualified service staff is available for the customer for troubleshooting 24 hours, 365 days a year. The staff may be contacted as follows:
Customer service area under support
E-mail: support@cloudandheat.com,
Telephone: +49 351 479 3670 100

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- 3.5 Upon receipt of an error message, skilled system administrators will find a solution and perform troubleshooting if the interruption was caused by the infrastructure of Cloud&Heat. The work required for troubleshooting is performed to the extent that this is possible for Cloud&Heat, taking into consideration contractual obligations. There is no right to the correction of a malfunction within a specific period.
- 3.6 Cloud&Heat is not obliged to correct a malfunction in the case of interruptions of data transfers outside of the data network operated by Cloud&Heat, e.g. due to line failure or disruption at other providers or telecommunication providers. Furthermore, availability does also not include periods in which Cloud&Heat restricts or blocks the access to individual products and/or services due to a significant threat to its data and hardware/software infrastructure or to data and hardware/software infrastructure of the customer (e.g. viruses, Trojans), or due to a significant threat to the security of network operation or of the network integrity. When making such a decision, Cloud&Heat will consider the legitimate interests of the customer to the extent possible, immediately inform them about the measures taken and do everything reasonable to remove the access restriction or block immediately.
- 3.7 The responsibility of Cloud&Heat for components used for the performance of services ends at the data interfaces of the computer centre to the public data networks or to the data network of the customer if there is a direct connection to his/her data network based on a contractual agreement.

4. Claims for defects; Troubleshooting

- 4.1 The customer has to immediately check services performed by Cloud&Heat for evident and discernible defects and to report these to Cloud&Heat (within the meaning of § 377 German Commercial Code - HGB). The customer must give notice of any defects which are not evident immediately upon becoming aware of them. Furthermore, the customer has to take all measures which are necessary to identify and reproduce the defects or damages and their causes, or facilitate and accelerate the correction of defects.
- 4.2 In the event that services of Cloud&Heat are defective, it is obliged to carry out necessary rectification measures within a reasonable period. If rectification is not successful, customers may request a corresponding reduction of fees for the period of defective performance, without prejudice to statutory remedies. If the defect of the performance was caused by the utilisation of software/programmes or performance components which Cloud&Heat purchased from third parties (and possibly licensed) for the purpose of using services, these warranty rights of the customer are limited to the extent of rights entitled to Cloud&Heat against third parties. Cloud&Heat is entitled to transfer these rights to the customer if possible.
The customer is not entitled to correct errors and to demand compensation of expenses required for this.
- 4.3 In case of an interruption in the network and/or other performances, the customer has to inform Cloud&Heat about the interruption immediately. Upon receipt of a trouble report at the customer service, an experienced support employee will contact the customer and Cloud&Heat will take measures within the scope of their technical capabilities in order to rectify the malfunction within a reasonable and guaranteed period.
- 4.4 Cloud&Heat cannot assume liability for defects which were caused by unauthorised changes by the customer, their staff or other agents (third parties), respectively which were not reported on time according to the paragraphs 4.1 and 4.3. If in this case Cloud&Heat corrects the malfunction or defect, the costs related to this are to be reimbursed in accordance with the customary price lists.
- 4.5 **Response time**
Response time is the period from the receipt of a trouble report by a support employee to the date on which the first measure to correct the problem is initiated.

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Severity level	Classification	Description	Response Time
Severity level 1 So-called operation-impe- ding defect	Urgent; the course of operation is completely or partially interrupted	<ul style="list-style-type: none"> • Critical failures of the system, network or components with serious effects on the provision of services • Complete failure of production for all users or customers • Effects on at least one service level obligation • Deterioration of performance or impossibility to use an important component or the network. Potentially critical effect on the provision of services • Deterioration of the provision of services, effects on the provision of services • Production restricted for a fraction of users or customers. The service is not executable. Serious restrictions in the availability occur. 	Up to 4 hours
Severity level 2 So-called business-obstruc- ting defects	High; the course of operation is impaired	<ul style="list-style-type: none"> • A component cannot be used or can hardly be used. Moderate effects on the operation, but no direct effect on the provision of services • Failure of services, but workaround possible. • Incidents which restrict the service but do not make the provision of services impossible • Potential effects on the provision of services with effects on individual users or customers 	Up to 24 hours
Severity level 3 Other defects	Low; the course of operation is not impaired	<ul style="list-style-type: none"> • A component or procedure which is not critical cannot be used. An alternative is available; later maintenance is acceptable. • No effect on the provision of services • No production affected • Individual users or customers affected 	Up to 72 hours

5. Exclusion of liability

In addition, the obligations assumed pursuant to the terms of the instant SLA do not apply in the following cases of malfunction:

- Non-performance of the SLA caused by customers or customer software;
- Defective software/programmes installed by the customer;
- Scheduled maintenance of which the customer was informed within a minimum notice period;
- Errors in the standard software utilised which were caused by the manufacturer and on which the Cloud&Heat infrastructure is based (e.g. MS Windows server) and/or hardware;
- Emergency maintenance; or
- Force majeure

