

General Service Level Agreement

for all cloud**Kleyer** Services

Version 11/15

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1.0 DEFINITIONS

1.1 For purposes of this Service Level Agreement (“SLA”), the following terms have the meanings set forth below:

- **“Assessment Time”** means the time after which a cloudKleyer technical personnel has assessed the incident and can make a qualified assumption of the recovery time and the root of the failure.
- **“Business Hours”** are 8:00 – 20:00 hrs Mon.-Fri., Central European Time (UTC+1)
- **“Dedicated Equipment”** means any kind of IT-Hardware, which is being provided/facilitated by cloudKleyer and is further rented, purchased or hosted by cloudKleyer for the customer.
- **“ICT Architecture”** is the collective term for all entities that are part of cloudKleyer’s services, e.g. Hardware, Software and Virtual Equipment.
- **“Network Incident”** means when Customer is unable to transmit to and receive data from the Server for less than 99.9% of the time in a given year, excluding scheduled or emergency maintenance. The Network includes routers, switches, backbone connections and cabling provided by cloudKleyer, but expressly does not include Customer’s own networking equipment, switches, services, or any software running on the Server(s) that may affect the performance or availability of the network.
- **“Operational”** means that Customer’s Server responds to a cloudKleyer initiated ‘ping-test.’
- **“Public Holidays”** means all National Holidays of the Federal Republic of Germany (see list below) and all regional holidays of the State of Hessen.
 - Boxing Day (26th December)
 - Christ Ascension Day (depends on calendar year);
 - Christmas Day (25th December)
 - Corpus Christi Feast (depends on calendar year)
 - Day of German Unity (3rd October)
 - Easter Monday (depends on calendar year);
 - Easter Sunday (depends on calendar year);
 - Good Friday (depends on calendar year);
 - May Day (1st May);
 - New Year’s Day (1st January);
 - Whit Monday (depends on calendar year)
 - Whit Sunday (depends on calendar year)
 - For exact dates for the specific calendar year, please consult: http://www.holidays-info.com/Holidays-Germany/holidays_Hesse.html
- **“Reaction Time”** means the time a cloudKleyer employee initially responds to a critical incident by introducing him and describing the Customer the next steps
- **“Server”** means the Customer-owned physical hardware collocated at a cloudKleyer data centre.
- **“Virtual Infrastructure”** means all virtual resources and services, such as virtual CPU (vCPU), virtual RAM (vRAM), virtual machines as a whole (VMs) and virtual network components.
- **“Virtual Machine”(VM)** means a guest operating system such as Windows or Linux that runs as an isolated entity on a host and is separated from the physical resources it uses in such way that the host environment is able to dynamically assign those resources among several Virtual Machines.

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2.0 IMPORTANT NOTE

- 2.1 All change notes, comments, questions, complaints or compensation requests regarding any of cloudKleyer's services must be addressed in writing to service@cloudkleyer.de.
- 2.2 For the process of mission critical errors and requests please **read chapter 10 "INCIDENT REPORTING"**.

3.0 AVAILABILITY COMMITMENTS

- 3.1 This chapter defines cloudKleyer's availability commitments as discussed with the Customer.

3.2 NETWORK AVAILABILITY

- 3.2.1 cloudKleyer's Network will be available to Customer free of outages 99.9% of the time in the year – this is equivalent to not more than 8.8 hours in a given calendar year.

3.3 POWER AVAILABILITY

- 3.3.1 cloudKleyer's virtual infrastructure will be available to Customer free of outages 99.9% of the time in the year – this is equivalent to not more than 8.8 hours in a given calendar year.

3.4 VIRTUAL INFRASTRUCTURE AVAILABILITY

- 3.4.1 cloudKleyer will ensure the delivery of uninterrupted electrical power to the Server 99.9% of the time in the year – this is equivalent to not more than 8.8 hours in a given calendar year.

4.0 POWER AVAILABILITY

- 4.1 Full redundancy and hence Uninterrupted Power Supply (UPS) is only valid if the attached hardware equipment uses both power feeds (A and B) that are provided in the Rack to secure the equipment.
- 4.2 Scheduled and emergency maintenances are excluded from the availability commitment.
- 4.3 As long as the total downtime does not exceed the cloudKleyer AVAILABILITY COMMITMENT Customer is not entitled to receive any compensatory payment the given downtime.
- 4.4 The downtime is measured from the time the trouble ticket was received by cloudKleyer to the equipment is receiving power again.
- 4.5 Should an unscheduled power outage occur and the allowed downtime is fully exhausted, customer has the right to assert a claim for compensation.
- 4.6 In order to make a valid claim Customer must write the E-mail to service@cloudkleyer.de within 72 hours of the incident and include the server/service name, customer contact person, and date(s) and time(s) of the failure.

to Frame Agreement No: XYZ, dated from dd/mm/yyyy
between cloudKleyer Frankfurt GmbH and COMPANY NAME

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4.7 Financial Compensations are possible but not mandatory. In case both parties agree on a financial compensation, the usual compensation rate will be calculated as follows:

$$\{Financial\ Compensation = \\ every\ 30\ Minutes\ of\ excess\ downtime \times 5\% \ of\ MRC\}$$

4.8 The maximum amount of financial compensation, if granted, is 100% MRC of one (1) month.

4.9 Only e-Mail claims for compensation will be considered and are subject for further negotiations – any oral discussions, Skype conversations or transcripts of mobile communication apps such as Viber, Whatsapp, Telegram, Signal, Threema and others are not valid and will not be considered within the negotiation process.

4.10 For the purposes of this section, Customer understands and acknowledges that electrical power is supplied to cloudKleyer by a third party provider and that any power outage resulting directly from circuit cut or service discrepancies of the third party provider is out of cloudKleyer's reach and responsibility; and hence no compensation claims are eligible.

4.11 In case cloudKleyer determines and is able to prove, that the power outage is caused by any customer-owned equipment that falls not under the clause of "DEDICATED EQUIPEMENTS" (Ch. 7), no compensation claims are eligible. Additionally, in such cases cloudKleyer reserves the right to charge the customer for the engineering works and/or damages caused to cloudKleyer's ICT Architecture.

4.12 Customer understands and acknowledges that all services of cloudKleyer's ICT Architecture need electrical power to function. Hence Customer accepts the chapter 3 (POWER AVAILABILITY) as an underlying prerequisite of all subsequent chapters.

5.0 NETWORK AVAILABILITY

5.1 Scheduled and emergency maintenances are excluded from the availability commitment.

5.2 As long as the total downtime does not exceed the cloudKleyer AVAILABILITY COMMITMENT Customer is not entitled to receive any compensatory payment the given downtime.

5.3 A Network Incident is measured from the time the trouble ticket was received by cloudKleyer to the time the Equipment (or Virtual Machine) is able to transmit and receive data again.

5.4 In case a Network Incident occurs and the allowed downtime is fully exhausted, customer has the right to assert a claim for compensation.

5.5 In order to make a valid claim Customer must write the E-mail to service@cloudkleyer.de within 72 hours of the incident and include the server/service name, customer contact person, and date(s) and time(s) of the failure.

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- 5.6 Financial Compensations are possible but not mandatory. In case both parties agree on a financial compensation, the usual compensation rate will be calculated as follows:

$$\{Financial\ Compensation = \\ every\ 30\ Minutes\ of\ excess\ downtime \times 5\% \ of\ MRC\}$$

- 5.7 The maximum amount of financial compensation, if granted, is 100% MRC of one (1) month.
- 5.8 Only e-Mail claims for compensation will be considered and are subject for further negotiations – any oral discussions, Skype conversations or transcripts of mobile communication apps such as Viber, Whatsapp, Telegram, Signal, Threema and others are not valid and will not be considered within the negotiation process.
- 5.9 The Network Availability is outside of cloudKleyer's reach and responsibility if the Network Incident has been caused by (a) any third party service provider, or (b) by Customer-owned equipment that is collocated at cloudKleyer, or (c) by network configuration changes conducted by the customer; and hence no compensation claims are eligible.
- 5.10 The final determination of the root of any Network Incident lies within the competencies of cloudKleyer.

6.0 VIRTUAL INFRASTRUCTURE

- 6.1 Scheduled and emergency maintenances are excluded from the availability commitment. This includes also the virtual machines (VM) and the underlying hypervisor.
- 6.2 As long as the total downtime does not exceed the cloudKleyer AVAILABILITY COMMITMENT Customer is not entitled to receive any compensatory payment the given downtime.
- 6.3 The downtime is measured from the time the trouble ticket was received by cloudKleyer to the Virtual Infrastructure is accessible by the customer again.
- 6.4 Should an unscheduled power outage occur and the allowed downtime is fully exhausted, customer has the right to assert a claim for compensation.
- 6.5 In order to make a valid claim Customer must write the E-mail to service@cloudkleyer.de within 72 hours of the incident and include the server/service name, customer contact person, and date(s) and time(s) of the failure.
- 6.6 Financial Compensations are possible but not mandatory. In case both parties agree on a financial compensation, the usual compensation rate will be calculated as follows:
- $$\left\{ \begin{array}{l} Financial\ Compensation = \\ every\ 30\ Minutes\ of\ excess\ downtime \times 5\% \ of\ MRC \end{array} \right\}$$
- 6.7 The maximum amount of financial compensation, if granted, is 100% MRC of one (1) month.
- 6.8 Only e-Mail claims for compensation will be considered and are subject for further negotiations. The e-mail notification – any oral discussions, Skype conversations or transcripts of mobile communication apps such as Viber, Whatsapp, Telegram,

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Signal, Threema and others are not valid and will not be considered within the negotiation process.

- 6.9 The Virtual Infrastructure Availability is outside of cloudKleyer's reach and responsibility if the downtime has been caused by (a) any third party service provider, or (b) by network configuration changes conducted by the customer, or (c) any custom manipulations or changes of the operating system, or (d) by customer's software running on the virtual infrastructure; and hence no compensation claims are eligible.

7.0 DEDICATED EQUIPMENT & SUPPORT

- 7.1 cloudKleyer Frankfurt GmbH is not obliged to permanently monitor the functionality of dedicated servers.
- 7.2 In case the customer experiences any kind of disturbance in connection with the dedicated servers the customer is obliged to contact cloudKleyer Frankfurt GmbH as agreed upon in previous mutual agreement.
- 7.3 The final assessment and acknowledgement of malfunctioning hardware remains in the responsibility of cloudKleyer Frankfurt GmbH.
- 7.4 In the case of corrupted or malfunctioning hardware cloudKleyer Frankfurt GmbH guarantees a 24x7 onsite replacement of hardware equipment within eight (8) hours.
- 7.5 In case any hardware equipment has to be replaced cloudKleyer Frankfurt GmbH will inform the customer to further coordinate the replacement process.

8.0 MAINTENANCE WINDOW

- 8.1 Scheduled maintenances will be communicated by cloudKleyer at least 14 days in advance.
- 8.2 Any maintenance which is communicated with less than 14 days preparation time is considered as critical or emergency maintenance.
- 8.3 In the event of critical or emergency maintenance activity cloudKleyer will make a good faith effort to notify Customer in advance and try to negotiate a time slot for the maintenance activity.
- 8.4 Customer understands and agrees that cloudKleyer reserves the right to conduct an emergency maintenance window at any time, during which any or all of cloudKleyer's services may be unavailable, and cloudKleyer may not be able to, nor will cloudKleyer be obligated to, provide the Customer with advance notice in case of such emergency.
- 8.5 In case the maintenance (scheduled or critical/emergency) consists of a downtime of services, customer has the right to demand as much information as needed to justify the downtime.
- 8.6 Any Server unavailability resulting from any scheduled or emergency maintenance windows as discussed in the foregoing paragraph will be excluded from uptime calculations and will not be eligible for any sort of compensation.

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9.0 EXCEPTIONS

- 9.1 Customer is eligible to commence negotiations for compensations under this SLA only if Customer is in good standing with cloudKleyer and is not delinquent in payment or in violation with the Frame Agreement.
- 9.2 Customers will not receive any compensation under this SLA in connection with any failure caused by or associated with circumstances beyond cloudKleyer's reasonable reach and responsibility, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labour disturbance, unavailability of or interruption or delay in Customer telecommunications or third party services, the failure of any third party software, or scheduled or emergency downtime of the cloudKleyer Network for repair, replacement, or maintenance of any software, hardware, or network component thereof.
- 9.3 Furthermore, Customer will not receive any compensations under this SLA in the event that the Services are unavailable as a result of Customer's acts or omissions (or acts or omissions of other parties, including Customer's end users, engaged or authorised by Customer), and this includes, without limitation, any negligence or wilful misconduct, or any request to re-install anything other than the currently supported version of an operating system in connection with a hardware failure.

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10.0 INCIDENT REPORTING

- 10.1 The following table indicates the communication procedure for technical issues, service outages, down-time or any other SLA impairing incident
- 10.2 Network Operation Centre Email-address: noc@cloudkleyer.de
- 10.3 Service Hotline: +49 69 66 16 96 775
- 10.4 NOC availability (24x7x365)
- 10.5 SLA Communication Table

Severity	Criteria Specification	Procedure
Level 1 - CRITICAL	<p>A component, application or critical feature is down and, as a result no work can be performed</p> <p><u>Reaction time during business hours *):</u> 30 Minutes</p> <p><u>Assessment time during business hours *):</u> 1 hour</p> <p><u>Reaction time outside business hours & on public holidays *):</u> 30 minutes.</p> <p><u>Assessment time outside business hours & on public holidays *):</u> 1 hour</p>	<p>1. Contact NOC e-mail</p> <p>2. If not responded in reasonable time (at least 15 minutes) call Service Hotline</p> <p><u>Subject of Email must start with:</u> [Name of Customer]+[Type of issue]</p>
Level 2 – NON-CRITICAL	<p>Abnormal or inconsistent system behaviour or a system problem that does not prevent work on the system. Report during normal business hours.</p>	<p>1. Contact cloudKleyer Support via service@cloudkleyer.de</p> <p>2. If not responded in reasonable time (at least 60 minutes) call Service Hotline</p> <p><u>Subject of Email must start with:</u> [Name of Customer]+[Type of issue]</p>
Service Request	<p>Routine request for maintenance.</p>	<p>3. Contact Service Hotline or write an e-mail to: service@cloudkleyer.de</p> <p><u>Subject of Email must start with:</u> [Name of Customer]+[Type of issue]</p>
Business Inquiry	<p>A question regard a change to (new, increased/decreased, disconnected) the contracted service</p>	<p>Contact your Service Delivery Manager (personal contact) of cloudKleyer</p>

*) See chapter 1. for detailed specification of business hours and public holidays

- 10.6 Every e-mail to NOC **must contain** the **name** and **phone number** of the customer's contact person.
- 10.7 Only Level 1 – CRITICAL incidents have a precise reaction time. All other severity levels and inquiries will be dealt with in sincere priority and time, according to their respective level of severity.
- 10.8 cloudKleyer reserves the right to downgrade the severity level in case the request does not correspond to the Criteria specifications of the respective severity level.
- 10.9 cloudKleyer reserves the right to charge the customer for any kind of engineering services that are conducted outside of business hours by customer's request and do not fall under the SLA commitments.**

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11.0 SIGNATURES

11.1 By signing this Document both parties acknowledge and accept all terms mentioned in the above-mentioned chapters.

11.2 Service Provider

cloudKleyer Frankfurt GmbH

Frankfurt am Main, Germany

Name Jan Weller

(First Name / Surname)

Date/Signature/Stamp:

Position: Managing Director

11.3 Customer

LEGAL COMPANY NAME

CITY, COUNTRY

Name _____

(First Name / Surname)

Date/Signature/Stamp:

Position: _____

