

**SERVICE LEVEL AGREEMENT
[COLOCATION; HOSTED; AND MANAGED SERVICES]**

This Service Level Agreement (this “SLA”) is incorporated into and made a part of as if fully set forth therein the Master Services Agreement (together with this SLA and any other related Schedules, Order Forms, and amendments thereto between PERFORMIVE and Customer, the “Agreement”). Terms used herein but not defined herein shall have the meanings ascribed to them in the Agreement. If a provision of this SLA conflicts with another provision of the Agreement, the provision of this SLA shall control to the extent of such conflict.

Four-Nines Uptime Service Level Guarantee

PERFORMIVE shall make the Covered Services available for Customer 99.99% of the Term (“**Service Level Guarantee**”). “Covered Services” means colocation, hosting, PERFORMIVE-provided connectivity and power, and managed Services as more particularly set forth in the Schedule or Order Form to which this SLA is attached; “available” means the Covered Services functioning as intended without significant interruption.

Reporting Requirements

Customer shall report outages to PERFORMIVE via the PERFORMIVE online ticketing system. If the online ticketing system is unreachable, Customer shall start a ticket by calling the PERFORMIVE network operations Center (“**NOC**”). Additionally, to be eligible for a Service Level Credit, Customer must (i) make written request for credit via email to billing@performive.com within seven (7) days after Customer has experienced the downtime; and (ii) identify each applicable trouble-ticket number that the PERFORMIVE NOC issued which relates to the SLA for which Customer seeks credit.

Credit Policy

For any billing month in which PERFORMIVE fails to meet the foregoing guarantee with respect to a given Covered Service, Customer will, subject to the Reporting Requirements and Restrictions hereof, receive as its sole and exclusive remedy and PERFORMIVE’s sole obligation for such failure, credit to its account based on the chart set forth below and the actual duration of the interruption of such Service, as measured 10 minutes after Customer notification of a Covered Service interruption (evidenced by issuance of a ticket) to the restoration of the impacted Covered Service. PERFORMIVE will determine the end of downtime by a trace-route to Customer’s machine from outside the PERFORMIVE network. The amount of credit is stated below as a percentage of the minimum recurring fees due to PERFORMIVE for such interrupted Covered Service for the applicable calendar month.

<u>Covered Services Availability*</u>	<u>Credit</u>
Uptime of 100% (less than 10 minutes of downtime)	None
Uptime of 99.99% - 99.90% (between 10 and 43 minutes of downtime)	1%
Uptime of 99.89% - 99.0% (between 43 and 432 minutes of downtime)	2%
Uptime of 98.9% - 98.0% (between 432 and 864 minutes of downtime)	5%
Uptime of 97.9% - 97.0% (between 864 and 1,296 minutes of downtime)	10%
Uptime of 96.9% - 95.0% (between 1,296 and 2,160 minutes of downtime)	25%
Uptime of less than 95.0% (more than 2,160 minutes of downtime)	50%

The minimum recurring fee to which credits may be applied is the base monthly fee paid by Customer for a Covered Service, without additional charges and excludes all other fees which might be charged to Customer, including, for example and without limitation, charges relating to managed services, incremental bandwidth usage and fees for electricity when an additional fee is charged for such item, extra IP addresses, RAM, hard drives, set-up fees, and Smarthands or other hourly support charges.

Restrictions

1. If Customer has violated the Agreement (expressly including the Privacy and Acceptable Use Policies), Customer is not entitled to any credit.
2. Customer is limited to receiving an aggregate Service Level Credit of 50% of the minimum fees due to PERFORMIVE for the applicable calendar month under all SLAs between Customer and PERFORMIVE.
3. Customer shall not receive any Service Level Credits under this SLA for any covered outage that, as determined by PERFORMIVE in its reasonable discretion, is caused by or associated with any of the following:
 - a) any event or condition beyond PERFORMIVE's reasonable control, including, without limitation, acts of God or governmental bodies, natural disasters;
 - b) failure of bandwidth to the PERFORMIVE network, unless such failure is caused solely by PERFORMIVE;
 - c) scheduled maintenance announced at least 48 hours in advance, up to an accumulated total of 8 hours per month and emergency maintenance announced at least 60 minutes in advance, up to an accumulated total of 2 hours per month;
 - d) Domain Name Server propagation or issues outside the direct control of PERFORMIVE;
 - e) issues with FTP, POP, IMAP, or SMTP Customer access;
 - f) false SLA breaches reported as a result of outages or errors of any PERFORMIVE measurement system;
 - g) the negligence or willful misconduct or omissions of Customer or others Customer authorized to use the Covered Services or those who gained access to PERFORMIVE's network or Customer's website at the request of Customer;
 - h) e-mail or webmail delivery and transmission;
 - i) any failures that cannot be corrected because Customer is inaccessible; or
 - j) outages elsewhere on the Internet that hinder access to Customer's account. PERFORMIVE is not responsible for browser or DNS caching that may make Customer's site appear inaccessible when others can still access it. PERFORMIVE's SLA covers only those areas considered under the control of PERFORMIVE, PERFORMIVE server links to the Internet, PERFORMIVE's routers, and PERFORMIVE's servers.