Service Level Agreement (SLA)

Version: 2024-06-05

to the Enterprise License for the Use of UMH Software of

UMH Systems GmbH

Venloer Str. 310-316

50823 Köln

(hereinafter referred to as "UMH")

Preamble

This Service Level Agreement (hereinafter referred to as "SLA") governs the handling of problems and errors in connection with the use of the Software. The objective is to create or maintain the agreed functionality of the Software in accordance with the Enterprise License. UMH undertakes to remedy all problems and errors in connection with the use of the Software that are within the influence of UMH.

Having said this, the Parties agree on the following:

1   Definitions

1.1   Unless otherwise agreed herein, the definitions of the Enterprise License for the Use of UMH Software apply.

1.2   Unless the context requires otherwise, the following definitions apply:

1.3   "Error" means the Software does not provide the agreed functionality as updated by supplements in the hardware and system environment contractually intended for it although it is used in accordance with its intended purpose and this has more than an insignificant effect.

1.4   "Error Message" means a message from the Customer to UMH expressing that Customer has detected an Error.

1.5   "Patches" means the provision of software components.

1.6   "Remedy Period" means a reasonable period of time, but not later than one month after receipt of the Error Message. A period within which UMH may analyse and eliminate the reported Errors without undue delay, taking into account the order situation and the availability of suitable employees, is considered as reasonable within the scope of the Remedy Period.

1.7   "Workaround" means bypassing an Error by means of a temporary solution without completely solving it.

1.8   The words "includes" or "including" shall be construed as illustrative only and shall not limit the generality of the preceding words; and any headings are inserted for convenience only and shall not affect the interpretation of this SLA.

2   Subject Matter

2.1   The subject matter of this SLA is the provision of maintenance and support services that are necessary for the creation or maintenance of the agreed functionality of the Software as updated from time to time. The following provisions do not constitute a warranty or guarantee unless expressly designated as such. Services under this SLA can only be provided for Software that is accessible via the Internet.

2.2   The support package agreed between the parties can be derived from the respective Order Form.

2.3   The provisions of the Agreement shall apply accordingly to this SLA if and in so far not regulated otherwise herein.

3   Availability of the Software

3.1   The average monthly availability of the Cloud Software owed by UMH is 99,5 percent.

3.2   The actual availability by time achieved shall for each month be calculated on the basis of the time period attributable to the service level as set forth in Clause 3.1.

3.3   When calculating the actual availability of the Cloud Software, downtimes are not attributable to UMH shall be regarded as available times. These downtimes are:

    a)   Maintenance or other services agreed with Customer which do not allow access to the Software;

    b)   Unforeseen maintenance work that becomes necessary if this work was not caused by a breach of UMH's obligations to provide the services including but not limited to force majeure, in particular unforeseeable hardware failures, strikes, natural disasters, etc.);

    c)   Downtimes due to malicious third party attacks, insofar UMH has taken all reasonable agreed or, in the absence of such agreement, customary protective measures;

    d)   Downtimes due to Customer specifications, non-availability or non-conformity of Customer equipment or other interruptions caused by Customer;

    e)   Extended downtime caused by Customer by failure to cooperate as set forth in the Agreement;

    f)   Downtimes for necessary security Patches by UMH;

    g)   Downtime due to errors in Customer systems, software or hardware or Data.

4   Error; Error Reporting

4.1   Functional limitations and Errors in the use of the Software during the term of this SLA shall be reported to UMH in accordance with the following provisions.

4.2   The object of the services owed under this SLA is the program version of the Software provided to the Customer.

4.3   Errors caused by one of the Customer's subsequent actions or by a third party engaged by the Customer shall not be included:

    a)   Wrongful configuration of the Software;

    b)   Modification of the Software by the Customer;

    c)   Use of the Software for purposes other than those specified in this SLA;

    d)   Customer's failure to install or incorrectly install updates and other elements supplied by UMH (e.g. Patches to correct Errors);

    e)   improper or insufficient hardware and/or software environment in which the Software has been installed;

f) Other malfunctions caused by Customer or by a third party commissioned by Customer or otherwise involved not on behalf of UMH.

The rectification of the Errors described above may be governed by separate agreements between the parties against remuneration.

4.4 Error Messages shall be reported to UMH by Customer stating the priority given in Customer's opinion.

4.5 Any Errors occurring in the Software shall be classified by Customer in the following categories at Customer's reasonable discretion, taking into account (i) the impact of the defect on Customer's business and (ii) UMH's interests. If a reported Error reaches a higher priority level, Customer shall promptly notify UMH thereof. The final classification of an Error shall be made by UMH in accordance with the below definitions in table (section 3.6).

4.6 The Error symptoms shall be classified into the following categories:

Level Priority	Classification	Description of possible symptoms and effects	Reaction time (R)
I.	Urgent; the operation of the Software is interrupted in the field / at the customer side due to a verified error caused by UMH.	• The application is not executable; • Program crashes occur; • The transfer of data cannot be started; • Data is not processed, stored or read at all or not correctly and completely resulting in a halt of customers business operations • Security-relevant Errors that jeopardize the integrity of the Software, that could result in unauthorized access to embedded software or unauthorized access to data.	1 working day
II.	High; the operation of the Software is impaired due to a verified error caused by UMH.	The functioning of the application is impaired or malfunctions occur, in particular: • Functionalities do not show the expected results; • The response time behaviour prevents normal use of the Software. • Data is not processed, stored or read at all or not correctly and completely resulting in an impairment of Customer's business operations.	2 working days
III.	Low; the operation of the Software is not impaired	• Working with the Software is possible, even if not consistently within the agreed parameters • Malfunctions can be bypassed.	5 working days

4.7   In addition to the priority assessment, the Error Message shall contain the following information, if available:

  a)   Customer / Customer;

  b)   Module in which the Error occurred;

  c)   Work steps in the course of which the Error occurred or which caused the Error;

  d)   Description of the Error using screenshots, logs or similar notes;

  e)   Date and time of the Error detection;

  f)   Reproducibility information (Yes/No).

4.8   UMH will respond to an Error Message by the Customer within the reaction time specified in sec. 4.6 above. The reaction time begins with the verifiable receipt of an Error Message by UMH at support@umh.app The reaction time only runs during the general business hours of UMH (Monday to Friday from 09:00a.m. to 18:00 p.m. CET/CEST, except on public holidays in the German federal state of Northrhine Westfalia). If the Error Message is received outside general business hours, the reaction time starts with the restart of general business hours. The reaction time is maintained if UMH initiates measures to analyse the Error Message or to correct the Error within the reaction time and notice of such actions is sent to Customer.

5   Rectification of Errors, Solution of Problems

5.1   The way in which an Error is corrected shall be at UMH's sole discretion and regularly through the provision of software that changes and/or supplements the underlying software, including the provision of documentation of the changed and/or supplemented functions.

5.2   UMH may, at its own discretion and taking into account the prioritisation it has undertaken, remedy any Errors that occur, in particular, but not exclusively, by means of the following measures:

  a)   Provision of software on data carriers or online, to be installed by the Customer himself. This regularly includes Patches, but under certain circumstances also the provision of the complete software for which a new installation and configuration becomes necessary, including regarding the Agent;

  b)   Proposal to the Customer to perform a Workaround or to eliminate the Errors;

  c)   In the event that the aforementioned measures are not possible or do not promise success, by working on a solution at the Customer's premises. The installation of the Software at end user devices is done by the Customer or can be done by a remote update.

5.3   UMH will remedy any security-relevant Errors that jeopardize the integrity of the Software, that could result in unauthorized access to embedded software or unauthorized access to data, within the Remedy Period. The Remedy Period shall be calculated from the time at which the Error is reproducibly reproduced in UMH's premises or when the Customer can otherwise prove the Error, in particular by providing suitable information and documentation.

5.4   If it is foreseeable that an Error cannot be rectified within the time period defined in paragraph 4 above, UMH shall provide a Workaround solution within the time periods specified in paragraph 4 above

5.5   In the event of Priority Level III Errors, the rectification by the provision of an amended software by UMH may be postponed by the Customer to the next suitable point in time at which the Customer will make available other amendments and/or changes in accordance with its plans. If such date is more than three months in the future, Customer will notify UMH accordingly.

5.6   In the event of Priority Level III Errors, UMH may, subject to prior agreement with the Customer, postpone the rectification of the Error by making a software available by UMH until the next suitable point, if it is known that the Customer will make other amendments and/or changes available to his customers in accordance with his plans. If this date is more than three months in the future, UMH and the Customer shall consult each other.

6   Cooperation of the Customer

6.1   Customer shall provide UMH with reasonable assistance in processing a reported Error and fully disclose any system changes or other information known to Customer that may have affected the Software.

6.2   Customer shall designate at least one qualified employee who shall be available to UMH as a contact person for Customer.

7   Warranty; Liability

7.1   UMH shall take all necessary measures to deal with a reported Error within the applicable time limits. However, UMH does not guarantee that it will always be able to correct a reported Error within the relevant time period or at all. In this respect, the reaction period and the Remedy Period are understood by the parties as target deadlines and do not constitute a claim to have the error remedied within a certain period of time.

7.2   The Customer must check and test the services provided under the scope of this SLA immediately after they have been performed and report any Errors found to UMH. If the Customer fails to notify UMH, the services provided shall be deemed to have been approved by the Customer, unless the Error was not identifiable during the inspection. If such an Error is discovered later, the notification must be made immediately after discovery; otherwise, the services provided shall be deemed to have been approved even in view of this Error. Section 377 of the German Commercial Code applies accordingly.

7.3   The warranty for the services subject to this SLA shall expire if the Customer or third parties make amendments to the Software without the prior consent of UMH. This shall not apply if the Customer proves that the Error is not attributable to the amendments and that such amendments did not impede error analysis and remedy.

8   Service times

8.1   UMH shall perform the services of troubleshooting within the general business hours (Monday to Friday from 09:00am to 18:00 pm CET/CEST, except on public holidays in the German federal state of Northrhine Westfalia).

8.2   The Remedy Period applicable under sec. 4.3 does not run outside general business hours.