

## **Service Level Availability Agreement (va.4.0)**

### WITNESSETH

Whereas, the Customer has retained the services of Taldor for the performance of such services as agreed by the parties in that Order Form as shall be executed by and between the parties from time to time; and

Whereas, Customer is fully aware and acknowledges that although the Services (as defined thereto in the Order Form) are operational and available to at least 99.9% of the time, there is still a portion of the Services, for various and multiple reasons, that may not be provided free and clear of interruptions and underperformance, at all times.

Now, therefore, in consideration of the promises and mutual agreements and undertakings set forth herein, and with the intention to be bound hereby, the parties hereto agree as follows:

#### **1. Definitions. The following definitions shall apply to this SLA:**

- a. "Business Day" means Taldor's working hours as shall be determined from time to time. Calls received during out of office time will be forwarded to a backup call center.
- b. "Calendar Month" means a period beginning in one calendar month and ending on the following calendar month on the day numerically corresponding to the day of the calendar month. in which such period started, provided that if such period started on the last Business Day in a calendar month, or if there is no such numerically corresponding day, such period shall end on the last Business Day of the following calendar month.
- c. "Monthly Uptime Percentage" means the total number of minutes in a Calendar Month minus the number of minutes of Downtime suffered in a Calendar Month, divided by the total number of minutes in a Calendar Month. "Downtime" means, a partial or a complete inaccessibility of services or Packet loss caused by Taldor's services according to the Relevant service SLA.

#### **2. SLA Services.**

Taldor provides this SLA subject and pursuant to the terms and conditions of this SLA agreement. The SLA shall apply to the following services (the "SLA Services"):

- a. IP connectivity
- b. Cloud
- c. Hardware
- d. Back-Up and Recovery
- e. Support

##### **2.1 IP Connectivity**

Taldor invests a critical amount of resources in its IP Connectivity for the benefit of optimizing its IP services and hosting infrastructure. Taldor guarantees as follows:

- a) IP Services: Appropriately configured devices on the Taldor IP Network will be able to transmit information across any two (2) end points of the Taldor IP Network. In the event that Taldor fails to provide this level of service, Customer will be eligible for a refund according to Uptime & refund commitment in Appendix A.

b) Packet loss between any two (2) endpoints on the Taldor Network: Taldor guarantees that average packet loss, calculated over any five (5) minute period, between any two (2) endpoints on the Taldor IP Network.

In the event that Taldor fails to provide this level of service, Customer will be eligible for a refund according to Uptime & refund commitment in Appendix A.

c) Dedicated IP connectivity (independent Cross Connect) and/or IP connectivity between Taldor Networks and third party cloud services (such as, Amazon, Google, Azure, etc') shall rely back to back on the provider's SLA, MSA and/or any other relevant agreement, as amended from time to time.

d) Customer agrees and undertakes that the entire burden of proof of such IP Connectivity failures lies solely and exclusively on the Customer and will be conducted under a relevant trouble ticket.

## **2.2 Cloud**

Taldor guarantees that Cloud services will be available 99.9% of the time in any given billing cycle. If Taldor fails to meet this guarantee, Customer will be eligible for a refund according to Uptime & refund commitment in Appendix A.

a) Unavailability: Unavailability means: (i) The Cloud service returns a server error response to a valid user request during two or more consecutive 90 second intervals, or (ii) data stored on Cloud becomes inaccessible. Unavailability due to scheduled maintenance is excluded from these conditions and does not contribute towards unavailability calculations; (iii) A network failure under IP connectivity.

b) Customer declares that he is fully aware of the facts that unavailability evolving from an OS failure or an application installed on the OS, are not considered to be a reason of failure caused by Taldor.

## **2.3 Hardware**

a) Taldor shall handle hardware cases purchased by Taldor, according to hardware SLA purchased from the hardware provider.

b) Service will commence under the "response time SLA" (Appendix B.)

c) To remove any and all doubt, hardware must remain under the manufacturer's warranty and Taldor shall not be held liable for Hardware not under manufacturer limited warranty. The Customer agrees and undertakes that the sole responsibility for the renewal of such manufacturer's warranties bear solely on the Customer.

d) To remove any doubt, upon termination of Customer's engagement with Taldor, Customer shall immediately pay to Taldor any all unpaid funds in consideration for purchased hardware. Customer agrees and acknowledges that Taldor shall possess a lien on Customer's hardware that was purchased from Taldor, in any case of unpaid funds.

Important Note: in no event, shall Taldor refund the Customer on hardware payments and expenses nor should the Customer shall be entitled to such.

## **2.4 Back-Up and Recovery**

a) Taldor guarantees that data recovery will take no more than seven business days to recover the requested data.

b) In any case of failure of Taldor guarantees to recover data, Taldor shall compensate Customer is conventional damages not higher than the aggregate amount paid by Customer to Taldor during the three (3) months period preceding the failure of recovery.

### **2.5 Support Response Time**

a) In any case of failure Taldor guarantees that service and support will commence under the response time SLA (Appendix B).

b) In case of an application failure Taldor will provide the customer with a full description of the case, Taldor will try at its best effort to work with the application provider to solve the issue rapidly and effectively. Customer is aware that Taldor will not provide service to the application layer.

c) Taldor can commit to commencing the service under the SLA. Taldor commits to its best effort and resources to solve any issue rapidly and effectively.

### **3. Service Level Refund Eligibility.**

In order for the Customer to be eligible to receive any refund under this SLA, the Customer should act and comply accordingly:

a. Submit Taldor's customer support with a written claim regarding any incident of which it is believed that refund is applicable (the "Claim"). The Claim must be submitted within 48 hours as of the incident.

b. Customer must provide Taldor's customer support with all relevant details regarding the Claim, including, without limitation, detailed description of the incident(s), duration of incident, the affected storage account(s) and any attempts made by Customer to resolve the incident.

c. Taldor will examine and dedicate each Claim with the utmost care. In any case of which Taldor using its sole and exclusive discretion will accept the Customer's Claim, then the relevant refund will be given, subject to the provisions of this SLA.

### **Exclusions to SLA**

Customer shall not receive any refund under the SLA in connection with any failure caused by:

a. Circumstances beyond Taldor's reasonable control, including, without limitation, acts Force Majeure (as defined below), acts or omissions of a third party not engaged or authorized by Taldor.

b. Unavailability, interruption or delay in telecommunications outside of Taldor's control.

c. Failure or delay of third party services or software.

d. Backup corrupted file.

e. Customer's failure to comply with any of Taldor's recommendations and/or guidance regarding issues concerning the SLA Services and/or to conduct, in accordance with Taldor's recommendations and/or guidance, improvements and/or updates in Customer's resources, including, without limitation, to Customer's system, hardware and software.

f. Failure of access circuits to the Taldor Network, unless such failure is caused by Taldor.

g. Usage patterns or traffic that exceeds the reasonable performance parameters of Customers specific installation;

- h. Downtime caused by scheduled maintenance, when at least 7 days prior notice is provided, is not eligible for SLA refund.
- i. Downtime caused by emergency maintenance, when at least 24 hours' notice is provided, is eligible for 50% of normally calculated SLA credits;
- j. DNS issues outside the direct control of Taldor;
- k. False SLA breaches reported as a result of outages or errors of any Taldor measurement system;
- l. Customer's act of others engaged or authorized by Customer, including without limitation, any negligence, willful misconduct, or use of the Taldor IP Connectivity or Taldor's services in breach of Taldor's Master Services Agreement;
- m. Outages or downtime associated with Customers' designated non-production (staging, testing or development) infrastructure that is unrelated to hardware or network failures.

Without derogating from the above, Taldor shall only offer service level refund in case of underperformance from Taldor's part only, in accordance with the terms and conditions of the Master Services Agreement and this SLA, and shall neither be liable nor offer any refund, in any case of underperformance of any third party, including, without limitation, factors outside of reasonable control, avoidance to implement Taldor's instructions and modifications and acts or omissions of the customer or any of customer's employees, agents, contractors, vendors or anyone else on behalf of the customer.

Without derogating from the above and for the removal of any doubt, this SLA does not cover any unavailability, partial availability, inapplicability and/or malfunction of the SLA services, derived and/or resulted by any actions, omissions or malfunctions of third parties, including without limitation, any network and communication suppliers, cloud services suppliers and hardware suppliers.

This SLA and any of the provisions hereto shall cease to be valid and shall immediately expire if such provisions are contrary to the provisions Taldor is bound by under those SLA's executed by Taldor and any of Taldor's providers.

#### **4. FORCE MAJEURE**

Neither party shall in any event be held liable with respect to the other party or to others for losses or damages caused by non-performance, or a delay in the performance, of their obligations under this SLA, to the extent that the same resulted from circumstances amounting to force majeure, including, inter alia, strikes, riots, fires, floods, war, terror attacks, hurricanes, earthquakes, windstorms, acts of God and acts of the state or of public authorities, or other causes beyond the reasonable control of the party affected thereby.

#### **5. MISCELLANEOUS**

a. With regard to any software and/or hardware and/or other services provided by third party providers, Customer hereby warrants and undertakes that Customer has read, understood and found fit for Customer's demands any third party providers' SLA and/or MSA and /or license agreements associated with the SLA Services (Example: Amazon SLA, Google SLA, Azure SLA).

b. The laws of the State of Israel shall apply to the SLA and the sole and exclusive place of jurisdiction in any matter arising out of or in connection with the SLA shall be the competent courts of Tel-Aviv.

c. No failure, delay of forbearance of either party in exercising any power or right hereunder shall in

any way restrict or diminish such party's rights and powers under the SLA, or operate as a waiver of any breach or nonperformance by either party of any terms of conditions hereof.

d. Taldor may assign and/or subcontract any of its obligations under any contract or offer. Customer may not assign or delegate any of its rights, duties or undertakings under the SLA to any third party without the express prior written consent of Taldor, and any unauthorized assignment or delegation shall be null and void. Taldor may assign the SLA without the need for any consent but the notification to the Customer.

e. In the event it shall be determined under any applicable law that a certain provision set forth in the SLA is invalid or unenforceable, such determination shall not affect the remaining provisions of the SLA.

f. The preamble to the SLA constitutes an integral and indivisible part hereof.

**Appendix A:**

Uptime & refund commitment:

Refund: If Taldor fails to meet the guarantee stated above, Customer will be eligible for a refund, which will be calculated as a percentage of Customer's last billed fee for the effected service only, at the end of your current billing cycle.

Refund will be based on the duration of the unavailability that exceeds the downtime as follows:

*Monthly Uptime Percentage	*Service Level refund
99.9% or more	No refund; standard service level
99.89% - 99.5%	10% credit
99.49% - 99.0%	25% refund
98.99% - 98.0%	50% refund
97.99% - 97.0%	75% refund
Less than 96.99%	100% refund

**IMPORTANT NOTES:**

1. Monthly Uptime Percentage shall apply to the SLA Services up to a portion of at least 97% (ninety seven percent) of each SLA service.
2. Customer is aware and acknowledging that each SLA Service refund according to this Exhibit A, is on a stand-alone basis per each SLA Service and not on an aggregate basis per all the SLA Services.

**Appendix B:**

Response time:

Type	Description	Response time
Critical Failure	Downtime, inaccessibility	Up to 15 Min. 24/7
Regular failure	Questions , ongoing maintenance	Up to 4 hours during business hours.
Installation under managed customer	Special procedures	Up to 2 business days.
Installation under project department or unmanaged clients	Changes in configuration and procedures.	Next business week