**Spirion Service Level Agreement**

1. **Service Levels**
2. ***Definitions.***
   1. **“Availability”** means (total uptime minutes of the System in the month / (total minutes in month – total Maintenance minutes - any Excused Downtime minutes)) x 100, where Maintenance minutes equals the time taken for regular maintenance as defined in A.2.
   2. “**Defect**” means any failure of the System to conform to the Documentation;
   3. “**Excused Downtime**” means the total minutes in the month during which the System was not available due to (a) any negligent or wrongful act or omission by Customer or its users; (b) any negligent or wrongful act or omission by Third-Party Vendors; or (c) any force majeure events or disruption in public internet access.
   4. “**Severity Level 1 (Critical Impact)**” means a Defect resulting in the loss of service, or critical business functions with no possible bypass, recovery, or other Workaround. All Severity Level definitions and assignments are determined solely by Spirion. For a Severity Level 1 problem, a Defect must severely impact production to a point where work cannot continue until the problem is resolved. If resolution requires a software fix, it may be delivered outside of the normal release cycle for issues that cannot be resolved or worked around until the next release is deployed;
   5. “**Severity Level 2 (Major Impact)**” means a Defect where production is significantly impacted or degraded. For a Severity Level 2 problem, the Software is impaired, but Customer can perform critical business functions and no data is being corrupted. If resolution requires a software fix, it may be delivered outside of the normal release cycle for issues that cannot be resolved or worked around until the next release is deployed;
   6. “**Severity Level 3 (Minor Impact)**” means any Defect (i) that does not fall into the categories of Severity Level 1 or Severity Level 2 problems, or (ii) that was previously categorized as a Severity Level 1 or Severity Level 2 problem, or still exists as a result of such problems, but for which Spirion provided an acceptable Workaround. If resolution requires a software fix, such resolutions will be addressed in a generally-available release. The scheduling of software fixes and releases will be determined by Spirion; and
   7. “**Workaround**” means a temporary or permanent solution to a Defect that allows the Software to regain functionality in accordance with the Documentation, or reduces the severity of the Defect.
3. Spirion, with Customer's reasonable assistance, will work diligently to resolve each Severity Level 1 problem or implement an acceptable Workaround within twenty-four (24) clock hours after Spirion receives notice of such problem.
4. Spirion, with Customer's reasonable assistance, will work diligently to resolve each Severity Level 2 problem or implement an acceptable Workaround within forty-eight (48) clock hours, during normal business hours, after Spirion receives notice of such problem.
5. Spirion, with Customer's reasonable assistance, will resolve Severity Level 3 problems or implement an acceptable Workaround in a future generally available release or otherwise upon a schedule determined by Spirion.
6. Spirion will ensure an Availability of the Software of 99%, twenty-four (24) hours per day, seven (7) days per week, including all legal holidays during the Term of the Agreement.
7. If Spirion fails to comply with the provisions of Sections B.2, B.3 or B.5 above (relating to Severity Level 1 and Severity Level 2 problems and Availability failures) more than three (3) times in a single calendar month, Spirion will refund to Customer an amount equal to one-twelfth (1/12) of the annual License Fee, but only to the extent Customer paid Spirion such License Fees pursuant to the most recent quarterly invoice which was due and payable. The remedies set forth in this Section B.6 constitute Customer's sole and exclusive remedies for any breach of or noncompliance with the service level agreements set forth in this Section B.
8. **Service Level Exceptions**
9. Spirion will not be responsible for failure to meet any SLA metric to the extent that the failure is affected or caused in whole or in part by (a) Customer’s failure to perform its material obligations, as set forth in a binding agreement in place, or (b) any other cause beyond Spirion Control. The period of time that services are interrupted due to the conditions listed below will be excluded from SLA performance calculations for relevant cases:
   1. Customer’s failure to meet its obligations set forth in this SOW or the Agreement for the applicable Service;
   2. Problems resulting from components (eg: hardware, software, network, maintenance) for which Customer or any other party is responsible.
   3. Problems caused by the actions or inactions of Customer’s personnel, other third party providers to Customer, or Customer’s infrastructure, including, but not limited to, misconduct, negligent acts or omissions, inaccurate or incomplete information, or any unauthorized modifications made to any managed hardware or software devices by Customer or any of its agents, employees, contractors, consultants, end users, or any other third parties acting on behalf of Customer.
   4. Customer’s material impediment of Spirion’s efforts to meet the SLAs.
   5. Scheduled maintenance, alteration, or implementation.
   6. Customer tool latency issues or planned or unplanned outages.
   7. Software manufacturer “bug” related problems requiring third-party involvement.
   8. Data restoration.
   9. Virus attacks to the extent unrelated to the fault or negligence of Spirion.
   10. Customer provision of inaccurate or incomplete information or failure to provide previously agreed upon required information.
   11. Customer’s prioritization of available Spirion resources.
   12. All Hands on Deck type of incidents, defined as events where all or a substantial portion of Spirion staff is required to handle a Customer emergency issue.
   13. Any transport or appliance faults.
   14. Problems related to the unique configuration, settings or customer environment requiring customer to perform or assist in performing diagnostic and/or troubleshooting activities to determine root cause and assist in developing a resolution or workaround