

Service Level Agreement (SLA) - PowerTrack™ APM

1. SUPPORT AND SERVICE LEVEL FOR POWERTRACK APM SUBSCRIPTION SERVICES

1.1. Issue Severity Levels. The table below lists the issue severity definitions and levels.

Issue Severity	Definition
Level 1	An error in the Subscription Services that (i) causes the Subscription Services to cease operating in any material respect; or (ii) is likely to directly or indirectly delete, impair, damage, or corrupt any Subscription Services, Customer Data, or usage data; and (iii) does not have a known workaround.
Level 2	An issue where the Subscription Services remain operational but results in (i) a significant function of the Subscription Services is impaired or (ii) a material adverse impact on Customer's business and does not have a known workaround.
Level 3	An issue that causes a minor impairment of the functioning of the Subscription Services, which adversely affects, or is likely to adversely affect, Customer's business, and does not have a known workaround.
Level 4	An issue that causes a minor impairment of the functioning of the Subscription Services, but such impairment does not have, and could not reasonably be expected to have, an adverse effect on Customer's business.

1.2. Issue Response Times. Subject to Section 4 below, Stem shall make commercially reasonable efforts to (i) acknowledge issues in the Services in accordance with the Response Time set forth in the below issues severity table, and (ii) assign resources to correct issues in accordance with the Corrective Action Time set forth in the below issues severity table. Failure of (i) or (ii) shall not constitute a Stem breach.

1.3. Terms. The following defined terms establish the framework for Stem's service availability and response expectations under this SLA:

1.3.1. **"Actual Available Hours"** means the difference between 8,760 hours minus the total hours accrued between notification and resolution of Issue Severity Level 1 issues. Actual Available Hours include Scheduled Unavailable Hours.

1.3.2. **"Annual Availability"** means the quotient of the Actual Available Hours in a Service Year divided by 8,760 hours, expressed as a percentage.

1.3.3. **"Availability Target"** means that Stem makes the Subscription Services available to Customer such that Annual Availability meets or exceeds 99.5%.

1.3.4. **"Business Day"** means Monday through Friday, excluding U.S. Federal holidays.

1.3.5. **"Business Hours"** means the specific hours within a Business Day, from 8:00 a.m. to 7:00 p.m. eastern time.

1.3.6. **"Scheduled Unavailable Hours"** means the total hours during which Subscription Services are not available due to maintenance activity as scheduled by Stem and notified to Customer with seven (7) days' notice, not to exceed two (2) hours per 30-day period.

1.3.7. **"Service Year"** means the one-year anniversary of the Subscription Services Commencement Date. Each subsequent Service Year begins on the anniversary of the prior Service Year.

1.3.8. **"Support Days"** means any day except U.S. Federal holidays.

1.3.9. “**Support Hours**” means the specific hours within a Business Day, from 8:00 a.m. to 7:00 p.m. eastern time Monday through Friday, and from 11:00 am to 7:00 pm eastern time Saturday and Sunday.

1.4. Issue Severity Table.

Issue Severity	Response Time	Corrective Action Time
Level 1	8 Business Hours	1 Business Day
Level 2	1 Business Day	3 Business Days
Level 3	3 Business Days	5 Business Days
Level 4	5 Business Days	10 Business Days

2. **AVAILABILITY TARGET CURE.** In the event Stem fails to achieve the Availability Target for any Service Year, Stem will, within 90 days of the last day of the Service Year in which such failure occurred, either issue a credit to or pay Customer an amount equal to the sum of the then-current Subscription Service Charges prorated by the difference between the Availability Target set forth above and the Annual Availability. All cure amounts paid under this SLA are paid as an exclusive remedy as liquidated damages and are not a penalty. Stem’s failure to achieve the Availability Target set forth in this SLA will not be considered a breach or default under the Agreement.
3. **ACKNOWLEDGEMENT REGARDING LIQUIDATED DAMAGES.** The Parties acknowledge that (i) it is difficult or impossible to determine with precision the damages that would or might be incurred by Customer as a result of Stem’s failure to achieve the Availability Target in this SLA, (ii) otherwise obtaining an adequate remedy is inconvenient, and (iii) the liquidated damages constitute a reasonable approximation of the harm or loss.
4. **EXCLUSIONS.** The Parties acknowledge Certain conditions outside of Stem’s control may adversely affect Stem’s ability to provide Services or meet the response times of this SLA. . If any of the following events (“**Excluding Events**”) occur at any time after the Subscription Services Commencement Date, Stem will be excused from complying with the Availability Target and Stem may, upon notice to Customer, make changes to the Services, the SLA or any cures:
- 4.1. A material change in the configuration or utilization of the Hardware as required or caused by Customer where such change affects Stem’s ability to perform the Services under this Services Order.
- 4.2. A material change in market compliance requirements where such change affects Stem’s ability to perform the Services.
- 4.3. Customer’s failure to comply with the technical requirements or specifications as provided to Customer as part of IT Integration Services.
- 4.4. Any action or inaction by Customer or its representative or Affiliate, including delays in providing information or participating in troubleshooting, as reasonably required by Stem to provide a resolution to the applicable issue,
- 4.5. Any external factor outside of Stem’s control including Force Majeure events.
- 4.6. Unavailability of Customer systems or wholesale market systems.
- 4.7. Any changes in Customer systems such as communications, network configuration, or firewalls.