

Service Level Agreement

This service level agreement (SLA) provides the customer (subscriber) with certain rights and remedies regarding performance of the dedicated server (as defined below). This SLA does not apply to other services such as, by way of example, but not limitation, virtual hosting and email hosting.

1. Network Uptime 100%

VM Racks has a contract with a Tier II upstream provider. The facility includes state-of-the art infrastructure in a multi-homed data center with redundant power, HVAC, 24/7 onsite staff, fire detection and suppression.

As a reference, review the SLA of VM Racks' upstream provider at <http://www.AmericanIS.net> (AIS).

The AIS SLA is 100% with these exceptions:

Customer shall not receive any credits in connection with any failure or deficiency of the AIS Backbone caused by or associated with:

- a) Circumstances beyond AIS' reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, failure of third party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the AIS Backbone SLAs;
- b) Failure of access circuits to the AIS Backbone, unless such failure is caused solely by AIS;
- c) Scheduled maintenance and emergency maintenance and upgrades;
- d) DNS issues outside the direct control of AIS;
- e) False SLA breaches reported as a result of outages or errors of any AIS measurement system; or
- f) Customer's acts or omissions (or act or omissions of others engaged or authorized by Customer), including without limitation, any negligence, willful misconduct, or use of the AIS Backbone or AIS services in breach of AIS' Terms and Conditions of Service or the AIS AUP.

2. Equipment Owned by VM Racks Uptime 99.9%

a. Hardware

VM Racks guarantees that all hardware components of the server are functioning normally and will replace hardware at no cost to the subscriber. Hardware components include the motherboard, hard drive, CPU(s), RAM, NIC, and other hardware devices that are part of the server as well as devices outside the server that are used to connect to the upstream provider. It does not include issues related to the OS, data, and application software installed on the server. Hardware replacement is guaranteed to be within five hours from the time the failed component is identified by a VM Racks systems administrator. VM Racks sales staff are not qualified to make the assessment of which component is failing. The subscriber may participate in identifying the failed component, but it is ultimately the VM Racks systems administrator that has to identify the failing component.

b. Down Time

The calculation of down time excludes the time it takes to troubleshoot a problem and identify the failed component. It also excludes the time it takes to rebuild a RAID array and reload any software including the OS and applications. It also excludes any scheduled maintenance down time.

c. Replacement Guarantee

In the event that it takes more than five hours to replace the failed component, VM Racks will credit the subscriber 5% of their monthly *base fee* per additional hour of downtime. The amount credited to the subscriber cannot exceed the monthly *base fee* for the affected server.

It is the subscriber's responsibility to back up their server in a timely and appropriate manner. At the subscriber's request, a VM Racks systems administrator will assist in restoring applications and data at the current billing (hourly) rate.

2. Credit Requests

In order to receive credit, the subscriber must contact support in writing (email is acceptable). The credit only applies to future invoices and not to any invoices due or in arrears.

Base Fee: refers to the recurring fee for the dedicated server plan that the subscriber purchased not including any add-ons. For example, if the base plan is \$125 and a subscriber elected to have additional RAM for \$10 per month and backups for \$10 per month, then the base price is only \$125 and not \$145 per month. This is only intended to be an example and is not inclusive of all the various add-on components and services that are available.