



Nitel
Dedicated Internet Service Level Agreement

SERVICE LEVEL AGREEMENTS (“SLA”). This SLA sets forth the performance metrics applicable to Nitel’s Dedicated Internet Service as well as the terms and conditions governing the availability of Service Credits to Customer. The monthly measured SLA metrics are effective as of the first day of the second month after initial installation of a Service.

COMPONENTS INCLUDED

This SLA provides Customers purchasing Nitel’s Dedicated Internet Service with certain rights and remedies regarding the performance of the Nitel Network and underlying network components. (i.e., POP’s, routers, backbone) The Nitel Network is defined as the Nitel owned and operated Data (IP) routing infrastructure consisting of Network to Network interfaces and Nitel points of presence (POPS) as well as the connections utilized between them. Local access and connection facilities (i.e., the local loop or tail circuits) (“Local Access”) used to access the Nitel Network or vendor networks and any Customer equipment are not included as components of the Nitel Network for purposes of this SLA with the following exception: when Local Access is provided by Nitel, the “Network Availability SLA” set forth below will apply to the Local Access and Customer’s remedies will include Service Credits based on the availability of the Local Access. Under no circumstances will the SLA apply to any Local Access furnished or ordered directly by Customer from a third party or any equipment provided by the Customer.

NETWORK PORT AVAILABILITY

Network Port Availability measures “Network Downtime” versus “Network Uptime.” Network Downtime is based on periods when a Customer’s DIA port is unable to transmit and receive data, and Network Uptime includes all other periods. Network Downtime is recorded in the Nitel trouble ticket system, and is measured from the time Customer opens a trouble ticket in the Nitel trouble management system to the time the Affected Service is again able to transmit and receive data according to Nitel records. “Affected Service” refers to the DIA port that fails to meet the applicable SLA.

LATENCY

The average network delay (“Latency”) will be measured via roundtrip pings on an ongoing basis to determine an average monthly performance level for Latency at the relevant POPs.

Latency = Σ (Roundtrip Delay for relevant POP-POP trunks)/(Total Number of relevant POP-POP trunks)

PACKET DELIVERY

Packet Delivery will be measured on an ongoing basis to determine an average monthly performance level for packets delivered between the relevant Intra U.S. POPs

JITTER

Jitter measures the interpacket delay variance and packet loss in the Nitel Network, and is measured on an ongoing basis by generating synthetic user datagram protocol (UDP) traffic.

Network Downtime = Remedy (Credit is applied to MRC of Affected Service)*				
COMPONENTS	GOAL	Latency¹	Jitter¹	Packet Loss
DSL, Cable, EoC, 3G/4G	100%	50ms	2ms	.5 %
DS1, EoDS1, Fixed Wireless	100%	45ms	2ms	.5 %
Fiber	100%	45ms	1ms	.1 %

Each cumulative hour that the Service performance goal is not attained qualifies Customer for credit equal to [1/720 x Customer Recurring Monthly Charges for applicable service(s)].

¹ The term “ms” means milliseconds.



INSTALLATION GOAL. For Service in the continental U.S., Nitel's goal is to install Local Access within the following timeframes: copper facilities = 30 calendar days, fiber facilities = 90 calendar days.

REMEDIES

General. The provisions of this SLA set forth Customer's sole and exclusive remedy for Service interruptions or Service deficiencies. Subject to the following terms and conditions, Customer will be eligible to receive a Service Credit for any such interruptions or deficiencies. Customer must request a Service Credit within fifteen (15) calendar days from: (i) the date the outage occurred or (ii) the date the goals for latency, packet delivery, or jitter were not met. Customer should direct the request to the Nitel Billing Department at disputes@nitelusa.com. Customer's request must be accompanied by the Nitel trouble ticket issued by the Nitel Network Operations Center (NOC). The maximum Service Credits issued in any one calendar month shall not exceed: (a) with respect to Network Availability, seven days' charges pro-rated from the MRC of the Affected Service; or (b) with respect to latency, packet delivery or jitter, fifty percent (50%) of the MRC of the Affected Service. Under no circumstances will the aggregate Service Credit(s) issued in a single month exceed the equivalent of fifty percent (50%) of the MRCs for the Affected Service.

Exceptions. Customer will not be entitled to Service Credits when the failure to meet the SLA was the result of any of the following: (a) the acts or omissions of Customer, its employees, contractors or agents, or End Users; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Nitel; (c) Force Majeure Events; or (d) scheduled service maintenance, alteration, or implementation.

MAINTENANCE

Normal Maintenance. Nitel will perform Normal Maintenance (or nonemergency maintenance) on the Nitel Network during the maintenance hours (windows) set forth below. "Normal Maintenance" refers to: (a) upgrades of hardware or software; (b) upgrades to increase capacity; or (c) other pre-scheduled network activity that may degrade the quality of the Service or cause Service interruptions. Nitel will use commercially reasonable efforts to perform all Normal Maintenance between the hours of 12:00 midnight and 6:00 AM Local Time. "Local Time" refers to the time of day in the time zone in which an affected Service is located; provided, however, that if affected Services are located in multiple time zones, Local Time shall refer to the U.S. Eastern Time zone.

Emergency Maintenance. "Emergency Maintenance" refers to efforts to correct Nitel Network conditions, requiring immediate attention. The performance of Emergency Maintenance may degrade the quality of Services and may result in total disruption of Service. Nitel may undertake Emergency Maintenance at any time that it deems necessary in its sole discretion. Nitel shall provide Customer notice of Emergency Maintenance as soon as is reasonably practicable under the circumstances.

MTTR

MTTR. Nitel's mean time to repair objectives is (i) 4 hours for fiber optic Services; (ii) 12 hours for copper-based Services.

BROADBAND DISCLAIMER

Broadband services are asymmetric upstream/downstream Internet services where the upstream and downstream speeds are estimates (i.e., "up to" the specified speed) and the service is provided on a "best efforts basis" and cannot be guaranteed. When a Nitel Service contains a Broadband component, the SLA set forth above does not apply.