



**Nitel
Domestic Private Line SLA**

1.0 OUTAGES

1.1 Except for DS-0 Service, the Service Level Agreement contained in this Section 1 applies as of a Service's Start of Service Date. Nitel does not provide a Service Level Agreement on DS-0 Service.

1.2 Customer acknowledges the possibility of an interruption that results in the total disruption of Service which, subject to the restrictions and exclusion in Section 1.9 below, constitutes an "Outage". An Outage is measured from the time that Customer reports it to Nitel until the earlier of a) the Service restoration as determined by the underlying network provider, or b) Nitel notifies Customer that use of the Service has been restored. If a Service experiences an Outage ("Affected Service"), Customer may be entitled to an "Outage Credit" based upon the amount of Outage time experienced by the Affected Service during the calendar month at issue. The Outage Credit amount is calculated by determining the percentage of time (calculated in minutes) that the Affected Service did not experience an Outage ("Service Availability Percentage") using the formula below and identifying the associated Outage Credit percentage in Table 1.2A below (for Services in the continental US) or Table 1.2B below (for Services in Hawaii). The amount of the Outage Credit shall be the Outage Credit percentage in Table 1.2A or Table 1.2B, as applicable, multiplied by Customer's MRCs for the Affected Service (after application of any credits or discounts ("Eligible Service MRCs")).

**TABLE 1.2A
SLAs AND OUTAGE CREDIT PERCENTAGES - CONTINENTAL UNITED STATES SERVICE**

ETHERNET, T1, FT3, T3, OC-3, OC-12, OC-48 and OC-192 IOCs - US Domestic Service Availability Table	
Length of Interruption	Credit per Interruption
Less than 1 minute	None
At least 1 minute, but less than 1 day	5.0%
At least 1 day, but less than 2 days	8.0%
At least 2 days, but less than 3 days	10.0%
At least 3 days, but less than 4 days	14.0%
At least 4 days, but less than 5 days	18.0%
At least 5 days, but less than 6 days	20.0%
At least 6 days, but less than 7 days	24.0%
At least 7 days, but less than 8 days	28.0%
At least 8 days, but less than 9 days	32.0%
At least 9 days, but less than 10 days	36.0%
At least 10 days, but less than 11 days	40.0%
At least 11 days, but less than 12 days	44.0%
At least 12 days, but less than 13 days	48.0%
At least 13 days	50.0%

**TABLE 1.2B
SLAs AND OUTAGE CREDIT PERCENTAGES – HAWAIIAN SERVICE**

ETHERNET, T1, FT3, T3, OC-3, OC-12, OC-48 and OC-192 IOCs - US Domestic Service Availability Table	
Length of Interruption	Credit per Interruption
Less than 1 minute	None
At least 1 minute, but less than 1 day	2.5%
At least 1 day, but less than 2 days	5.0%
At least 2 days, but less than 3 days	7.5%
At least 3 days, but less than 4 days	10.0%
At least 4 days, but less than 5 days	11.5%
At least 5 days, but less than 6 days	13.0%



At least 6 days, but less than 7 days	14.5%
At least 7 days, but less than 8 days	16.0%
At least 8 days, but less than 9 days	17.5%
At least 9 days, but less than 10 days	19.0%
At least 10 days, but less than 11 days	20.5%
At least 11 days, but less than 12 days	22.0%
At least 12 days, but less than 13 days	23.5%
At least 13 days	25.0%

For purposes of measuring the Service Availability Percentage, the Nitel Trouble Management System determines the number of minutes of an Outage. The length of each Outage shall be calculated in full minutes. An Outage shall be deemed to have commenced upon verifiable notification thereof by Customer to Nitel in accordance with the Trouble Ticket Procedure described below. Each Outage ends upon restoration of the Affected Service as evidenced by appropriate network tests by Nitel.

1.3 To receive an Outage Credit under this SLA, Customer must: (i) enter a trouble ticket at the time of the Outage by contacting the Nitel' NOC 866-892-0915 (or any other number provided by Nitel to Customer) (ii) be current in its payment obligations under the Agreement, and (iii) request reimbursement for Outage credits hereunder and submit all necessary supporting documentation within fifteen (15) calendar days of the conclusion of the calendar month in which the requisite Outage occurred. If Customer fails to comply with the conditions set forth in this Section 1, Customer shall have waived its right to such Outage Credits for Outages in such month.

1.4 To be eligible for outage credit, Customer's written request for Outage Credits shall be submitted, within fifteen (15) calendar days from the date the outage occurs or date where goals for latency, packet delivery, or jitter are not met, to Nitel at: Nitel Billing Department, disputes@nitelusa.com, and must be accompanied by a Nitel trouble ticket issued by the Nitel Network Operations Center (NOC). The written request notice shall include: (i) Customer's name; (ii) the circuit identification number for the Affected Service; (iii) the trouble ticket number issued by Nitel NOC; and (iv) the duration of the Outage. Outage Credits for any calendar month must exceed twenty-five dollars (\$25.00) per Affected Service to be processed. In no case shall Nitel provide credit to Customer for an Affected Service that exceeds the monthly recurring charge.

1.5 All approved Outage Credits shall be credited on the monthly invoice for the affected Service following Nitel's approval of the Outage Credit. The total of all Outage Credits applicable to, or accruing in, any given month shall not exceed the amount payable by Customer to Nitel for that same month for such Service.

1.6 Subject to Sections 1.7 and 1.8 below, Outage Credits described in this Section 1 shall be the sole and exclusive remedy of Customer in the event of any Outage or other disruption of Service. Under no circumstance shall any Outage or other disruption of Service be deemed a default giving rise to Cause under this SLA. No other service or performance guarantees or credits shall apply to the Services.

1.7 If Customer experiences any Chronic Outage (as hereinafter defined) with respect to the Service, Customer shall be entitled to terminate the Affected Service without further obligation by providing Nitel with written notice following such Chronic Outage. For purposes of this Section 1.7, a "Chronic Outage" means, with respect to a circuit, the occurrence during any calendar month of: (i) more than four (4) related Outages; or (ii) more than twenty-four (24) aggregate hours of Outages. For the avoidance of doubt, a bouncing circuit constitutes a single Outage (as defined in Section 1.2 above), regardless of whether Nitel opens multiple trouble tickets during the pendency of an Outage resulting from a bouncing circuit.

1.8 Customer may, as its sole and exclusive remedy for Chronic Outages, upon fifteen (15) calendar days prior written notice to Nitel, terminate the Affected Service without incurring any Termination Liability Charges with respect to such affected circuit; however, Customer agrees to pay all usage charges for such Affected Service accrued to the date of termination (the "Early Termination Right"). Customer must exercise its Early Termination Right with respect to the Affected Service within fifteen (15) calendar days after Customer first experiences a Chronic Outage. In the event Customer fails to exercise its Early Termination Right within this fifteen (15) calendar day period, Customer shall be deemed to have waived its Early Termination Right with respect to the Affected Service.

1.9 An Outage shall not be deemed to have occurred in the event that the Service is unavailable or impaired due to any of the following:

- (i) Interruptions on a Service for which the Start of Service Date has not yet commenced;
- (ii) Interruptions caused by the negligence, error or omission of Customer or others authorized by Customer to access, use or modify the Service or equipment used by Customer;
- (iii) Interruptions due to power failure at Customer premises, or the failure or poor performance of CPE;
- (iv) Interruptions during any period in which Nitel or its subcontractors are not afforded access to the premises where the access lines associated with the Service are terminated, provided such access is reasonably necessary to prevent a degradation or to restore Service;
- (v) Interruptions during any period that Nitel has communicated to Customer in any other manner that the Service will be unavailable for Normal Maintenance or grooming purposes, or Customer has released the Service to Nitel for the installation of a customer Service order;
- (vi) Interruptions during any period that Customer elects not to release the Service for testing and/or repair and continues to use it on an impaired basis;



- (vii) Interruptions resulting from Force Majeure;
- (viii) Interruptions resulting from Customer's use of Service in an unauthorized or unlawful manner;
- (ix) Interruptions for which no trouble was found by Nitell;
- (x) Interruptions resulting from a Nitell disconnect for Cause;



- (xi) Interruptions resulting from incorrect, incomplete or inaccurate Service orders from Customer (including without limitation Customer's over subscription of circuits);
- (xii) Interruptions due to improper or inaccurate network specifications provided by Customer;
- (xiii) Interruptions resulting from a failure of a carrier other than Nitell providing Local Access Services, including CPA;
- (xiv) Special configurations of the standard Service that has been mutually agreed to by Nitell and Customer; provided, however, Nitell may provide a separate service level agreement to Customer for those special configurations;
- (xv) Nitell's inability to deliver Service by the Customer Commit Due Date.

2.0 SERVICE MAINTENANCE

2.1 Nitell or its vendors will endeavor to perform all non-emergency Normal Maintenance (defined below) during pre-established maintenance hours (windows). "Normal Maintenance" refers to: (i) upgrades of hardware or software; (ii) upgrades to increase capacity; or (iii) other pre-scheduled network activity that may degrade the quality of the Services or cause Service interruptions. Nitell and its vendors will use reasonable efforts to perform all Normal Maintenance seven (7) days a week between the hours of 11:00 PM and 5:00 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 Eastern Time. Nitell may change the designated maintenance windows upon notice (via email or any other notice).

2.2 "Urgent Maintenance" shall refer to efforts to correct Nitell or its vendors' Domestic Network conditions which require immediate correction. Urgent Maintenance, while being conducted, may degrade the quality of Services and may result in total disruption of Service. Nitell or its vendors may undertake Urgent Maintenance at any time that it deems necessary in its sole discretion. Nitell shall endeavor to provide Customer notice of Urgent Maintenance as soon as is reasonably practicable under the circumstances.

3.0 MEAN TIME TO REPAIR

3.1 Nitell's mean time to repair objectives are (i) 4 hours for SONET and native Ethernet equipment; (ii) 12 hours for fiber optic cable (per Bellcore Standard). Nitell and its vendors' cable cut rate objective is 4.39 cable cuts /year/1,000 sheath miles (per Bellcore Standard).