

Service Level Agreement

Convergent Network Services ("Convergent"), shall provide THE CUSTOMER with Service Credit if Convergent fails to meet its stated **Network Availability or Network Throughput Guarantee**, as defined in this Service Level Agreement ("SLA").

Section 1: Network Availability Guarantee

Convergent guarantees ninety-nine and nine tenth percent (99.9%) network uptime. Should THE CUSTOMER experience Network Unavailability in excess of one (1) hour during a calendar month it may receive Service Credit as follows:

- *Network Unavailability greater than one (1) hour, but less than four (4) hours, in a calendar month: one (1)-day Service Credit.*
- *Network Unavailability equal to or greater than four (4) hours, but less than eight (8) hours, in a calendar month: three (3)-days Service Credit.*
- *Network Unavailability equal to or greater than eight (8) hours in a calendar month, for each 2 hours period in excess: one (1)-day Service Credit.*

See **Section 4** hereof for the Service Claim Process.

Section 2: Network Throughput Guarantee

Convergent guarantees ninety-nine and nine tenth percent (99.9%) average availability of the guaranteed bandwidth service level. Should THE CUSTOMER experience Reduced Network Throughput in excess of one (1) hour during a calendar month it may receive Service Credit as follows:

- *Network Unavailability greater than one (1) hour, but less than four (4) hours, in a calendar month: one (1)-day Service Credit.*
- *Network Unavailability equal to or greater than four (4) hours, but less than eight (8) hours, in a calendar month: three (3)-days Service Credit.*
- *Network Unavailability equal to or greater than eight (8) hours in a calendar month, for each 2 hours period in excess: additional one (1)-day Service Credit.*

See **Section 4** hereof for the Service Claim Process.

Section 3: Definitions

"Average Monthly Recurring Charges" shall mean the average of the monthly fees for Internet access services charged by Convergent Network Services, which includes only the base monthly fee for metered bandwidth services, or in the case of equipment rental, only the base monthly fee for the rented equipment rendered inaccessible. Specifically excluded are consulting and/or managed services fees, and as reasonable, any fees for services not rendered inoperable during the affected period of Network Unavailability.

"THE CUSTOMER" shall mean the customer as defined in the attached Service Agreement.

"Convergent Network" shall mean the telecommunications network and network components owned and operated by Convergent, including points of presence ("POP"). The Convergent Network does not include Customer Premises Equipment, telephone circuits between a POP and THE CUSTOMER's location or any networks or network equipment not owned or controlled by Convergent Network Services.

"Network Unavailability" shall mean a failure of the Convergent Network resulting in THE CUSTOMERS inability to connect to their equipment (whether owned by THE CUSTOMER or rented from Convergent Network Services) located in Convergent Network Services data center. Network Unavailability shall not include failure as a result of Convergent Network Services Network planned maintenance, other planned outages, packet loss of less than .5 percent during any 15 minute sampling period, problems with THE CUSTOMERS applications, equipment or facilities, acts or omissions of THE CUSTOMER, any use or user of the service authorized by THE CUSTOMER, Force Majeure, and any national or regional crisis.

"Reduced Network Throughput" shall mean 1) a failure of the Convergent Network to deliver to the Internet THE CUSTOMER's data to/from the Internet at the rate guaranteed in the Service Agreement. The rate measured in megabits per second (Mb/sec) and shall be calculated from the statistics captured at 5 minute intervals from the switch port assigned to THE CUSTOMER by Convergent, which acts as a choke point for the THE CUSTOMER's data to and from the Internet.; 2) a failure of the Convergent Network to deliver to the Internet THE CUSTOMER's data to/from the Internet with a packet loss of one percent or less. Packet loss shall be measured using standard ICMP echo/reply packets of 64 bytes in size, from the Convergent data center to the Internet border routers of the Convergent Network.

"Service Credit" shall mean:

- *One (1)-day Service Credit: one-thirtieth (1/30) of THE CUSTOMER's Base Monthly Recurring Charge for Internet Bandwidth.*
- *One (1)-week Service Credit: seven-thirtieths (7/30) of THE CUSTOMER's Base Monthly Recurring Charge for Internet Bandwidth.*
- *One (1)-month Service Credit: thirty-thirtieths (30/30) of THE CUSTOMER's Base Monthly Recurring Charge for Internet Bandwidth.*

"Rented Equipment" shall mean any equipment that is owned by Convergent and provided for THE CUSTOMER's benefit in return for a monthly service fee, regardless of whether the equipment is managed by THE CUSTOMER or Convergent, or any combination thereof.



Section 4: Service Claim Process

To initiate a claim for Service Credit with respect to the Network Availability or Network Throughput Guarantees, THE CUSTOMER shall submit a claim to Convergent within two (2) business days after the event that gives rise to the claim for Service Credit occurred. Convergent shall acknowledge receipt of all such claims via e-mail within forty-eight (48) business hours after such receipt and shall complete review all requests within five (5) business days after such receipt. Customer shall be notified via e-mail upon resolution of the request.

Section 5: Service Credit

Convergent shall issue Service Credit to THE CUSTOMER's account upon successful verification of the claim. Service Credit shall appear on the invoice issued in the month following the month within which the Service Credit claim was approved. Service credits are not applied retroactively or tendered in cash. The Service Credit provided for in this SLA assumes compliance by THE CUSTOMER with the terms and conditions of its Service Agreement with Convergent Network Services.

Version: 1.1

Date: December 2003

Client Acceptance

I agree to the terms and conditions set forth on this page, and acknowledge that the additional terms and conditions contained with the Master Service Agreement also apply to this Service Level Agreement.

Client Authorized Signature: _____

Print Name and Title: _____

Date: _____