



Excel Telecommunications IP Trunking Service Level Agreement

This Service Level Agreement (as in effect from time to time, this “SLA”) applies to the Excel Telecommunications IP trunking service. This SLA and the accompanying Service Promise (as in effect from time to time, the “Service Promise”) are separate from the IP Trunking Service Agreement (the “Agreement”) entered into between you (“Customer”) and Excel Telecommunications (“Excel”).

Excel Network Availability

SLA: Excel’s network availability service level for its IP trunking Service (measured End-to-End) has been established to be an average network availability of 99.99% during any calendar month (the “Network Availability Service Level”).

Scope: This Network Availability Service Level applies only to Excel IP trunking service provided within the contiguous United States. This Network Availability Service Level applies only to Excel’s dedicated access customers and excludes any access out of Excel’s control including best effort services like the Public Internet IP trunking service measured End-to-End.

Measurement: This service level compares the average network availability, End-to-End, during any calendar month for Excel IP trunking service using the network availability objective stated above. Subject to the exclusions set forth below in this SLA, scheduled Outages will be used in the calculation of network availability. In order for a service interruption to be considered as an unscheduled Outage for calculation of network availability, Customer must open a trouble ticket with Excel for the service interruption no later than two (2) business days from and after the day on which the interruption occurred and Excel must verify the interruption is an unscheduled Outage. Trouble tickets opened for slow data transmission or other similar service degradations are not deemed to be valid outages.

Remedy: Customer shall notify Excel if Customer has reason to believe that the average network availability for Customer’s Excel IP trunking service during any particular calendar month, End-to-End, in the contiguous United States is below Network Availability Service Level. If the average network availability falls below the Network Availability Service Level, and subject to the requirements and restrictions of this SLA, Customer shall be entitled to a credit against Excel’s MRCs for future Excel IP trunking service of one hundred percent (100%) of one day’s pro-rated charges for each affected service instance for each cumulative full hour of disruption exceeding two (2) hours. Credits applied for any calendar month are limited to and shall not exceed 14 days of the MRC attributable to the affected service(s) in that month.

Excel Domestic Average Monthly Latency

SLA: Excel’s domestic monthly average latency service level for its dedicated access IP trunking service during any calendar month is an average monthly transmission of 65 milliseconds or less roundtrip, between the Ingress and Egress points (the “Domestic Monthly Average Latency Service Level”).



Scope: The Domestic Monthly Average Latency Service Level applies only to Excel's dedicated access IP trunking service, between the Ingress and Egress points, within the contiguous United States. Latency is only calculated when there is no Outage in the Excel IP trunking service.

Measurement: This service objective compares the average network latency of Excel's IP trunking service, between the Ingress and Egress points, with the average network latency objective stated above. Subject to the requirements and restrictions of this SLA, validated occurrences of network latency will be used to determine average network latency. Each calendar month, latency is determined by taking sample measurements of round trip transmissions between the Ingress to Egress points and calculating the average round trip transmission at the end of the calendar month.

Remedy: Customer shall notify Excel if Customer has reason to believe that during any particular calendar month the domestic monthly average network latency for Excel's IP trunking service, Ingress to Egress, in the contiguous United States exceeds the Domestic Monthly Average Latency Service Level. If Excel does not meet the Domestic Monthly Average Latency Service Level in each of any two (2) consecutive calendar months, and subject to the requirements and restrictions of this SLA, Customer shall be entitled to a credit for the second month and any subsequent consecutive month during which the objective is not met. Such credit shall be applied against Excel's MRCs for IP trunking service in such months in an amount equal to one hundred percent (100%) of one day's pro-rated charges for each affected service instance. Credits applied for any calendar month are limited to and shall not exceed 14 days of the MRC attributable to the affected service(s) in that month.

Excel Restore Time

SLA: Excel's service level for restoration of service for its dedicated access IP trunking service during any calendar month is an average service restoration interval of 4.0 hours for each circuit measured on a per circuit, per outage occurrence during the calendar month (the "Service Restoration Service Level").

Scope: This Service Restoration Service Level applies only to Excel IP trunking service provided within the contiguous United States. This Service Restoration Service Level applies only to Excel's dedicated access customers.

Measurement: The service restoration interval will begin when Customer provides notice to Excel of the outage in accordance with outage notification procedures established by Excel and Excel opens a trouble ticket, and end when Excel has closed the trouble ticket. Non-applicable wait time includes (but is not necessarily limited to) waiting on customer responses, delays due to facilities access restrictions, or response delays caused by inaccurate contact information. Such delays, and any other delays not within the control of Excel, will be subtracted from the



calculation of the service restoration interval. The Service Restoration Service Level does not include outages found to be the result of problems with any Customer or third party premises; Customer or third party equipment; local area network, scheduled maintenance events, outages or disruptions caused by Customer; interconnections to or from and connectivity with other internet service provider (“ISP”) networks; and Force Majeure events. For purposes of this Service Restoration Service Level, scheduled maintenance events will not be included in the determination of whether the Service Restoration Service Level is met. Scheduled maintenance events include any maintenance for which (i) Customer is notified at least 48 hours in advance, or (ii) that is performed in a standard maintenance window Monday through Friday from 12:00 a.m. to 6:00 a.m. local time.

Remedy: If Excel does not meet the Service Restoration Service Level in any calendar month, and subject to the requirements and restrictions of this SLA, Customer shall be entitled to a credit for the subsequent calendar month during which the objective is not met. Such credit shall be applied against Excel’s MRCs for IP trunking service in such month in an amount equal to 1/30th of the MRC, including additional lines, for each 1hour increment in excess of the Service Restoration Service Level. Partial hours will be rounded up to 10 minute increments. Credits applied for any calendar month are limited to and shall not exceed 14/30th of the MRC attributable to the affected service(s) in that month.

Chronic Circuit Outages: If you receive a credit under the Restore Time SLA three times in a 30-day period, Excel will have a 15-day repair period after the third incident to remedy the chronic problem. If there are any additional failures observed within a 15-day period, then you may terminate or disconnect the impacted circuit without incurring early termination fees. You must file a claim for early termination in writing within 14 calendar days after the failure in the 15-day observation period.

Limitations Applicable to All Service Levels

No failure to meet any of the service levels set forth above will be deemed to have occurred, and no credits shall be applied, if such failure arises from or is otherwise caused by:

- Service being modified or altered in any way at Customer’s request;
- Any planned maintenance or other planned Outage in accordance with the terms of the Agreement
- Any suspension of the service in accordance with the terms of the Agreement;
- Failure or fault of Customer, Customer-provided applications or equipment, or facilities or equipment provided by persons other than Excel;
- Outage or service degradation arising pursuant to an event outside the control of Excel including but not necessarily limited to, a Force Majeure event (as defined below);



Excel Telecommunications IP Trunking Service Level Agreement

- Failure of Customer to give Excel, upon request, full cooperation and access to personnel, equipment, facilities and customer premises for the purposes of investigating, rectifying any fault and/or required testing;
- Failure of Customer to operate the service in accordance with the Agreement;
- Any action, error or omission on the part of the of Customer or the Customer's employees, agents, contractors or third party vendors that causes an Outage or service degradation;
- Loss of power, local access, other connectivity or equipment failure at Customer's premises;
- Duration of an Outage or service degradation resulting from Customer's request to postpone service restoration;
- Outages or service degradations associated with new installations;

- Outages or service degradations not associated with Excel's network services; or
- Any quality of service issues including but not limited to latency due to the actions or inactions of an underlying IP access provider other than Excel's private IP access.

Excluding the remedies provided for under the Excel IP Trunking Service Promise, no failure to meet any of the service levels set forth in this SLA shall be deemed to have occurred (i) during the first month after installation for each particular service element or (ii) where, after investigation, no Outage, delay in service, degradation of service, service interruption or fault is found to have occurred respecting the Excel IP trunking service. Customer shall not be eligible for any service credits unless Customer is current in payment of all fees due and payable for Excel services and is in compliance with the terms and conditions of the Agreement. No credit shall be allowed hereunder towards any charges that Customer fails to pay or is excused from paying by operation of law or for any other reason.

Excel agrees to provide the level of service and performance standards specified in this SLA. EXCEL MAKES NO OTHER WARRANTY OR GUARANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES PROVIDED UNDER THE IP TRUNKING SERVICE.

NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, EXCEL'S SOLE LIABILITY AND CUSTOMER'S SOLE REMEDY FOR ANY CAUSES OF ACTION, CLAIMS, LIABILITIES, DAMAGES, OR DEMANDS ARISING OUT OF UNAVAILABILITY, INTERRUPTION, PACKET OR DATA LOSS, OR DELAY IN THE SERVICES PROVIDED BY EXCEL OR IN EXCEL'S SYSTEM SHALL BE THE CREDITS TO CUSTOMER AGAINST CHARGES FOR FUTURE SERVICES PROVIDED UNDER THE AGREEMENT, AS PROVIDED IN THIS SLA, AND THE TERMINATION RIGHTS PROVIDED IN THE SERVICE PROMISE.

Any credits applied by Excel hereunder shall be pro rated for any partial periods occurring during the term of the Agreement. Credits not applied in any relevant period due to caps, termination of service, or any other reason, cannot be applied in any other period.

A credit for one (1) day's MRC is calculated based on a 30-day month for the month in which the Outage or latency occurred for the applicable service or component thereof that is the subject



Excel Telecommunications IP Trunking Service Level Agreement

of the credit claim. Excel shall credit Customer's account upon verification of an accurate and complete Credit Claim Form. Credit shall appear on an invoice issued within two (2) months following the month in which Excel approves the Credit Claim Form. Calculations of credits shall be based upon Excel's service level records maintained in Excel's Major Accounts Center. Credits resulting from Excel's Network Availability Service Level, Domestic Average Monthly Latency Service Level, and Restore Time Service Level are not cumulative. The aggregate credits payable for any calendar month under this SLA are limited to the lesser of (a) 14 days of the MRC attributable to the affected service(s) in that month and (b) \$5,000.00. In addition, Excel's aggregate liability to Customer for credits for all service levels under this SLA in any 12-month period shall not exceed \$30,000.00. The foregoing limitations upon the amount of service credits payable by Excel are notwithstanding any other terms and conditions contained in the Agreement.

The credit provided for in this SLA assumes compliance by Customer with the terms and conditions of the Agreement. The failure of Customer to comply therewith will invalidate Excel's service levels in this SLA. No credit will be made unless Customer has provided reasonable assistance in diagnosing the problem, including, without limitation, opening a trouble ticket with Excel, providing access to premises and assisting with problem identification and resolution by telephone, fax or Internet, as appropriate.

Notwithstanding any other provision of this Agreement, any credits payable for failure to meet the service levels contained in this SLA are in lieu of and supersede any credits payable under the Legal Terms and Conditions of Service.

Credit Claim Procedures

I. Trouble Reporting

All credit claims must have a corresponding trouble ticket. To be eligible for credits under this SLA, Customer must report any Outage or latency corresponding to the service levels offered in this SLA by opening a trouble ticket within two (2) business days of its occurrence. On receipt of a report or query from Customer, Excel's Major Accounts Center will log the call and pursue resolution of Customer's inquiry. In the trouble report to Excel's Major Accounts Center, Customer shall supply all diagnostic information then available, including but not necessarily limited to:

- Customer's name;
- Premises (physical location) affected;
- Equipment in use;
- Telephone number where the service is affected;
- Date/time of the fault first occurring;
- Nature of the fault;
- Event/activities leading up the fault and
- Diagnostic messaging for any equipment.



II. Service Credit Request

To make a claim for credit under this SLA, Customer must complete and submit a Credit Claim Form to the Excel Major Accounts Center within fifteen (15) business days after the last day of the month from which the Customer could reasonably be expected to become aware of such claim. Excel shall notify Customer via telephone or email upon resolution of the request.

Policy Change

This SLA represents Excel's current policy with respect to service levels. Notwithstanding any other provision of the Agreement, including, without limitation, provisions in the Legal Terms and Conditions governing amendment of the Agreement, Excel in its sole discretion may change, amend or revise this SLA at any time and without prior notice to Customer.

Definitions

The following terms shall have the following meanings in this SLA:

“End-to-End” in reference to Excel's Dedicated IP trunking service includes network features and components owned or controlled by Excel and utilized in providing Excel's IP trunking service and local access facilities that are ordered and managed by Excel (such as local loops, ports and PVCs). End-to-End expressly excludes any networks, network equipment and telephone circuits not provided (i.e., ordered and managed, or owned or controlled) by Excel and customer premises equipment, whether or not provided by Excel.

“Force Majeure” event is defined as an event, occurrence or condition beyond Excel's reasonable control that prevents Excel from providing a promised service or deliverable in the Agreement, including without limitation, events such as lightning, flood, exceptionally severe weather, or other Acts of God, fire or explosion, civil disorder, terrorism, war or military operations, national or local emergency, anything done by any government or other competent authority, or labor difficulties of any kind (including those involving Excel employees), or unavailability of network facilities (including those of third parties).

“Ingress to Egress” in reference to Excel's IP trunking service is defined as that portion of the transmission route which commences where the data enters into Excel's Backbone Network through a Point of Presence (“POP”) and which terminates where the data exits the ISP Backbone through a POP.

“Excel's Backbone Network” is defined as the IPMPS backbone network utilized by Excel in providing the IP trunking service.



Excel Telecommunications IP Trunking Service Level Agreement

“**MRCs**” are defined as Excel’s Monthly Recurring Charges for IP trunking service after the deduction of any applicable discounts, for the affected network components.

“**Outage**” means a period in excess of fifteen (15) minutes during which Customer cannot exchange traffic with the Internet (i.e., unavailability of the Customer connection) and is documented in Excel’s trouble ticket log.