



Service Level Agreement Internet Access

This is the Service Level Agreement states the terms and conditions specific to Empire Access’s Internet Service connection (the “Service”) and is incorporated by reference into each Service Contract for the Service.

SERVICE DESCRIPTION

The Internet Service provides an Internet connection at designated speeds into the Empire Access IP Network. Empire Access uses Partners (Tier 1 Providers) to terminate Internet traffic. The selected type of Service, pricing and length of Initial Term are set forth on the Service Contract for the Service.

Service Level Agreements

Network Service Availability

Empire Access is committed to providing 99.99% Service Availability, defined as a network connection that is connected and exchanging IP packets with the Empire Access network and the internet.

Service non-Availability must be reported by the customer by opening a trouble ticket and the start of the Service non-Availability starts when the trouble ticket is opened. Should Empire Access not provide 99.99% Service Availability for a given month, the customer is entitled to a credit against monthly recurring charges (MRC) as stated in the Service Contract based upon the following:

<u>Length of Service non-Availability</u>	<u>Credit</u>
120 minutes to 240 minutes	10% of MRC
240 minutes to 480 minutes	20% of MRC
480 minutes to 960 minutes	30% of MRC
960 minutes to 1,920 minutes	40% of MRC
Over 1,920 minutes	50% of MRC

Latency

The standard for latency on the Empire Access Network is less than 60 ms in North America and less than 160 ms elsewhere throughout the world. Latency is measured between access and egress ports on the Empire Access IP Network and our Partner's Network egress point. Latency is measured using only Empire Access's network management system, which is the conclusive measurement for this performance standard.

If the actual average monthly roundtrip latency of the Service exceeds the parameters above, Empire Access shall credit Customer ten percent (10%) of the applicable MRC for Fixed Bandwidth or Committed Bandwidth for the applicable month for all affected Customer ports.

Packet Delivery

Empire Access guarantees average (in a calendar month) packet delivery of greater than or equal to 99.9% for Empire Access's and our Partner's Network. "Packet Delivery" is defined as the successful delivery of packets between Empire Access IP Network and Partner's network.

If the actual monthly average packet delivery on the Empire Access IP Network fails to meet the applicable parameter above, Empire Access will credit Customer 10% of the applicable MRC for Fixed Bandwidth or Committed Bandwidth for the applicable month for all affected Customer ports. If, at any time, the Service experiences packet delivery below 95% in North America or 92% globally, for a sustained period of four hours or more, the period for which such reduced packet delivery is experienced shall be considered a period of Service non-Availability entitling Customer to the applicable credit provided for in the Section below titled "Network Service Availability."

Chronic Outages

If an individual circuit experiences either: (i) a single period of Service Non-Availability in excess of twenty-four hours in any calendar month, (ii) three or more periods of Service Non-Availability of four hours or longer over the course of a rolling six month period, or (iii) five separate periods of Service Non-Availability (of any duration) within a calendar month, Customer may terminate the services without penalty provided that written notice of termination is provided to Empire Access within ninety days of the event giving rise to the termination right under this Section (that is, Internet access routers) on the Empire Access IP Network.

EXCLUSIONS

SLA credits:

- are calculated after deducting all discounts and special pricing arrangements
- do not apply to governmental fees, taxes, surcharges and similar additional charges
- exclude Force Majeure events
- exclude any act or omission of Customer or Customer's agents, contractors or vendors. By way of example,
 - failing to provide Empire Access adequate access to facilities for testing,
 - failing to provide access to Customer premises as reasonably required by Empire Access (or its agents) to enable Empire Access to comply with its obligations regarding the Service,
 - failing to take any remedial action in relation to a Service as recommended by Empire Access, or otherwise preventing Empire Access from doing so, or
 - any act or omission which causes Empire Access to be unable to meet any of the SLAs.
- exclude instances where customer requests that Empire Access leave a trouble ticket open

If an incident affects the performance of a Service resulting in multiple SLA violations, only the single highest credit applying in respect of that incident will be applied.

SLA credits are applied only upon Customer written request, which must be submitted within thirty (30) calendar days of the end of the month in which entitlement of an SLA credit arose.

In no event will SLA credits in any calendar month exceed 100% of the total MRC payable by Customer for the Service in that month.