



SERVICE LEVEL ATTACHMENT

1. Service Level Attachment

- a. The following Service Level Terms and Conditions are incorporated into the signed Service Agreement between you ("You" or "Customer") and Hypercore Networks, Inc. ("HCN") that refers to this Service Level Attachment. This Service Level Attachment constitutes the service level commitment of HCN to you as a broadband customer and/or VOIP customer.
- b. Please review this Service Level Attachment. By signing the one page contract referencing these terms, you agree to be bound by the Service Level Terms and Conditions set forth in this document.
- c. If HCN makes a change to this Service Level Attachment that has a material impact on the Service, you will be provided notice of that change. Your continued use of the Service following such notice constitutes your acceptance of those changes.

2. Definitions

The following terms and definitions shall be used in this Service Level Attachment ("SLA"):

Access Facility ("AF") - The physical connection between a Customer node and the HCN Network

Measurement Period - The measurement period begins on the first day of each month and ends on the last day of such month. For service initiation, the measurement period begins on the first day of the next full month after service is initiated. For service termination, the final measurement period is considered the last full month prior to service termination.

Service Connection - A generic term for your contracted broadband service.

VOIP - A generic term for your Voice over IP Service

VOIP Outage - A "VOIP Outage" is defined as when Customer cannot make or receive any calls because of application or network issues related to network elements directly under HCN's control.

3. Service Connection Features

HCN Service Connections consist of three components, a physical link, an IP connection between the customer and the internet, and the appropriate CPE. The physical link will generally be an Ethernet, DSL or a DS-1 connection (access) from the Customer's business location to the Internet.

4. Network Availability

4.1. Service Level Commitment

For the Service Connections provided to Customer under the Agreement with HCN, HCN is committed to maintain an end to end Network Availability (as defined below) of ninety-nine and nine-tenths percent (99.9 %) for SDSL T1, Ethernet handoff and Wireless services. This is across the entire HCN network and not specific to any single customer line.

4.2. Measurement and Calculation

"Network Availability" is the ratio the time the core network is capable of accepting and delivering information to

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the total time in the Measurement Period. Network Availability is expressed as a percentage.

The calculation for Network Availability is:

$$1 - \frac{\text{Total Minutes of Downtime in Measurement Period}}{\text{Total Minutes in Measurement Period}} \times 100\%$$

4.3. Components Included

- This is a network-wide measurement

4.4. Components Excluded

The following shall be excluded from any network outage time when calculating the Network Availability:

- Network downtime during scheduled maintenance windows of HCN or its vendors
- The failure of any components due to negligence or intentional misconduct of the Customer
- All Customer Premise Equipment (“CPE”), whether or not provided by HCN
- Network downtime during which HCN cannot access required facilities due to inaccessibility beyond HCN’s reasonable control
- Network Downtime due to Acts of God or nature
- Failures due to the local loop
- Network Downtime due to scheduled maintenance, caused by the act or failure to act of Customer or any party other than HCN or caused by any action or event beyond HCN’s reasonable control
- Network Downtime due to failure of any network or system provided by customer or any third party.
- All ADSL and IDSL services

4.5. Network Availability Remedies

Upon notification by the Customer and verification by HCN that the actual Network Availability is below the committed Network Availability for the Measurement Period, HCN shall apply a credit equal to fifteen percent (15%) of the monthly service charge under the Agreement for each line validated outages in the applicable Measurement Period. Such credit shall be Customer’s sole and exclusive remedy for HCN’s failure to meet the committed Network Availability. Customer must request credit within sixty (60) days of the validated outage. HCN reserves the right to determine if an outage is considered a validated outage. Customer payables must be current prior to receiving any credits. Requests for credits may take up to thirty (30) days to research and review; customer is responsible for paying current invoices and will receive a credit after the thirty (30) day review period.

5. Throughput

5.1. Service Level Commitment

Latency to the Internet Gateway from the Customer CPE will not exceed 60ms.

5.2. Measurement and Calculation

Throughput is the ability of the network to transmit traffic without loss or error at the contracted connection speed, measured over the Measurement Period. Latency to the gateway will not exceed 60ms.

5.3. Excluded Items

The following shall be excluded from any determination of Throughput:

- The failure of the CPE or any components on the Customer side of the CPE, whether or not such CPE was

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- provided by HCN
- Service degradation during HCN's scheduled maintenance windows
- The failure of any components due to negligence or intentional misconduct of the Customer
- Service degradation during which HCN cannot access required facilities due to inaccessibility beyond HCN's reasonable control
- Service degradation due to Acts of God or nature
- Any lines added, removed, or re-configured during the month
- Service degradation due to the local loop
- Network Downtime or Service Degradation due to failure of any network or system provided by customer or any third party.
- Network Downtime caused by the act or failure to act of Customer or any party other than HCN or caused by any action or event beyond HCN's reasonable control
- All ADSL and IDSL services

5.4. Throughput Remedies

Upon notification by the Customer and verification by HCN that the actual Throughput is below the Committed Throughput for the Measurement Period, HCN shall apply a credit equal to fifteen percent (15%) of the monthly service connection charge for each line that fails to meet the Committed Throughput in the applicable Measurement Period. Such credit shall be Customer's sole and exclusive remedy for HCN's failure to meet the committed Throughput. Customer must request credit within sixty (60) days of the validated outage. HCN reserves the right to determine if an outage is considered a validated outage. Customer payables must be current prior to receiving any credits. Requests for credits may take up to thirty (30) days to research and review; customer is responsible for paying current invoices and will receive a credit after the thirty (30) day-review period.

6. Mean Time To Respond

6.1. Service Level Commitment

HCN is committed to maintain a maximum response time of (one) 1 hour. HCN will accept trouble calls from Customer 24-hours a day, 7 days a week. Within one (1) hour of opening a trouble ticket, a HCN representative will attempt to contact the Customer through the trouble ticket system and inform the Customer of the Estimated Time to Repair ("ETTR"). If a significant change in the ETTR occurs, HCN will attempt to provide an update to the ETTR to the Customer.

6.2. Measurement and Calculation

Elapsed time is measured from the time a particular trouble ticket is opened by HCN to the time HCN attempts to contact the Customer with a status update of the trouble reported. The "Mean Time to Respond" calculation is as follows:

$$\frac{\text{SUM of (Time Representative Attempts to Contact Customer - Time Trouble Reported)}}{\text{Trouble Tickets Opened During the Measurement Period}} \text{ (Number of)}$$

6.3. Excluded Items

The following shall be excluded from any determination of Mean Time To Respond:

- When response is not met due to Acts of God or nature, scheduled maintenance, the act or failure to act of Customer or any party other than HCN or any action or event beyond HCN 's reasonable control
- When response is not met due to of any network or system provided by customer or any third party.
- All ADSL and IDSL service

6.4. Mean Time to Respond Remedies

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Upon notification by the Customer and verification by HCN that the committed Mean Time to Respond is not met for the Measurement Period, HCN shall apply a credit equal to fifteen percent (15%) of the monthly service connection charge for each line included in the trouble ticket for which HCN did not meet the committed Mean Time to Respond. Such credit shall be Customer's sole and exclusive remedy for HCN; failure to meet the committed Mean Time to Respond. Customer must request credit within sixty (60) days of the validated outage. HCN reserves the right to determine if an outage is considered a validated outage. Customer payables must be current prior to receiving any credits. Requests for credits may take up to 30 days to research and review; customer is responsible for paying current invoices and will receive a credit after the 30 day review period.

7. Mean Time To Repair

7.1. Service Level Commitment

For SDSL and coaxial cable circuits, HCN is committed to maintain a maximum of 24-hour repair time for service problems that do not require on-site dispatches and a maximum of 48-hour repair time for service problems that require on-site dispatches. For fiber Ethernet, DS-1, DS-3 and VOIP service, HCN is committed to maintain a maximum of a 4 hour repair time.

7.2. Measurement and Calculation

Elapsed time is measured from the time the trouble ticket is opened by HCN to the time service is restored to normal operating performance. The calculation for "Mean Time to Repair" is as follows:

$$\text{Mean Time to Repair (Without On-Site Dispatches)} = \frac{[\text{Total Outage Time (hours) for all Trouble Tickets (no dispatch)}]}{[\text{Total Number of Trouble Tickets (no dispatch)}]}$$

$$\text{Mean Time to Repair (With On-Site Dispatches)} = \frac{[\text{Total Outage Time (Hours) for all Trouble Tickets (On-site Dispatches)}]}{[\text{Total Number of Trouble Tickets (On-site Dispatches)}]}$$

7.3. Excluded Items

The following shall be excluded from any determination of Mean Time To Repair:

- Trouble tickets due to the failure of the CPE or any components on the Customer side of the CPE, whether or not such CPE was provided by HCN
- Trouble tickets due to HCN ' scheduled maintenance windows
- Trouble tickets due to the failure of any components due to negligence or intentional misconduct of the Customer
- Trouble tickets for which HCN cannot access required facilities due to inaccessibility beyond HCN 's reasonable control
- Trouble tickets due to Acts of God or nature
- Trouble tickets related to any lines added, removed, or re-configured during the month
- Trouble tickets associated with lines used as backup or alternate routes
- When response is not met due to of any network or system provided by customer or any third party.
- "No Trouble Found" trouble tickets
- Failures due to the local loop
- Trouble Tickets caused by the act or failure to act of Customer or any party other than HCN or caused by any action or event beyond HCN 's reasonable control
- All ADSL and IDSL services



7.4. Mean Time to Repair Remedies

Upon notification by the Customer and verification by HCN that the actual Mean Time to Repair level is below the committed level, HCN shall apply a credit equal to fifteen percent (15%) of the monthly service connection charge for each line included in the trouble tickets for which HCN did not meet the committed Mean Time to Respond. Such credit shall be Customer's sole and exclusive remedy for HCN's failure to meet the committed Mean Time to Repair. Customer must request credit within sixty (60) days of the validated outage. HCN reserves the right to determine if an outage is considered a validated outage. Customer payables must be current prior to receiving any credits. Requests for credits may take up to thirty (30) days to research and review; customer is responsible for paying current invoices and will receive a credit after the thirty (30) day-review period.

8. Remedies – General

8.1. Maximum Allowable Remedy

At no time will multiple remedies be provided to the Customer for the same, similar or related troubles on the same line. HCN shall have no liability for any failure of any HCN network, service or equipment to meet the foregoing guidelines due to scheduled maintenance, caused by the act or failure to act of Customer or any party other than HCN or caused by any action or event beyond HCN's reasonable control. Customer's sole and exclusive remedy for HCN's failure to meet the committed Network Availability or other failure to meet the foregoing guidelines shall be the credit outlined in the applicable section. The maximum allowable remedy in a given Measurement Period will be fifteen percent (15%) for each line affected. Customer must request credit within sixty (60) days of the validated outage or applicable event. HCN reserves the right to determine if an outage or other covered event is considered a validated pursuant to this Service Level Attachment.

THE CUSTOMER UNDERSTANDS THAT THE SERVICES, NETWORKS AND EQUIPMENT REFERRED TO HEREIN WILL BE FURNISHED "AS IS" AND WITH ALL FAULTS. OTHER THAN ANY LIMITED WARRANTY THAT MAY BE GIVEN TO CUSTOMER UNDER THE AGREEMENT, HCN MAKES AND CUSTOMER RECEIVES NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY, IN THIS SLA OR IN ANY COMMUNICATION WITH CUSTOMER REGARDING SUCH SERVICES, NETWORK OR EQUIPMENT. HCN SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. HCN EXPRESSLY DISCLAIMS RESPONSIBILITY FOR ARISING OUT OF OR BASED UPON THE CONTENT OF INFORMATION TRANSMITTED BY CUSTOMER OR THE RESULTS OF ANY TRANSMISSION. HCN DOES NOT WARRANT THAT THE OPERATION OF THE SERVICES, NETWORKS OR EQUIPMENT COVERED BY THIS SLA WILL BE UNINTERRUPTED OR ERROR FREE.