



## Mpower Connect Service Level Agreement

This document outlines the minimum services that a Customer may expect from Mpower Connect Internet services. Mpower reserves the right, without notice, to change attributes and parameters defined. All other SLAs or warranties other than those described herein, whether expressed or implied, are hereby disclaimed.

### Network Availability Guarantee

Mpower guarantees that the Mpower Network will be available to the customer. "Network Unavailability" consists of the number of minutes that Mpower Connect service is unusable and unavailable to Customer due to the failure of Mpower-controlled equipment or personnel. Network Unavailability calculations will exclude any unavailability resulting from:

- (a) Mpower Network maintenance (Planned or Emergency);
- (b) An external ISP or Internet exchange point;
- (c) Customer's applications, equipment, or facilities not under Mpower control or not owned by Mpower;
- (d) Circuits or any network element failures provided by other common carriers or telecommunications service providers;
- (e) Acts or omissions of Customer, or any use or user of the service authorized by Customer;
- (f) Service outages not supported by an Mpower trouble ticket opened in timely manner by Customer;
- (g) Hold time associated with trouble tickets including but not limited to pending close whereby customer is not immediately available for verification and circuit monitoring;
- (h) Service Outages within the first 72 hours associated with new installations or service modifications; or
- (i) Reasons of Force Majeure (as defined in the applicable service agreement).

At the customer's request and using customer reported trouble tickets, Mpower will determine the Network Unavailability in minutes for customer's Mpower Connect services.

If the total Network Unavailability exceeds 4 hours but is less than or equal to 8 hours within a calendar month, the customer is eligible to receive a credit of one day of the Mpower Monthly Fee. If the total Network Unavailability exceeds 8 hours in calendar month, the customer is eligible to receive a credit of three days of the Mpower Monthly fee.

### Network Latency Guarantee

Mpower guarantees average monthly Core Network latency of **65 milliseconds** or less across the Mpower Network. "Round trip delay" is defined as the average time it takes IP packets to enter and exit the Mpower network between Mpower-designated transit routers (otherwise known as border routers). Network Latency is measured by averaging sample Round trip delay measurements taken during a calendar month between Border Routers. Mpower latency calculations are expressly limited to performance of networks and network infrastructure within Mpower's direct control and further, calculations for purposed of this Guarantee exclude unfavorable measurements attributable to (a) Mpower Network maintenance (planned and unplanned); (b) Customer's applications, equipment, or facilities; (c) acts or omissions of Customer, or any use or user of the service authorized by Customer; or (d) reasons of Force Majeure (as defined in the applicable service agreement).

If Mpower fails to meet Core Network Latency Guarantee in a calendar month, and customer has timely notified Mpower of excessive latency within the same calendar month, the Customer is eligible to receive a credit of one day of the MPOWER Monthly Fee for each incident of excessive latency, not to exceed one Monthly Fee per month.

Mpower Connect 2.0 2003

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### **Packet Loss Guarantee**

Mpower guarantees that the Core Network Packet Loss will not exceed a monthly average of **1%** across the Mpower Network (or successful delivery of greater than 99 percent of the packets) during any calendar month. "Packet Loss" is defined as the percentage of packets that are dropped between any two Mpower designated hub routers that are part of the Mpower Network. Core Network Packet Loss is measured by averaging sample measurements taken throughout the calendar month. For purposes of this guarantee, the customer is required to timely notify Mpower Customer Service of excessive Packet Loss and be issued a trouble ticket.

If Mpower determines that the Core Network Packet Loss exceeds a monthly average of 1% during a calendar month and customer has timely notified Mpower of excessive packet loss within the same calendar month, the Customer is eligible to receive a one day credit of the Mpower Monthly Fee for each incident of excessive packet loss, not to exceed one Monthly Fee per month.

### **Time to Restore Service Guarantee**

Mpower guarantees restoration of service within **4 hours** during periods of Mpower Network Unavailability. "Time to Restore Service ("TTR")" is defined as the duration of a Service Outage where the Mpower service is completely unusable. Time to Restore Service is calculated commencing with the date and time (as set forth on the trouble ticket) on which Mpower initially logs the Service Outage on a trouble ticket containing all information necessary for Mpower to respond to the trouble ticket and ending upon confirmation by Mpower to Customer that the service is restored. This calculation excludes:

- (a) Any period that Mpower waits for a response, availability, or action from Customer (also known as hold time),
- (b) Any period Mpower spends monitoring the affected Customer Circuit after Mpower has restored service to the affected Customer Circuit,
- (c) Trouble Tickets associated with new installations (before new service acceptance by the customer),
- (d) Trouble Tickets associated with CPE, whether or not owned by Mpower,
- (e) Trouble Tickets associated with any act or omission on the part of any third party, included but not limited to local access provider, and
- (f) Reasons of Force Majeure (as defined in the applicable service agreement)

If Mpower does not meet the Time to Restore Service Target for a Service Outage on a Customer Circuit per the above definition, Customer is eligible to receive a credit of three days of the Mpower Monthly Fee for the Customer Circuit, in addition to any other applicable credits for Network Availability, provided that in no case will the aggregate of all service credits for that Customer Circuit in a month exceed the total monthly recurring charge billed by Mpower for any Customer Circuit.

## **CLAIMS and CREDITS**

It is the Customer's responsibility to identify, request and document all bona fide SLA claims and corresponding credits. To be eligible for service credits, Customer must first report Network Availability, Packet Loss, Network Latency, or Time to Restore Guarantee events to Mpower Customer Care. Mpower will notify Customer of its resolution of the reported event. Customer must claim any applicable service credits by the 15th day of the month following the month in which the reported incident was resolved. Mpower will verify the Customer's claim within thirty (30) days of a complete and properly submitted credit request, and will apply any applicable credits, as determined at Mpower's sole discretion, to the Customer's invoice issued on the next billing anniversary date following Mpower's thirty (30) day review.

**NOTE: Total credits in a given month on a single Customer Circuit may not exceed the monthly recurring fees charged by Mpower for such Customer Circuit during such month. Further, any excess credits will not carry over into later invoices. Customers who are not current with their payments are not eligible for any service credits.**

Requests for SLA credits must be submitted to Mpower Customer Care. A separate credit request must be submitted for each Customer Circuit for which a claim is made. In addition, a separate credit request must be submitted for each type of credit (e.g. Network Availability Credit, Packet Loss Guarantee Credit, etc.) requested if multiple types of claims are made on a single Customer Circuit provided.

Mpower will reject any credit requests that do not provide sufficient supporting information to allow Mpower to verify the claim. Such information must include:

- (a) The contact name for the Service on which the incident occurred;
- (b) The Mpower account number for the Service on which the incident occurred;
- (c) The specific type of credit being requested;
- (d) The date(s) of the resolution of the trouble ticket(s) for credits for Network Availability, Network Latency Delay, Packet Loss, TTR Guarantee; and
- (e) Any other information that Mpower may reasonably request from Customer, to assist Mpower in verifying Customer's credit request.

Mpower reserves the right to modify the format for submission of, and information required for, SLA credit requests. Mpower may, at its reasonable discretion and without notice, limit or eliminate Customer's eligibility and ability to submit SLA credit requests if

- (a) Customer fails to pay the undisputed portion of its invoice within thirty (30) calendar days after the invoice date, or
- (b) In Mpower's sole determination, Mpower determines that Customer has:
  - a. Failed on one or more occasions to comply with the credit request policies and requirements described herein;
  - b. Submitted an excessive number of rejected SLA credit requests; or
  - c. Used, or attempted to use, the SLA credit process in a frivolous, abusive, or fraudulent manner.

Mpower will restore Customer's ability to submit SLA credit requests once Customer (i) has paid all amounts owed Mpower (in case of failure to pay outstanding invoices), or (ii) in all other cases, provides to Mpower assurances sufficient for Mpower to determine Customer has cured the conduct that initiated Customer's ineligibility to participate in the SLA.

## **DEFINITIONS**

"Customer" shall mean an Mpower customer who has executed a binding agreement for Mpower Internet services. These SLAs do not apply to any other services provided by Mpower.

"Mpower Network" means the infrastructure, facilities, and equipment owned, operated, or controlled by Mpower used to provide Mpower Internet Services. The Mpower Network excludes CPE, inside wiring at the Customer's premises, and any networks or network infrastructure, facilities, or other components not directly controlled by Mpower.