



## NETgain-T Service Level Agreement

DSL.net, Inc. (together with its subsidiaries, "DSL.net") is committed to high-quality performance and customer care. The following service level commitments combine to form DSL.net's Service Level Agreement ("SLA") for NETgain-T Service.

### Service Level Commitments:

#### **Time to Restore Service Commitment**

- **Our Commitment:** The time to restore service for a NETgain-T access circuit is four (4) hours. The "time to restore" begins on the date and time when Customer reported the service impairment to DSL.net, via DSL.net's authorized "trouble ticketing system," together with all information necessary for DSL.net to respond to the trouble ticket, and ends upon confirmation by DSL.net to Customer that service has been restored (in each case, based upon DSL.net's records). This period shall be extended to account for any period of time spent by DSL.net waiting for a response, availability, action, or access to the premises from Customer in furtherance of the repair effort, and any period of time during which a "force majeure" event (see below) affecting service or the repair process has occurred and is continuing. This Time to Restore Service Commitment does not apply to service affecting issues attributable to any Customer-owned CPE (as defined below) which is outside of warranty, or any CPE (leased or owned) or inside wiring which becomes non-operational due to misuse, abuse, tampering, or unauthorized repair or modification by parties other than DSL.net or its authorized contractors.
- **Your Remedy:** If DSL.net fails to meet the above Time to Restore Service Commitment, Customer may request a service credit equal to one (1) day's contracted, monthly recurring service charge for the NETgain-T access circuit. Customer is eligible for an additional day's service credit for each subsequent, consecutive 24-hour period (commencing upon expiration of the initial 4-hour cure period) that the T1 circuit remains unavailable.

#### **Installation Interval Commitment**

- **Our Commitment:** The guaranteed installation interval for a NETgain-T access circuit is thirty (30) business days from the time when DSL.net acknowledges receipt of a complete order, via "welcome call" or similar confirming correspondence to Customer, to the point in time when a working T1 circuit has been delivered by DSL.net to the minimum point of entry at the premises, together with any related basic wiring included as part of basic service installation, or, if delivery of service is prevented or delayed by Customer, the point in time when DSL.net notified Customer that DSL.net stood ready to deliver such service. This interval shall be extended to account for any period spent by DSL.net waiting for a response, availability, action or access to the premises from Customer in furtherance of the installation process, any change in due date by Customer, unavailability of ILEC facilities, Federal holidays, and any period of time during which a "force majeure" event affecting installation has occurred and is continuing.
- **Your Remedy:** If DSL.net fails to meet the above Installation Interval Commitment, Customer may elect either of the two following remedies:
  - Customer shall be eligible for a service credit equal to 50% of the contracted monthly recurring service charge for one (1) month's use of the T1 circuit. This credit shall only be earned in the event that Customer permits ultimate installation of the circuit and does not cancel service, for any reason, prior to installation.
  - Otherwise, in lieu of the service credit, if the above commitment has not been met, Customer may elect to cancel its NETgain-T service order upon written notice of cancellation received by DSL.net prior to installation, without liability to either party.

### Latency Commitment

- **Our Commitment:** DSL.net commits to provide an average monthly roundtrip delay of 80 milliseconds or less within DSL.net's network (measured based on the time for a 64-byte message to traverse from the ingress point to the egress point of DSL.net's network).
- **Your Remedy:** Any Customer who experiences average latency in excess of 80 milliseconds for any calendar month may request a two-day service credit. Any Customer who experiences average latency in excess of 80 milliseconds in each of two consecutive months may request a seven-day service credit.

### Network Availability Commitment

- **Our Commitment:** DSL.net's monthly target for end-to-end network availability is 99.9%. DSL.net defines "network availability" as the ability to transport data packets from the ingress point to the egress point of the DSL.net network (i.e., DSL.net's network, exclusive of end user circuit connections, which are covered elsewhere in this SLA). Network availability will be expressed as an average monthly percentage of total network up-time, determined by DSL.net's network engineering department and monitoring devices. DSL.net calculates network availability lapses commencing on the date and time of the reported network outage (as verified or identified by DSL.net), and ending upon DSL.net's resolution of the network outage.
- **Your Remedy:** Any Customer who experiences availability of the network connection of below 99.9% in any calendar month during which DSL.net failed to achieve the above Network Availability Commitment may request a one-day service credit for the initial breach and an additional one-day service credit for each additional whole hour of unavailability in such month below the above minimum commitment.

### Equipment Warranty

- **Our Commitment:** All Customer premises equipment (i.e., the installed bridge, modem or router ("CPE") in support of service) leased from DSL.net (and related inside wiring) will be warranted by DSL.net to be free from defects in materials and workmanship during the term of service. All CPE purchased from DSL.net (and related inside wiring) will be warranted by DSL.net to be free from defects in materials and workmanship for a period of 12 months from date of installation.
- **Your Remedy:** DSL.net will repair or replace all CPE (and/or related inside wiring) that is determined by DSL.net to be defective within the applicable warranty period with comparable CPE (which may be reconditioned) and/or inside wiring in accordance with DSL.net's return materials authorization procedures. This warranty shall be void if, in DSL.net's determination, malfunction is the result of such equipment having been misused, abused, repaired, modified or tampered with, or accidentally damaged, by a party other than DSL.net or its authorized contractors. The warranty period for replacement CPE and related inside wiring shall be the longer of 90 days or the balance of the original warranty period. If DSL.net determines that the service failure is attributable to defective CPE, then this warranty shall be limited to the shipment by DSL.net of replacement CPE to the Customer's premises and shall not include on-site re-installation which, if requested, shall be billable at DSL.net's then current rates. All returned equipment shall become property of DSL.net. In the unlikely event that DSL.net determines that it cannot repair or replace malfunctioning equipment within a commercially reasonable period of time, and, if service is no longer accessible because of such failure to repair or replace, then DSL.net may, in its discretion, provide Customer with immediate written notice of termination of the affected service, at DSL.net's election, without liability to either party and, in the case of purchased CPE, if that occurs during the warranty period, DSL.net shall refund to Customer the pro-rated one-time fees paid to DSL.net which were attributable to such purchased CPE (net of any previously issued discounts or credits).

**Service Credit Specifications:**

- In the event DSL.net fails to achieve any service level commitment, at your request, DSL.net will credit your account in accordance with the applicable remedy set forth above in connection with such service level commitment and subject to the following:
  - To be eligible for a service credit for service performance issues, or a warranted equipment repair, you must report the commitment failure to DSL.net within five (5) business days of its occurrence, and prior to expiration of the given equipment warranty period, if applicable (**via telephone at 800-455-5546 or via e-mail notification to [billinghelp@dsl.net](mailto:billinghelp@dsl.net)**), and you must have notified DSL.net of any service-affecting conditions at the time of such failure and have provided DSL.net with all other information reasonably requested in furtherance of troubleshooting the reported issue.
  - All requests for service credits for validly reported commitment failures must be delivered in writing to DSL.net at its corporate headquarters address, as posted on its Web site (currently, **545 Long Wharf Drive, 5<sup>th</sup> Floor, New Haven, CT 06511**), **attention: Customer Service Dept./Service Credits**, or via e-mail to **[billinghelp@dsl.net](mailto:billinghelp@dsl.net)**. Requests must identify the service level commitment at issue, include the “trouble ticket” number assigned to Customer’s report, and include such other information as DSL.net may have reasonably requested to assist it in verifying the request. DSL.net may reject any service credit request which does not provide sufficient supporting information to allow DSL.net to verify the claim. All requests for service credits will be subject to confirmation by DSL.net, and will be applied by DSL.net as soon as possible to a subsequent recurring invoice following approval. DSL.net shall promptly notify Customer of its resolution of the reported event (i.e., the close-out of the trouble ticket). Customer must claim any applicable service credits by the 15<sup>th</sup> calendar day of the month following the month in which the reported incident was resolved or closed (in the case of credits for the Time to Restore Service, Latency and Network Availability Commitments), or by the 15<sup>th</sup> calendar day of the month following the month containing the billing start date for the affected T1 circuit (in the case of credits for the Installation Interval Commitment), as the case may be. DSL.net will inform Customer of credit requests rejected for insufficient information, and Customer will be allowed to resubmit such requests with additional supporting information within fifteen (15) calendar days of DSL.net’s notification of its rejection of the credit request. After Customer resubmits the credit request with the additional supporting information, the standard verification and crediting timelines outlined herein shall apply.
  - Service credits are calculated based on the contracted monthly rate for the affected T1 circuit, prorated by the number of days of credit provided as the remedy for the applicable service level commitment, based on a 30-day month (e.g., a one-day service credit means the Customer will receive as a credit an amount equal to 1/30 of the applicable recurring monthly charge for the affected circuit). The maximum service credit to be granted for all failures within a given month shall not exceed the monthly recurring fees charged by DSL.net for the given service for the month in which the given service credit is claimed. Any excess credits will not carry over into later invoices. Remedies available hereunder shall only be payable in the form of a service credit to Customer’s account. DSL.net shall have no obligation to pay cash to Customer to fulfill any earned service credit, unless DSL.net’s records verify that all services have been terminated and authorized service credits remain outstanding which are in excess of any remaining amounts due and owing from Customer to DSL.net, and then, only to the extent of the excess amount.
  - If any event triggers a breach of two or more service level commitments, Customer shall only receive a service credit equal to the highest applicable service credit being requested in connection with the breached service level commitments.
  - Customer shall be ineligible for a service credit hereunder if Customer is not in financial good standing with DSL.net (i.e., current on all billings) at the time of the request.
  - For purposes hereof, a “business day” shall mean any weekday other than a Federal holiday or day on which banks in the State of Connecticut or the state where service is to be delivered are authorized to close.

- For purposes hereof, a “force majeure” event shall mean any natural disaster, act of God, power surge or failure, strike or labor dispute, war, civil disturbance, act of governmental authorities or the public enemy, act of terrorism, unavailability or failure of, or interruption or delay in, telecommunications or third party service, fuel or energy shortage, or any other cause beyond DSL.net’s control, whether or not similar to the foregoing.

The remedies set forth herein for each service level commitment shall be the exclusive remedy available to Customer for DSL.net’s failure to achieve such service level commitment. This SLA does not represent a warranty or guarantee by DSL.net that services will be uninterrupted or fit for any particular purpose or intended use of any kind, and DSL.net shall not be liable for any damages of any nature or amount as a result of any failure to achieve any service level commitment, other than the permitted service credits authorized and described hereunder.

**Exclusions:**

This SLA applies to NETgain-T Service and related equipment only. DSL.net will not be responsible for, and service credits will not be issued in connection with, any failure by DSL.net to meet a service level commitment by reason of any of the following:

- Any unauthorized acts or misuse of the service (including abuse or negligent treatment of equipment furnished in support of service) by Customer, or third parties (other than DSL.net and its authorized contractors or suppliers) accessing the service through Customer, affecting DSL.net’s ability to provide service.
- Scheduled maintenance or emergency maintenance on the DSL.net network (DSL.net scheduled maintenance time is Sunday from 12:01 AM – 5:00 AM ET).
- Failure on the part of Customer to timely report the incident and open a trouble ticket in accordance with this SLA.
- Failure on the part of Customer owned and managed equipment (subject to the equipment warranty set forth herein) or software applications residing on Customer’s internally managed network.
- Events of “force majeure.”

DSL.net may modify the service level commitments and your remedy for the failure by DSL.net to meet any service level commitment at any time. Such modifications shall be deemed effective immediately upon either posting of the modified SLA on the DSL.net Web site, currently located at [www.dsl.net](http://www.dsl.net), or notifying you. If you have any questions, please contact your Account Representative.