

## Duet Voice and Data Service Level Agreement (SLA)

MegaPath Corporation offers various voice, data, Internet, and enhanced services to businesses. MegaPath is committed to high-quality performance and customer care. The following service level commitments combine to form MegaPath's Service Level Agreement ("SLA") for Duet Voice and Data Service, a converged voice and data offering.

### Service Level Commitments:

#### Quality of Service Commitment

- If, during the first thirty (30) calendar days after installation, you notify MegaPath in writing (to the street address or e-mail address indicated below) that you are not satisfied with MegaPath's Duet Voice and Data Service and request in that notice that your service be discontinued, we will terminate your Service Order and relieve you from the remaining term of your service commitment.
- If you decide to cancel under this guaranty, you will not be responsible for any of the early termination fees that you would otherwise be responsible for under the terms of your service agreement and MegaPath will refund the one-time service activation fees and associated equipment purchase price you have paid to MegaPath, subject to satisfaction of the other applicable terms of this SLA, below. This refund may be provided, in whole or in part, by way of credit to Customer's account or issuance of a check to Customer for the subject amount, in MegaPath's discretion.

#### Time to Restore Service Commitment

- **Our Commitment:** The time to restore service for a Duet Voice and Data Service access circuit is four (4) hours. The "time to restore" begins on the date and time when Customer reported the service impairment to MegaPath, via MegaPath's authorized "trouble ticketing system," together with all information necessary for MegaPath to respond to the trouble ticket, and ends upon confirmation by MegaPath to Customer that service has been restored (in each case, based upon MegaPath's records). This period shall be extended to account for any period of time spent by MegaPath traveling to Customer's premises or 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 include resolution of any Customer premises inside wiring or CPE issues.
- **Your Remedy:** If MegaPath 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 Duet Voice and Data Service. Customer is eligible for an additional day's service credit for each subsequent 24-hour period (commencing upon expiration of the initial time-to-restore period) that the circuit remains unavailable.

#### Installation Interval Commitment

- **Our Commitment:** The guaranteed installation interval for a Duet Voice and Data Service access circuit is thirty (30) business days from the time when MegaPath acknowledges receipt of a complete order, via "welcome call" or similar confirming correspondence to Customer, to the point in time when a working circuit has been delivered by MegaPath 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 MegaPath notified Customer that MegaPath stood ready to deliver such service. This interval shall be extended to account for any period spent by MegaPath 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 MegaPath 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 Duet Voice and Data Service. 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 Duet Voice and Data service order upon written notice of cancellation received by MegaPath prior to installation, without liability to either party, and, in such event, MegaPath shall credit Customer's account for any installation charges which may have been pre-paid by Customer for the cancelled service.

### Latency Commitment

- **Our Commitment:** MegaPath commits to provide an average monthly roundtrip delay of 80 milliseconds or less within MegaPath'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:** MegaPath's monthly commitment for end-to-end network availability is 99.9%. MegaPath defines "network availability" as the ability to transport data packets from the ingress point to the egress point of the MegaPath network. Network availability will be determined as an average of actual circuit availability as a percent of total potential circuit availability measured by MegaPath on a monthly basis across its entire network and end-user base. MegaPath calculates network availability lapses commencing on the date and time of MegaPath's detection of the network issue, and ending upon MegaPath's resolution of the network issue.
- **Your Remedy:** Any Customer who experiences availability of the network connection of below 99.9% in any calendar month may request a one-day service credit for each whole hour of unavailability in such month in excess of the above minimum commitment.

### Service Credit Specifications:

- In the event MegaPath fails to achieve any service level commitment, at your request, MegaPath 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, you must report the commitment failure to MegaPath within five (5) business days of its occurrence (**via telephone to 800-455-5546 or via e-mail notification to [support@dsl.net](mailto:support@dsl.net)**), and you must have notified MegaPath of any service-affecting conditions at the time of such failure and have provided MegaPath 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 MegaPath at **50 Barnes Park North, Suite 104, Wallingford CT 06492, attention: Billing Dept., 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 MegaPath may have reasonably requested to assist it in verifying the request. MegaPath may reject any service credit request which does not provide sufficient supporting information to allow MegaPath to verify the claim. All requests for service credits will be subject to confirmation by MegaPath (which may entail testing and validation performed with Customer's cooperation), and will be applied by MegaPath as soon as possible to a subsequent recurring invoice following approval. MegaPath shall promptly notify Customer of its resolution of the reported event. Customer must claim any applicable service credits by the 15<sup>th</sup> calendar day of the month following the month in which (a) the reported incident was resolved (in the case of credits for the Network Availability Commitment, Latency Commitment or the Time to Restore Service Commitment), or (b) the billing start date of the affected circuit occurred (in the case of credits for the Installation Interval Commitment). MegaPath 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 MegaPath'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 procedures outlined herein shall apply.

- Service credits are calculated based on the contracted monthly rate for the affected service, 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 service). The maximum service credit to be granted for all failures within a given month shall not exceed the monthly recurring fees charged by MegaPath 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. MegaPath shall have no obligation to pay cash to Customer to fulfill any earned service credit, unless MegaPath'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 MegaPath, 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 or remedy hereunder if Customer is not in financial good standing with MegaPath (i.e., current on all billings) at the time of the request, or has not otherwise complied with all of the terms of this SLA applicable thereto.
- The Quality of Service Commitment is not available to Customers who have been migrated to MegaPath's network from another ISP as part of a customer acquisition. For those eligible Customers who do exercise their cancellation right set forth in such commitment, they shall remain responsible for the monthly recurring charges accrued through the cancellation date in accordance with the terms of their service agreement with MegaPath and for the return any and all CPE originally furnished by MegaPath to Customer. At MegaPath's election, Customer shall either permit MegaPath to enter the premises at a mutually convenient time for the purpose of removing the subject equipment or shall ship the equipment back to MegaPath in accordance with MegaPath's return materials authorization procedures, at MegaPath's cost. MegaPath shall issue a check to Customer for the CPE refund owing to Customer under this commitment within sixty (60) days of the equipment's return to MegaPath, provided such equipment is in good condition, reasonable wear and tear excepted, and in working order upon receipt by MegaPath.
- 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 MegaPath's control, whether or not similar to the foregoing.
- For purposes hereof, a "business day" shall mean any weekday other than a Federal holiday.

The remedies set forth herein for each service level commitment shall be the exclusive remedy available to Customer for MegaPath's failure to achieve such service level commitment. This SLA does not represent a warranty or guarantee by MegaPath that services will be uninterrupted or fit for any particular purpose or intended use of any kind, and MegaPath 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 Duet Voice and Data Service only. MegaPath will not be responsible for, and service credits will not be issued in connection with, any failure by MegaPath 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 MegaPath and its authorized contractors or suppliers) accessing the service through Customer, affecting MegaPath's ability to provide service.
- Scheduled maintenance or emergency maintenance on the MegaPath network (MegaPath scheduled maintenance time is Saturday, Sunday and Monday, from 12:01 AM – 5:00 AM EST).

- 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 or software applications residing on Customer's internally managed network.
- Events of "force majeure."

MegaPath may modify the service level commitments and your remedy for the failure by MegaPath to meet any service level commitment at any time; provided however, that such modifications shall not apply to you if the modifications have a material adverse impact on your rights as they relate to Services that are in term. Such modifications shall be deemed effective immediately upon either posting of the modified SLA on the MegaPath Web site, currently located at [www.MegaPath.com](http://www.MegaPath.com) or notifying you. If you have any questions, please contact your Account Representative.