

Service Level Agreement Terms and Conditions

1. Application of Netelligent SLA

These Netelligent Service Level Agreements (SLAs) provide Customer with certain rights and remedies regarding the performance of the Netelligent and servers (as defined below). Use of Netelligent Service constitutes acceptance and agreement to Netelligent's AUP (Acceptable use Policy) as well as Netelligent's TOS (Terms of Service) available on <http://www.netelligent.ca>

2. Definitions

For purposes of these Netelligent SLAs, the following terms have the meanings set forth below:

* "Base Monthly Service Fee" consists solely of the base monthly fee paid by Customer for the affected Netelligent service and excludes all other fees which might be charged to Customer, including, by way of example and not limitation, set-up fees, fees for local loop, space rental fees, charges for additional services such as managed services, incremental bandwidth usage or hard drives beyond that which is available without additional charge under Netelligent standard rates, hourly support, and other types of optional additional services.

3. Summary of Netelligent SLAs

As described in more detail below, this Netelligent SLAs provides commitments based upon goals in the following key areas:

4. Netelligent Availability

100% Service Uptime Guarantee

Netelligent has built its network to deliver true 100% network uptime to our customers. Using BGP4 technology our network is fully redundant, and each network node has two (2) separate

and fully redundant Gigabit switched Ethernet backbone networks that connect to our high-bandwidth, load-balanced Internet connectivity, from multiple Tier-1 carriers having diverse-path fiber into each of our facilities. Because of our extensive network infrastructure, NETELLIGENT can provide its customers with a 100% Network Uptime Guarantee. In the event that any service does not experience 100% uptime in a given month, NETELLIGENT will automatically refund 10% of customer's base monthly service fee and subsequently an additional 10% for each hour of downtime thereafter. Should uptime be below 99% customer will be credited 100% of its base monthly fee. Any emergency scheduled downtime taken by NETELLIGENT will not apply towards this downtime calculation, nor to the refund calculation. This guarantee applies to NETELLIGENT'S network performance and not to any hardware, software or services running on a customer's server.

5. Exceptions

Netelligent cannot be held liable for server downtime or data loss in any circumstance unless due to direct negligence including but not limited to the following circumstances:

5.1. Circumstances beyond Netelligent reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, unavailability of or interruption or delay in telecommunications or third party services, failure of third party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the Netelligent SLAs;

5.2. Failure to access circuits to the Netelligent Network, unless such failure is caused solely by Netelligent;

5.3. Scheduled maintenance and emergency maintenance and upgrades;

5.4. DNS issues outside the direct control of Netelligent;

5.5. False SLA breaches reported as a result of outages or errors of any Netelligent uptime monitoring system; or

5.6. Customer's acts or omissions (or act or omissions of others engaged or authorized by Customer), including without limitation, any negligence, willful misconduct, or use of the Netelligent or Netelligent services in breach of Netelligent Terms and Conditions of Service or Netelligent Acceptable Use Policy.