

# Service Level Agreement (SLA) – Dedicated Internet Access (DIA)

## SERVICE LEVEL AGREEMENT AIRESPRING CORE IP DEDICATED INTERNET ACCESS

This Service Level Agreement (“SLA”) is effective as of the first day of the second month after initial installation of AireSpring Core IP Dedicated Internet Access (the Service) . This SLA sets forth the provisions and commitments relating to the Service quality between AireSpring and Customer. The provisions of this SLA state Customer’s sole and exclusive remedies for Service interruptions or Service deficiencies as defined in this agreement. This SLA applies only to the Service (and the underlying network components of the AireSpring Core IP Dedicated Internet Access Network used solely for the purpose of providing the Service) and does not modify or affect any other SLAs provided by AireSpring (if any) for telecommunications or information services purchased by Customer pursuant to other service exhibits or agreements. This SLA does not apply to MPLS, Voice or any other services that are supplied in conjunction with or exclusive of the AireSpring Core IP Dedicated Internet Access Service. This SLA only applies to the Internet Transit provided by the Airespring Core IP Internet Access Network, and does not apply to resold Internet services which do not traverse the AireSpring Core IP Internet Access Network. Resold Internet Services are subject to the SLA of the individual network on which such resold service is provided.

### Definitions

Backbone Hub means a major network facility owned, operated, or controlled by AireSpring which is directly connected to the AireSpring backbone network. In larger metropolitan markets containing more than one such facility, one facility in that market will be designated as a Backbone Hub for the purpose of calculating the monthly average Network Latency and Packet Loss statistics. POP means an AireSpring point of presence node location, as determined by AireSpring , that represents AireSpring’s provider edge node for the AireSpring Core IP Dedicated Internet Access Network.

AireSpring Core IP Dedicated Internet Access or Internet Transit refers to AireSpring’s Layer 3 service that provides customers IP transit provided by the Airespring Core IP network. The AireSpring Core IP Dedicated Internet Access begins at Customer’s access port (port on the AireSpring router upon which Customer’s Circuit terminates) on the AireSpring Core IP Dedicated Internet Access Network. AireSpring Core IP Internet Access Network includes routers, switches, fiber and any other facilities that are owned by AireSpring or other providers specifically designated by AireSpring for Core IP Dedicated Internet Access. The AireSpring Core IP Dedicated Internet Access Network does not include customer premises equipment, customer-ordered telephony circuits, and any networks or network equipment not operated and controlled by AireSpring.

### Overall Commitment

AireSpring will use reasonable efforts under the circumstances to maintain its overall network quality. AireSpring is committed to providing reliable, high-quality Services on its Core IP

Dedicated Internet Access networks. As one indicator of AireSpring's Service commitment, AireSpring provides SLAs covering these Services.

### **Credits**

Customer shall be eligible for a credit during any calendar month per the procedures set forth in this SLA if Customer experiences performance that does not meet the applicable metric set forth in this SLA and is reported by Customer to AireSpring and confirmed by AireSpring's measurements. AireSpring will issue the Eligible Customer a Service Credit provided that the Customer submits in writing, addressed to the Parties at the address or fax number below with all necessary supporting documentation within five (5) business days of the confirmed Goal failure to meet the specific SLA metric/s. For calculating credit allowances, every month is considered to have 30 days. "Affected Service" means the Port that fails to meet the applicable Goal. A credit allowance is applied on a pro-rata basis against the monthly recurring charges for port of the affected service in which the requisite Goal failure occurred. No credits will be available for any usage-base Service or the usage-based portion of any Service.

Credit requests must be made in writing to AireSpring :

**By Mail to:**

AireSpring, Inc.  
Attn: Customer Relations 7800  
Woodley Avenue Van Nuys, CA,  
91406, US

**By Fax to :**

AireSpring, Inc.  
Attn: Customer Relations  
1-866-410-3684

### **Network Availability**

The availability of the Service ("Network Availability") is measured by "Network Downtime" or "Network Outage" which exists when a particular AireSpring Core IP Dedicated Internet Access Port is unable to transmit and receive data due to an AireSpring Network outage for more than forty four (44) consecutive minutes. Network Downtime is measured from the time a trouble ticket is opened by AireSpring in the AireSpring NOC Trouble Ticketing System to the time the Affected Service is again able to transmit and receive data. The AireSpring Core IP Dedicated Internet Access Network shall be available to Customer free of Network Outages for 99.90 % of the time. If the Network availability guarantee is not met in a calendar month, Customer will receive a credit equal to one thirtieth (1/30th) of the affected Service's monthly recurring port charge ("MRC") for each full hour of outage in excess of the 99.90% guaranteed under this SLA, at a maximum of 1 such credit accrued per day. Two or more interruptions of forty four (44) consecutive minutes or more during any one 24-hour period shall be considered as one interruption. In order to qualify for the credit, Customer is responsible for reporting any suspected network availability problems to AireSpring within twenty-four hours from the time Customer became aware of the problem through the opening of a Trouble Ticket in AireSpring's NOC Trouble Ticketing System.

### **Network Latency**

Network Latency (or Round trip time) is defined as the average time taken for an IP packet to make a round trip between Backbone Hubs within the regions specified on the AireSpring Core IP Dedicated Internet Access Network. Airespring monitors aggregate latency within the

AireSpring Core IP Dedicated Internet Access Network by monitoring round-trip times between a sample of Backbone Hubs on an ongoing basis. The AireSpring Core IP Dedicated Internet Access Network Average Round-Trip Latency shall be eighty-five(85) milliseconds or less for round-trip packet transfers between POPs on the AireSpring Core IP Dedicated Internet Access Network over a calendar month, as measured by AireSpring. After being notified by Customer of Network Latency in excess of the rates specified above, AireSpring will use commercially reasonable efforts to determine the source of such excess Network Latency and to correct such problem to the extent that the source of the problem is on the AireSpring Core IP Dedicated Internet Access Network. If the Network latency guarantee is not met in a calendar month, Customer will receive a credit equal to one thirtieth (1/30th) of the affected Service's monthly recurring port charge ("MRC"), at a maximum of 1 such credit accrued per day. In order to qualify for the credit, Customer is responsible for reporting any suspected latency problems to AireSpring within twenty-four hours from the time Customer became aware of the problem through the opening of a Trouble Ticket.

### **Packet Delivery**

Packet Loss is defined as the percentage of packets that are dropped between Backbone Hubs on the AireSpring Core IP Dedicated Internet Access Network. The AireSpring Core IP Dedicated Internet Access Network has an average monthly Packet Loss no greater than 1% (or successful delivery of 99.9% of packets). AireSpring monitors this aggregate packet loss on an ongoing basis, and compiles the collected data into a monthly average packet loss measurement for the AireSpring Core IP Dedicated Internet Access Network. After being notified by Customer of Packet Loss in excess of 0.1%, AireSpring will use commercially reasonable efforts to determine the source of such excess Packet Loss and to correct such problem to the extent that the source of the problem is on the AireSpring Core IP Dedicated Internet Access Network. If the Packet Delivery guarantee is not met in a calendar month, Customer will receive a credit equal to one thirtieth (1/30th) of the affected Service's monthly recurring port charge ("MRC"), at a maximum of 1 such credit accrued per day. In order to qualify for the credit, Customer is responsible for reporting any suspected Packet Delivery problems to AireSpring within twenty-four hours from the time Customer became aware of the problem through the opening of a Trouble Ticket.

### **Credit Maximums**

Unless otherwise expressly allowed, SLA failures are not aggregated for purposes of determining a credit allowance. The credits will apply to the Port MRCs of the Affected Service after application of all discounts and do not apply to MRCs of other services, nor to the loop MRC's of the Affected Service. The maximum credits issued for failure to meet any one SLA or combination of SLA's within a 24 hour period will not exceed one thirtieth (1/30th) of the affected Service's monthly recurring charge ("MRC"). The maximum SLA credits available in any 1 calendar month will not exceed 7 days' charges pro-rated from the MRC of the Affected Service. In no event will the total credit, in the aggregate for all credits issued in 1 month, exceed the equivalent of 50% of the relevant MRCs for the Affected Service. Cumulative Credits in any 1 month must exceed \$25.00 to be processed. If Customer fails to notify AireSpring in the manner set forth above with respect to the applicable SLA credits, Customer will have waived its right to any SLA credits for that month. Total credits under this SLA are limited to the MRC for the affected Service for the monthly billing period in which the Service does not meet one or

more of the above guarantees/goals. The combined cumulative total of Service Credits issued during a Contract Year under these SLAs will not exceed 20% of an Eligible Customer's total monthly recurring charges for all Port(s) invoiced during the Contract Year.

### **Credit Exceptions**

Credits will not be issued where the SLA is not met as a result of:

- (a) The acts or omissions of Customer, its employees, contractors or agents or its end users
- (b) The failure or malfunction of Customer Premise Equipment, applications, wiring beyond the Minimum Point of Entry (MPOE) or systems, whether owned, installed or controlled by AireSpring or Customer, including the failure or malfunction of Customer Premise Equipment or systems as a result of a power surge or loss of power originating from Customer provided electric power;
- (c) Force Majeure Events, as defined in customer's service agreement
- (d) Normal Maintenance, Urgent Maintenance, or Service alteration or implementation
- (e) The unavailability of required Customer personnel, including as a result of failure to provide AireSpring with accurate, current contact information
- (f) AireSpring's lack of access to the Customer premises where reasonably required
- (g) Customer's failure to release the Service for testing or repair and continuing to use the Service on an impaired basis
- (h) AireSpring's termination of Service for Cause or Customer's use of Service in an unauthorized or unlawful manner
- (i) Improper or inaccurate network specifications provided by Customer.
- (j) Customer's failure to materially comply with its obligations as defined in customer's service agreement for DIA Services, including failure to pay valid past-due amounts; order suspensions due to customer's credit worthiness

### **Credit Deductions**

Any Credits issued by AireSpring as a result of goals not being met on this SLA will be reduced/adjusted as a result of:

- (a) Time attributed to customer's delay in responding to AireSpring's requests for assistance to address or investigate the issue on the Service
- (b) Time attributed for implementation delays caused by customers delay in providing required technical/operational specifications or info
- (c) If AireSpring responds to a service call initiated by the Customer, and AireSpring reasonably determines that the cause of the problem is (i) not due to AireSpring's Network; or (ii) on the Customer's side/responsibility, Customer must compensate AireSpring for the service call at AireSpring's then prevailing Time and Materials rates.

### **Amendments**

AireSpring reserves the right to amend the SLA from time to time effective upon the posting of revised SLA metrics to the customer.