

# SERVICE LEVEL AGREEMENT

## NEC UNIVERGE BLUE® SHARE

This Service Level Agreement (this “**SLA**”) governs the use of the NEC UNIVERGE BLUE® SHARE service under the terms of the Master Service Agreement (the “**MSA**”) between NEC Cloud Communications America, Inc. or the reseller of Services from which the applicable Service has been purchased (“**Company**”) and customer (“**You**”) and is incorporated into the MSA by reference. This SLA applies separately to each of Your Accounts. Company may update, amend, modify or supplement this SLA from time to time. The terms and conditions of this SLA are applicable to the SHARE service only, and “**Service**” or “**Services**” as used in this SLA refers only to the SHARE service.

Capitalized terms used herein but not otherwise defined will have their respective meanings set forth in the MSA. In the event of any conflict between this SLA and the MSA, the MSA will govern.

### 1. SERVICE.

Company will use commercially reasonable efforts to provide the Services as defined by the plan or plans purchased or subscribed to under Your Account. Company does not guarantee compatibility of the Services with any specific customer configuration of hardware or software. You are encouraged to discuss any technical and compatibility issues with our technical support personnel.

### 2. SERVICE AVAILABILITY.

2.1. Definition. Company will provide at least 99.999% Service Availability, measured on a per calendar-month basis. “**Service Availability**” is defined as the ability of a User under your Account to (a) access and retrieve files from such User’s SHARE account through at least one of the following interfaces: (i) a SHARE desktop application, (ii) the SHARE web interface, or (iii) a SHARE mobile application, and (b) share files on the User’s SHARE account using the Services, from at least one such interface, in all cases provided that Your Account is active and enabled.

#### 2.2. Calculation.

(a) To calculate Service Availability, Company uses a combination of methods, including analyzing logs from both Company’s event monitoring system and the actual affected infrastructure components. Company will match these findings with client reports to determine the actual timeframe. Any loss of Service Availability less than five (5) minutes in duration will not be included in the calculation of Service Availability.

(b) Company does not guarantee speed of file synchronization and timing. As a result, a delay in file upload and download time, regardless of the cause, is not included in any calculation of Service Availability.

(c) Loss of Service Availability caused by (i) issues beyond Company’s reasonable control, including, without limitation, denial of service or similar attacks, mail bombs, DNS resolution, domain name expiration, hardware failure, Internet availability, SYN (synchronize) attacks, or any other Force Majeure Event, or (ii) other issues addressed in this SLA, will be excluded from Service Availability Credit calculations set forth in Section 2.3.

(d) Maintenance set forth in Section 7 of this SLA shall be excluded from Service Availability Credit calculations.

#### 2.3. Service Availability Credit.

(a) Credits. Subject to your valid submission of a Service Availability Credit request and the other conditions herein, if Service Availability under Your Account for any calendar

month is below 99.999%, Company will issue a credit (“**Service Availability Credit**”) in accordance with the following schedule:

Service Availability	Amount of the refund as a percentage of monthly fee for affected Service
99.0% to 99.999%	3% of monthly fee credited
98.0% to 98.99%	5% of monthly fee credited
95.0% to 97.99%	10% of monthly fee credited
90.0% to 94.9%	25% of monthly fee credited
89.9% or below	2.5% credited for every 1% of lost availability up to the maximum total penalty limit

Service Availability Credits for partial calendar months of Your subscription for Your Account will be adjusted on a pro rata basis.

(b) Requests for Credits. To request a Service Availability Credit, (i) Your Account must be in good standing with Company, (ii) You must open a technical support ticket in the administrative control panel reporting an apparent Service interruption within seventy-two (72) hours of the event, and (iii) You must send an email or written Service Availability Credit request to Company’s billing department in the month immediately following the month for which You are requesting a Service Availability Credit. Service Availability Credit requests must include Your account name or account number and the dates and specific times for which You are requesting Service Availability Credits.

Company will compare information provided by You to the data referenced in Section 2.2 above. A Service Availability Credit will be issued only if Company confirms, in Company’s sole discretion, from such data that a Service Availability Credit is available.

(c) Calculation of Credits. Company will calculate the Service Availability Credit based on the fees for the Service and the percentage of overall individual SHARE user accounts adversely affected. For example, if the Service Availability Credit pertains to the Service Availability of two (2) SHARE user accounts out of two hundred (200) SHARE user accounts purchased, the Service Availability Credit would be calculated as one percent (1%) times the monthly fee for all of Your SHARE user accounts times the percentage of monthly fee credited (as set forth above).

(d) Total Credits; Sole Remedy. The limits regarding total Service Availability Credits available under this SLA are set forth in Section 3 of this SLA.

### **3. TOTAL CREDIT LIMITS; SOLE AND EXCLUSIVE REMEDIES.**

3.1. Total Service Availability Credits. The total Service Availability Credit due to You for any Account may not exceed fifty percent (50%) of the monthly fees charged to that Account during the month for which the Service Availability Credit is to be issued (unless the amount to be credited is less than one dollar (\$1.00), in which case the credit amount will be one dollar (\$1.00)). Only one (1) Service Availability Credit is available in any given calendar month. Notwithstanding anything set forth in the MSA or this SLA, Service Availability Credits are the sole remedy available to you under this SLA and the MSA for Company’s failure to reach the Service Availability levels or otherwise make the Services available.

3.2. No Refunds. Credits are applicable only toward future fees for use of the Service and are not convertible into cash or any type of refund.

### **4. TECHNICAL SUPPORT.**

Company will use commercially reasonable efforts assist You, through Your authorized Account contacts, with initial set up and configuration of Your Account, issues relating to your ability to access the Services and troubleshooting other issues related to Company’s delivery of the Services. Only Your authorized Account

contacts may request information, changes or technical support pursuant to the MSA. For more information, visit the technical support page of Company's administrative control panel. Company's technical support response time depends on the complexity of the inquiry and support request volume.

## **5. MANAGEMENT.**

5.1. Account Management Tools. Through Your authorized contacts, You may manage Your Account with Company's online management tools, the administrative control panel and end-user control panel. Company will not be required to perform for You any task that can be done through the control panels.

5.2. Custom Configuration. Requests for modification to the standard configuration of the Services will be considered on a case-by-case basis. Approval of such modifications will be at Company's sole discretion. Company does not guarantee any particular result from non-standard configurations nor can it be held liable in any way for Service performance changes or failures which result from non-standard configurations.

5.3. Additional Services. For tasks that cannot be performed through the administrative control panel, You may request that Company perform professional services on a time and materials basis. The request will include a detailed description of work and the authorized amount of time, in half-hour increments, to perform the work. Company may evaluate and revise the request (including the estimated number of hours to perform the work) and reserves the right, in its sole discretion, to decline any request. Any additional services will be performed at Company's standard published rates, provided that any emergency services that require commencement within twenty-four (24) hours will be charged at one-and-a-half (1.5) times Company's standard published rate. Company will use commercially reasonable efforts to perform requested additional services. However, Company does not guarantee any particular result from performance of additional services or make any representations or warranties regarding such additional services, nor can Company be held liable in any way (including for any credits) for Service performance changes or failures which result from performing tasks requested by You. Company may require a separate agreement for any of these additional services.

## **6. MAINTENANCE.**

6.1. Scheduled Maintenance. In order to maintain performance and security of the Services, Company performs scheduled maintenance within its published maintenance windows. This may require specific Services to be suspended during the maintenance period. Loss of Service Availability due to scheduled maintenance will not be included in the calculation of Service Availability. Company will use commercially reasonable efforts to notify You in advance of any scheduled maintenance that may adversely affect Your use of the Services.

6.2. Emergency Maintenance. In certain circumstances, Company may need to perform emergency maintenance, including in the event of a security event, or for security patch installation or hardware replacement. Company will not be able to provide You with advanced notice in case of emergency maintenance. Loss of Service Availability due to emergency maintenance will be excluded from calculations for Service Availability. The determination that an event is an emergency will be made at Company's sole discretion.

## **7. STORAGE CAPACITY; DATA TRANSFER; SERVER RESOURCES.**

Each Account is allotted storage capacity and data transfer amounts on Company's servers according to the Service and related options selected by You. This storage size and data transfer allotments can be increased through the administrative control panel for an additional charge up to the maximum amount allowed for the Service and related options. The servers may stop accepting, processing, or delivering Data, including users' files and folders, when such set allotment or the purchased limit is reached, thus causing a loss of Service Availability or Data loss. Company will not be responsible for such loss of Service Availability or Data losses, and such loss of Service Availability will be excluded from calculations for Service Availability. The amount of data stored in an account or a folder affects client and server performance. Large user accounts or data storage may respond slower to user requests or cause client non-responsiveness while the data is processed.

## **8. CERTAIN LIMITATIONS.**

8.1. Data Availability. For each file posted to SHARE, SHARE maintains two (2) copies of such file, each on a separate storage system. SHARE is designed to provide Users with access to files via SHARE web, desktop, and mobile applications. SHARE's web application also allows Account administrators to retrieve and restore previous file versions and deleted items, except as described in Sections 8.2 and 8.3 below.

8.2. Retention Policy for File Versions and Deleted Items. SHARE provides Account administrators the ability to limit the retention period for previous file versions and SHARE "Deleted Items." If such retention period is changed by an Account administrator, then previous file versions and "Deleted Items" will be automatically and permanently deleted based on the retention period established by the Account administrator. Company is not responsible for any data loss that You suffer due to the aforementioned changes in the retention period or policy settings for Your Account (including, without limitation, the permanent destruction of Your data as a result).

8.3. Permanent Deletion of Deleted Items. SHARE provides Account administrators the ability to either (a) prevent end users from permanently deleting Deleted Items or (b) allow end users to permanently delete Deleted Items. Company is not responsible for any damages (including without limitation data loss or unintended retention of data) that You suffer due to the deletion settings on Your Account, regardless of whether Your account uses the default settings or such settings are changed by an administrator.

## **9. DATA RETENTION.**

Company will not be responsible for retaining any of Your Data after termination of Your Account. Your Data may be deleted promptly after Your Account is terminated and from backups during scheduled backup rotation. Company will not restore, provide on any storage media or send out any Data pertaining to terminated Accounts, unless specifically noted in a customized service agreement. It is Your responsibility to back-up and migrate Your Data prior to termination of Your Account or any other action which can lead to deletion of any of Your Data from the Services. For more information on collection, retention and use of customer information, refer to Company's Privacy Policy.