



SERVICE LEVEL AGREEMENT

Phonoscope has designed a maintenance and support plan to meet the needs of the Fiber Optic Network installed by Phonoscope. The support plan is designed to provide on-site support response within two hours of notification, 24 hours per day, 7 days per week according to the following Service and Maintenance plan:

- **Network Availability:** Phonoscope shall make all reasonable efforts to ensure 99.9% network availability of the Applicable Fiber.

- **Network Operations Center:** Phonoscope Support Plan is based on providing customer support functions including problem tracking, resolution and escalation support management on a 24x7x365 basis.

Customer has the right and is encouraged to call concerning any problems that may arise relative to its connection with Phonoscope provided services.

- **Trouble Reporting:** Upon interruption, degradation or loss of service, Customer may contact Phonoscope by calling (713) 272-4600. Minor problems can be reported through e-mail: trouble@phonoscope.com.

Upon contact from the Customer, the Phonoscope support team will initiate an immediate response to resolve any Customer issue. Customer will receive rapid feedback on trouble resolution, including potential resolution time.

- **Escalation:** In the event that service has not been restored in a timely manner, or the Customer does not feel that adequate attention has been allocated, the Customer can escalate the trouble resolution by request. A list of escalation contacts will be provided when implementation schedule is completed.

- **Resolution:** The Customer will be notified immediately once the problem is resolved and will be asked for verbal closure of the incident.

- **Trouble Reporting, Escalation and Resolution:** At the time of contract execution, the Customer agrees to provide Phonoscope with an overview of its internal procedures for trouble reporting and resolution. The Customer list of escalation contacts will be included in this. The Customer agrees to provide at least customary first level support to assist Phonoscope in closing the incident report.

- **Measurement:** Phonoscope stated commitment is to respond to any outage within two (2) hours and a four (4) hour restoration of service. Time starts from the time the Customer contacts Phonoscope and identifies the problem.

- **Credits:** Customer shall not receive a credit allowance for any outage caused by (i) the negligence or acts of it or its end user or agents; (ii) failure of power; (iii) the failure or malfunction of non-Phonoscope equipment of systems; (iv) circumstances beyond Phonoscope's control; (v) lack of Phonoscope access to service premises; or (vi) a planned service outage, unscheduled emergency maintenance scheduled maintenance alteration or implementation.

(A) Non-Protected. If Customer is unable to utilize non-protected fiber due to Phonoscope not meeting specifications, the following credits will be applied after a 4 hour outage:

From 04:00:00 – 08:00:00 hr outage = 10% of MRC
From 08:00:01 – 10:00:00 hr outage = 20% of MRC
From 10:00:01 – 24:00:00 hr outage = 50% of MRC
Outage exceeding 24:00:01 hrs = 100% of MRC

(B) Protected Circuits. If ring protected circuits delivered along the backbone of the Phonoscope network to the Customer premises (which excludes non-ring protected lateral builds to building entrances from the Phonoscope backbone as well as similar non-ring protected facilities within the Customer building – which non-protected fiber is covered by part A) experience a Service Outage, then Customer shall be entitled to receive Outage Credits against monthly charges, as set forth in Table A below. "Service Outage" means that a ring protected (i.e., dual-path) both paths of the circuit are simultaneously unavailable due to reasons

other than Force Majeure. In no event will Outage Credits for a circuit for any one (1) month exceed one hundred percent (100%) of the Monthly Recurring Charge (MRC) for that circuit.

Table A. Service Outage in hrs:mins:secs and applicable Outage Credit as percentage of MRC):

00:00:01 thru 00:30:00	5% of MRC
00:30:01 thru 01:00:00	10% of MRC
01:00:01 thru 02:00:00	25% of MRC
02:00:01 thru 04:00:00	40% of MRC
04:00:01 thru 08:00:00	50% of MRC
08:00:01 thru 16:00:00	75% of MRC
16:00:01 or greater	100% of MRC

The time shall start when a trouble ticket is opened and shall terminate when the ticket is acknowledged as resolved and closed by both Customer and Phonoscope.

- **Components Included (but not limited to):** The following components are included in this Plan: Phonoscope provided WAN Infrastructure components.

- **Components Excluded:** The following components are not included in the Plan:

- All components during downtime for Phonoscope previously scheduled maintenance windows. Phonoscope shall provide seven (7) day notification of all scheduled maintenance. Scheduled maintenance shall be performed between the hours of 12:00 am to 6:00 am local time.
- Any Phonoscope components within the Customer's Facility that cannot be corrected due to unavailability of the Customer or inaccessibility of the premise.
- Customer's equipment or content.

- **Reports:** Upon request, an incident report will be made available to the Customer within five (5) working days of resolution of the trouble.

ACCEPTABLE USE POLICY

This Acceptable Use Policy specifies the actions prohibited by Phonoscope to users of the Phonoscope Network. Phonoscope reserves the right to modify the Policy at any time, effective upon posting of the modified Policy to this URL: <http://www.phonoscope.com>.

Illegal use

The Phonoscope Network may be used only for lawful purposes. Transmission, distribution or storage of any material in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or other intellectual property right used without proper authorization, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws.

System & Network Security

Violations of system or network security are prohibited, and may result in criminal and civil liability. Phonoscope will investigate incidents involving such violations and may involve and will cooperate with law enforcement if a criminal violation is suspected. Examples of system or network security violations include, without limitation, the following:

- Unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorization of the owner of the system or network.
- Unauthorized monitoring of data or traffic on any network or system without express authorization of the owner of the system or network.
- Interference with service to any user, host or network including, without limitation, mailbombing, flooding, deliberate attempts to overload a system and broadcast attacks.

- Forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting.

Email

Sending unsolicited mail messages, including without limitation, commercial advertising and informational announcements, is explicitly prohibited. A user shall not use another site's mail server to relay mail without the express permission of the site.

Usenet

Posting the same or similar message to one or more newsgroups (excessive cross-posting or multiple-posting, also know as "SPAM") is explicitly prohibited.

INDIRECT OR ATTEMPTED VIOLATIONS OF THE POLICY, AND ACTUAL OR ATTEMPTED VIOLATIONS BY A THIRD PARTY ON BEHALF OF A PHONOSCOPE CUSTOMER OR A CUSTOMER'S END USER, SHALL BE CONSIDERED VIOLATIONS OF THE POLICY BY SUCH CUSTOMER OR END USER.

Calculation of Average Usage

Phonoscope will allow the Customer to burst beyond their contracted bandwidth to a maximum port speed of 100 Mbps (*if applicable*). Phonoscope will collect and record usage samples around the clock at frequent, regular intervals and calculate a monthly total which effectively disregards bursts of the top five percent (5%)

usage within the total monthly sample, without incurring additional charges.

Customer will only incur additional charges, in per Meg increments if the total of the remaining ninety-five percent (95%) usage exceeds the contracted bandwidth. If the Customer at any time chooses to limit their bandwidth access to the contracted rate, Phonoscope will rate shape the unique circuit port to guarantee a not-to-exceed bandwidth and allow the Customer to maintain the same monthly recurring fee.

Phonoscope shall waive any incremental charges upon the first time occurrence where the Customer exceeds the ninety-five percent (95%) rule. Customer shall elect one of the following options:

- The Customer may rate shape the bandwidth to guarantee to not-to-exceed bandwidth assuring the same monthly recurring fee; or
- The Customer may increase the circuit bandwidth to reflect the additional bandwidth needed. (Phonoscope will generate a Change Order Confirmation to the existing Service Order reflecting this change and forward to the Customer); or
- The Customer agrees that any future occurrence to the Customer exceeding the ninety-five percent (95%) rule will generate the standard incremental charges as identified herein.