

Qwest iQ® Real-Time Application Recovery™ Service Retail Service Level Agreement (“SLA”)
(not applicable to service offered under the Qwest Wholesale and Enhanced Services Agreements)

This SLA applies to Qwest iQ® Real-Time Application Recovery™ service (“Service”) ordered by customers pursuant to an agreement with Qwest Communications company, LLC (“QCC”) (“Agreement”). Capitalized terms not defined in this SLA are defined in the Agreement. This SLA provides Customer’s sole and exclusive remedy for service interruptions or service deficiencies of any kind whatsoever for Service.

1. Definitions

“Availability” means the percentage of a particular month (based on 24-hour days for the number of days in the subject month) that the Service is available exclusive of the Scheduled Maintenance as defined in Section 3 below.

“Scheduled Maintenance” means scheduled windows of time which are in place to provide required services such as: maintenance patches, software updates, required reboots and software and system modifications.

2. Service Levels during Failover and Replication

- (a) QCC’s commitment is to achieve 99.97% Availability for Service during a failover period and replication period.
- (b) Service Level Agreement Remedy: Subject to Section 3 below, if the Availability during a failover requested period is less than 99.97% over the course of one (1) complete calendar month during necessary failover periods, excluding the time required to switch over the services and network during a failover request, QCC will issue a credit to Customer’s account in accordance with the Section 4, with the credit being calculated based on the MRCs for the affected Service.

3. Exceptions

Customer shall not receive any credits under this SLA in connection with any failure or deficiency of Service caused by or associated with:

- (a) a Force Majeure Event, which will include but are not limited to acts of any governmental body, war, insurrection, sabotage, armed conflict, embargo, interruption or delay in telecommunications or third party services, virus attacks or hackers, failure of third party software (including, without limitation, ecommerce software, payment gateways, chat, statistics or free scripts) or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of this SLA;
- (b) Customer’s acts or omissions (or acts or omissions of others engaged or authorized by Customer), including, without limitation, custom scripting or coding (e.g., CGI, Perl, HTML, ASP, etc), any negligence, willful misconduct, or use of the Service in breach of the Agreement.
- (c) changes to Customer’s technology environment which have not been updated in the Readiness Assessment document on the Management Portal;
- (d) any of Customer’s circuits, applications, or equipment;
- (e) outages elsewhere on the Internet that hinder access to Service. Qwest will guarantee only those areas considered under their control, including server connections to the Internet routers, and hosted servers provided by Qwest or its third-party provider.
- (f) planned outages caused by Scheduled Maintenance which occurs on Wednesdays from 1:00 am to 4:00 am EST and Sundays from 1:00 am to 4:00 am EST.

4. Credit Request and Payment Procedures

For each cumulative hour of Service unavailability, based on the aggregate time of Service unavailability in the calendar month rounding up to the nearest whole hour, Customer’s account shall be credited for the pro-rated charges for one day of the MRC for the Service with respect to which a Service Level has not been met, to a maximum of one month credit during any calendar month. Credits are exclusive of any applicable taxes charged to Customer.

To receive a credit, Customer must make a request therefor by sending an e-mail message to support@rtar.qwest.com. The e-mail message must include the Customer account number in the “Subject” line. Each request in connection with this SLA must include, along with the Customer’s account number the dates and times of the unavailability of Customer’s Service and must be received by Qwest within ten (10) business days after the Customer’s Service was not available. If the unavailability is confirmed by Qwest, credits will be applied within two billing cycles after Qwest’s receipt of the Customer’s credit request. Credits are not refundable and can be used only towards future billing charges.