# SUBURBAN SERVICE TERMS AND CONDITIONS

# Definitions

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| **“Activation Date”** | shall mean the date on which Suburban makes the Service(s) available to the Customer. |
| **“Agreement”** | shall mean this Suburban Service Terms and Conditions for the provision of IP leased circuit between Suburban and Customer as well as any applicable Service Order Form, Service Level Agreement and any other addenda, schedules, or exhibits attached hereto and/or incorporated herein by reference. |
| **“Help-Desk”** | shall mean the interface point for Customer to access Suburban’s support and maintenance facilities. |
| **“IP”** | shall mean internet protocol. |
| **“Minimum Service Term”** | shall mean a period of one (1) year |
| **“ODF”** | shall mean Optical Distribution Frame used to terminate the fibre optic cable to allow connection of transmission equipment. |
| **“Performance Target(s)”**  | shall mean a set of measurement(s) that determine the quality and availability of the System as defined in Service Level Annexure |
| **“Permanent Resolution Time”** | shall mean the time measured between the call from the Customer to report a Problem to the Help Desk and the time when Suburban provides a definitive solution to return the System to its normal operating condition. |
| **“Problem/Fault”** | shall mean the non-conformity of the System with the technical specifications. Three (3) severity levels are defined in this regard and are better described in the Annexure hereto: critical, major and minor. |
| **“Response Time”** | shall mean the time measured between the call from the Customer to report a problem to the Help Desk and the time Suburban responds to the Customer. |
| **“Restore Time” or “Restoration Time”** | shall mean the time measured between the call from the Customer to report a problem to the Help Desk and the time when Suburban returns the System to such operating condition that it does not affect nor degrade the Service. |
| **“Service(s)”** | shall mean the range of services provided by Suburban to the Customer in accordance with the terms and conditions of this Agreement. |
| **“Service Request Form”** | shall mean the document so entitled executed by Suburban and the Customer and setting out the specifications of the Service(s) to be provided in accordance with the terms and conditions of this Agreement. |
| **“Service Term”** | shall mean the term selected by the Customer for the Service which shall not be less than a minimum period of one (1) year.  |
| **“Sub-Contractor”** | shall mean any person, firm or company named by Suburban to provide any part of the Services under the Agreement |
| **“System(s)”** | shall mean any combination of hardware and/or software used to perform a function or any part of the Services by Suburban. |
| **“Suburban Network”** | shall mean the terrestrial fibre network, resources and equipment and related infrastructure installed by Suburban along various telecommunications ducts located within the Federal Capital Territory, Abuja for the provision of the Services. |

1. **Scope of the Services**
	1. Suburban agrees to provide the Customer with IP capacity over its optical fibre network and any other routes as may be requested by Customer from time to time.
	2. Parties understand and agree that the Customer shall nominate and appoint a dedicated technical person who will communicate and work alongside Suburban’s team for the diagnosis and resolution of the Customer’s technical issues. Suburban may provide support and guidance as necessary for the resolution of such technical issues the Customer may experience.
2. **Provision of the Service**
	1. Unless provided otherwise in the relevant Service Request Form, Suburban will deliver the Services to the Customer fourteen (14) to twenty-one (21) working days from the date of acceptance of this Terms and Conditions and/or the execution of the relevant Service Request Form. Any changes thereafter by Suburban will be properly communicated to the Customer. Any request for an upgrade or downgrade of the Service(s) delivered shall be documented through an additional Service Request Form to be executed by the Parties.
	2. Installation of the Services may take a longer period of time than advertised or indicated by Suburban and as such, Suburban will not be liable for any loss occasioned by such delay. To this extent, Suburban’s ability to complete the installation of and provision of the Services expediently will depend on the Customer’s availability and ability to provide access to the service location for Suburban’s employees and agents. Suburban shall not be responsible or liable for any loss or occasioned by such delay.
	3. Suburban shall proceed with the installation of the Services provided that it has received from the Customer, all necessary contractual documents and technical information, and support that it deems necessary. Where the conditions above have not been met, Suburban at its sole discretion may cancel the installation of the Service and/or the Service Request Form prior to the Activation Date upon providing notice to the Customer.
	4. In no event shall Suburban be, or be deemed to be, responsible for any Service impairment or loss of functionality, or breach of any performance obligation under this Agreement where any Service failure, fault or delay in performance is directly or indirectly related to any failure by the Customer to provide access to the service location and or necessary equipment for the installation of the Service.
3. **Term of Agreement**
	1. The Customer’s subscription to the Services shall be for a Minimum Service Term of one (1) year commencing on the Activation Date (the “Initial Term”) and the Customer shall remain bound by this Agreement for the duration of the Minimum Service Term.
	2. Following the Minimum Service Term, this Agreement shall automatically renew for a further period of one (1) year at the expiration of the each one (1) year term provided a Party does not send a written notice of intention to terminate the Agreement.
4. **Termination**
	1. The Customer may terminate the Agreement after the Minimum Service Term upon the issuance of thirty (30) days written notice to Suburban. The Services and this Agreement shall terminate upon expiration of the notice period.
	2. Where Customer terminates the Service Request Form and this Agreement prior to the completion of the Minimum Service Term, the Customer shall pay to Suburban, all outstanding Service Fees for any portion of the Services rendered.
	3. Where the Customer terminates a Service Request Form prior to the Activation Date of the Service, the Customer shall reimburse Suburban for all reasonable costs incurred by Suburban in the implementation of the Service to be terminated.
	4. Where this Agreement is terminated in accordance with this Clause, Suburban reserves the right to solely determine whether or not to refund any payment made under this Agreement.
	5. Suburban reserves the right to immediately suspend the provision of the Services and or terminate this Agreement by giving thirty (30) days’ notice of such termination to the Customer where:
5. Customer has failed to make payments in accordance with this Agreement;
6. Customer has breached any condition of this Agreement or the Terms and Conditions; or
7. Suburban suspects the Customer has carried on fraudulent or any unauthorised activity or activities.
	1. If Suburban terminates the Services on account of non-payment and or breach of the Terms and Conditions and or this Agreement, the Customer may be required to pay a reconnection fee for reconnection of the Service. The reconnection fee shall be as determined by Suburban.
	2. Upon termination of this Agreement for any reason whatsoever, Suburban shall be entitled to recover gateways, routers and fibre cables installed at each of the Service Locations pursuant to this Agreement.
8. **Payment**
	1. Customer shall pay Suburban the amount stated in the relevant invoice as consideration for Suburban’s provision of the Services (“Service Fee”).
	2. The fees for the Services are fixed and non-variable for the duration of this Agreement. Unless otherwise stated, the fees exclude Value Added Tax (VAT), Withholding tax and all other taxes imposed in Nigeria on the provision of the Services. Any VAT shall be applied (where applicable) by Suburban and WHT shall be deductible by the Customer.
	3. Suburban shall present monthly invoices to Customer and such invoices shall specify, amongst other relevant details as Customer may from time to time require, the particulars of the Services to which it relates.
	4. In the event that Customer accepts the invoiced amount contained in Suburban’s invoice, it shall pay the said amount on the due date stated on the invoice.
	5. Customer shall not be entitled to a claim for a refund of the payment made, notwithstanding any termination or suspension of the Services, or any relocation by the Customer from the service location before the end of the period covered by the payment made. Suburban shall provide the Services in respect of, and until the expiration of the subscription period, whether or not the Services are utilised by the Customer.
	6. Suburban may, after the Minimum Term, revise the Service Fee by giving the Customer no less than one (1) months’ notice in writing of any such revision. If such revision is not acceptable to the Customer, it may, within two (2) weeks of receipt of such notice, terminate this Agreement by giving thirty (30) days written notice to Suburban. Suburban shall increase the Service Fee if required by law or regulatory authority including but not limited to where there is a change in the rate of value added tax.
9. **Service Levels and Terms**
	1. Suburban shall provide service availability in accordance with the Service Level Annexure to this Agreement, failing which the Customer will be compensated for lost period where the service was interrupted.
	2. Any service interruption of the capacity leased to Customer hereunder shall give rise to compensation in airtime credit to Customer in accordance with the following terms:
10. Service credits due to the Customer shall be issued as detailed in the Service level Annexure and reflected in the next billing cycle.
11. No allowance for compensation will be provided for any interruption caused by or in respect of:
	* + - 1. the Customer, its contractors, lessees, agents, assignees, customers or employees;
				2. interruptions for periods during which routine maintenance is being carried out, provided such maintenance is duly communicated to Customer; or
				3. the Local loop(s). Local loops shall mean any wired connection within the Customers’ premises
	1. Service claims are subject to the following conditions:
12. Customer must notify Suburban in writing on or before the thirtieth (30th) day after the date of expiration of the calendar month in which any event entitling Customer to a credit or refund concludes, deliver to Suburban a statement (an “SLA Credit Invoice”) setting forth in reasonable detail a description of each event entitling Customer to a credit which occurred during the applicable calendar month;
13. Service claim shall be calculated based on the total service availability for the month the failure occurred;
14. Service claim shall be applied by Suburban at the end of the month;
15. Service claim will not be granted if there is any amount outstanding from the Customer to Suburban under this Agreement or otherwise and such amount is overdue.
	1. Notwithstanding the foregoing, Suburban agrees to notify Customer in good faith of any Service interruptions, failures or violations of which it is aware.
	2. The following outages shall not be counted as part of unavailable time for the purpose of calculating service availability:
16. any outages due to force majeure events and cable cuts;
17. any outages caused by Planned Maintenance events; or
18. outages caused by faults at customer end or part of the circuit not maintained by Suburban
19. **Exclusion of Services**
	1. The Services to be rendered by Suburban under this Agreement shall not comprise any services or supplies that are required as a result of one or more of the following:
20. Damage to the System(s) caused by Customer or a third Party acting on behalf of Customer.
21. Any modifications, removals or obliteration of a bar-coded serial number or other identifying mark or any attempts thereof made by non-Suburban authorised personnel.
22. Acts or attempts to move, reinstall, repair, maintain or modify the System(s) by Customer or a third Party acting on behalf of Customer
	1. Suburban’s liability to the Customer for failure to provide the Services in accordance with this Agreement and the applicable Terms and Conditions shall be limited to the provision of the Services at no additional charge for a duration equivalent to that in which the Services were not provided (when it ought to have been provided).
23. **Confidentiality**
	1. All information of a technical or business nature disclosed by one Party (or by a related body corporate of that Party) to the other, shall be regarded as confidential (Confidential Information) and shall only be disclosed in accordance with this clause, and each Party shall ensure that its personnel treat such information as confidential. Such information shall be used only for the purpose for which it is delivered and only insofar as it is strictly necessary for the purposes of the Agreement and shall not without the prior written consent of the disclosing Party be disclosed to any third party provided always that either Party may disclose without the consent of the other, any Confidential Information:
24. as required to be disclosed in compliance with any laws of Nigeria or any determination, regulation, decision or direction of any government or government agency or as directed by any court of law;
25. to a related body corporate or a Sub-contractor or only to the extent that such disclosure is strictly necessary for the purposes of the Agreement;
26. to its Sub-contractors for the operation of the System;
27. as may be required in order to comply with any contractual obligations owed to any government or any government agency; or
28. which is developed independently without breaching any of the provisions of this Agreement.
	1. Provided always that where such disclosure is to be made to a Sub-contractor of the Party wishing to make such disclosure, such Party shall (a) ensure that the receiving Sub-contractor owes to that party an obligation of confidentiality in respect of the Confidential Information to be disclosed, upon terms identical (*mutatis mutandis*) to the provisions of this Clause and (b) remain liable to the originating Party for any unauthorised disclosure of the Confidential Information by any such Sub-contractor.
	2. Information shall not be deemed Confidential Information where it:
29. is authorised to be disclosed by the disclosing Party to the extent of the authority given;
30. is made public by the disclosing Party or becomes part of the public domain;
31. is in possession of or is known by the receiving Party prior to its receipt from the disclosing Party;
32. becomes public other than by the default of the receiving Party; or
33. is independently developed by the receiving Party.
	1. Except with the consent in writing, either Party shall not make use of any information supplied by the other for any specification otherwise than for the purposes of the Agreement.
	2. Notwithstanding any contrary provision contained in this Agreement, the obligations of the Parties under this Clause shall subsist and remain valid for a period of one (1) year from the determination date, howsoever, of this Agreement.
34. **Force Majeure**
	1. Neither Party shall be liable for any failure to fulfil any of its obligations hereunder in so far as such failure is directly due to Force Majeure or 'act of God' (collectively referred to as 'Force Majeure'), for which purpose Force Majeure shall include events beyond the reasonable control of the Party claiming Force Majeure which cannot be foreseen, or if foreseeable cannot be avoided, which occur after the date of this Agreement and prevent or hinder the carrying out of the obligations of the Party claiming Force Majeure, and shall include events such as war, riots, vandalism, and revolutions, rebellion or terrorism, labour disputes, acts or omissions of government, undersea cable cut, highway authority or other competent authority, compliance with any statutory obligation, civil disturbance, fire, earthquake, storm, flood or other natural catastrophes which directly affects the Party claiming Force Majeure.
	2. The Party affected by Force Majeure shall promptly notify the unaffected Party and shall also promptly notify the unaffected Party on cessation of the disability resulting from Force Majeure.
	3. If as a result of Force Majeure, the performance by either Party of such Party's obligations under this Agreement is only partially affected, such Party shall, nevertheless remain liable for the performance of those obligations not affected by Force Majeure.
	4. If a Force Majeure event affecting either Party continues for a period exceeding one (1) month from the date of such notification then the other Party shall be entitled to terminate the Agreement, by notice in writing. Customer will effect payment for all Services performed until termination of the Agreement subject to a right of set-off in respect of all payments made by Customer in respect of which Service(s) have not been rendered by Suburban.
35. **Intellectual Property**

All legal and beneficial rights in software, copyright, trademark, or any other intellectual property in whatever form (hereinafter “Intellectual Property”) which Suburban provides to the Customer for the purpose of using the Service(s) will remain at all times the property of Suburban or its owner or licensor. Suburban hereby grants the Customer a non-exclusive, non-transferable licence to use such Intellectual Property for the sole purpose of using the Service(s) as contemplated in this Agreement. The Customer may not reproduce the software or Intellectual Property or modify, adapt, translate, reverse engineer or disassemble the software or Intellectual Property.

1. **Limitation of Liability**
	1. Suburban shall not be liable under this Agreement for:
2. any loss or damage caused by the Services where there is no breach of any contractual obligation or legal duty of care. This cover extends to Suburban’s agents and employees;
3. any loss or damage caused by the Customer’s use of the Services or by the agents and employees of Suburban, where such loss or damage was not contemplated by Suburban and the Customer at the time this Agreement was entered into;
4. any loss of business, contracts, profits, anticipated savings, reputation, goods, revenue or use of Service whether or not the Customer was advised in advance of the possibility of such loss or damage.; or
5. any special, consequential or indirect losses.
	1. Neither Party excludes or restricts in any way its liability for death or personal injury resulting from its own negligence or the negligence of its employees or agents acting in the course of their employment or agency or for wilful misconduct (including but not limited to fraud and fraudulent misrepresentation).
	2. Suburban’s liability to the Customer for failure to provide the Services in accordance with this Agreement or if any other liability is arising (including liability for negligence or breach of statutory duty) then such Suburban liability shall be limited to the amounts payable to the Customer by way of air time credit and shall not exceed one (1) month air credit time of the Services.
6. **Sub-contractor**

Suburban reserves the right to sub contract parts of the Services to third parties. However, in such cases the primary liability and responsibility for the provision of the Services to Customer shall remain solely and entirely with Suburban.

1. **Change of Address**
	1. Customer understands and acknowledges that the Services are to be used at the service locations provided in the Service Request Form and shall notify Suburban immediately if the Customer’s address changes.
	2. Where the Customer relocates from any of the service locations and the Services provided to the Customer under this Agreement is not available at the Customer’s new location, Customer may either terminate this Agreement or renegotiate the Services which are provided to it.
	3. Suburban retains the right to charge the Customer for any reasonable cost incurred as a result of relocating the Services to the Customer’s new location. Customer shall be notified of the charge prior to invoicing.
2. **Governing Law and Arbitration**
	1. This Agreement is governed by, and shall be construed in accordance with, the laws of the Federal Republic of Nigeria.
	2. Save as otherwise provided for in this Agreement, the Parties hereby agree that any dispute, controversy, or claim arising out of, or relating to this Agreement, or the breach, termination, or invalidity thereof, shall be settled amicably between the Parties and if settlement is not reached within fourteen (14) days from the date the dispute arose, the dispute shall be referred to Arbitration.
	3. The outcome of the arbitration shall be final and binding upon the Parties except in instances of misconduct on the part of the arbitrator or error on the face of the arbitral award and may be made an order of court.
	4. The Arbitration shall be held in the Abuja or such other place within Nigeria as shall be agreed on by the Parties, in accordance with the Arbitration & Conciliation Act, Cap. A18, Laws of the Federation of Nigeria, 2004.
3. **Notices**
	1. Any notice given under or in connection with this Agreement, shall be in writing and shall be deemed to have been delivered two (2) days after date of dispatch if sent by hand or by courier, or via electronic email with delivery confirmation and in the case of transmission by email, upon receipt of an automated report of successful transmission, and where the email is sent after the normal business hours of the recipient, the email shall be deemed received on the next business day following the date of successful transmission.
	2. Notices sent to the Customer shall be sent to the Customer’s address as provided in the applicable Service Request Form. Notices sent to Suburban shall be sent to Suburban’s address specified in the applicable Service Request Form, or if by electronic email, to crm@suburbanfiberco.com
4. **Assignment**

Suburban reserves the right to transfer its rights and obligations under this Agreement to any company, firm or person. This Agreement is personal to the Customer, and as such the Customer shall not transfer its rights under this Agreement to a third party.

1. **Amendment**

Suburban reserves the right to amend or modify this Agreement and any applicable Terms and Conditions at any time. Suburban will notify the Customer of any amendment or modification of this Agreement.

1. **Insurance**

Each Party shall maintain appropriate insurance against any loss, damage, claims or actions arising out of the performance by it of its obligations under this Agreement from: (i) personal injury or death; (ii) public liability; (iii) damage to or loss of equipment; (iv) any other liability for which it is required by law to

1. **Third Parties**

This Agreement is intended solely for the benefit of Suburban and the Customer and, except as expressly provided herein; nothing in this Agreement shall be construed to create any rights in, duty to, standard of care to or any liability to any person not a party to this Agreement.

1. **Severability**

If any provision contained in this Agreement is is, in whole or in part, held to be illegal, invalid or unenforceable under any enactment or rule of law, that provision, or part thereof, shall to that extent be deemed not to form part of this Agreement and the other provisions shall remain in full force and be enforceable.

1. **Data Protection**
	1. Suburban shall treat in confidence any information in its possession and shall not disclose such information to a third party except it is required by law to disclose such information. Where Suburban discloses Customer information to any third party, it shall ensure that such third party is bound by a similar data protection obligation/agreement.
	2. Each Party hereby undertakes to comply with all provisions of applicable law pertaining to the privacy and security of the other Party’s data and Confidential Information, including but not limited to the Nigeria Data Protection Regulation 2019 and Suburban’s Data Protection and Privacy Policy available at <https://suburbanfiberco.com/privacy-policy> and incorporated herein by reference which the Customer hereby confirms to have read and fully understood, and which may be reviewed from time to time by Suburban.
2. **General**
	1. This Agreement constitutes the sole agreement between the Parties regarding the subject matter hereof. The Parties shall therefore not be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.
	2. Nothing in this Agreement shall constitute a partnership, joint venture, agency or employment between the Parties hereto, and neither Party shall have the authority or power to bind, or Agreement in the name of, or to create a liability against, the other in any way for any purpose.

**SERVICE LEVELS**

1. **Service Delivery**

The standard installation interval for a new connection to the Service is stated in the Agreement.

* 1. **Performance Targets**

Service Provider guarantees at least 99.0% availability of the Services. This guaranteed percentage is to be calculated excluding any outages that take place in accordance with this Agreement.

* 1. **Service Credits**

If Service Provider fails to meet the described service levels for guaranteed availability as stated in paragraph 1.2 above, Customer will be entitled to Service Credits as follows:

1. 99% – 98%, 1 day free service
2. 98% – 95%, 2 days free service
3. 95% - 90%, 3 days free service
4. 90% - 80%, 1 week free service

Notwithstanding any other provisions of this Agreement, Service Credits shall be Customer’s sole and exclusive remedy with regards to the failure of the Service to comply with the guaranteed service level.

1. **Fault Response and Restoration**

Service Provider aims to meet or better the following response times in accordance with the table below. The table below sets restoration Mean Time to Repair (MTTR) targets for three categories of network faults. These MTTRs commence from when the call is placed with Service Provider by Customer.

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| --- | --- | --- |
| **Fault Category** | **Diagnostic Time** | **Mean Time To Repair** |
| Emergency | 30 minutes | 2 hours |
| Major Fault | 30 minutes | 6 hours |
| Minor Fault | 60 minutes | 36 hours |

Should a fault be raised outside normal working hours (defined as Monday to Friday, 09:00 to 18:00 in the local time) and declared as Minor, MTTR shall not commence until the following working day. Planned outages are not included in these performance figures.

1. **Planned Outages**

The planned outage window is a daily window from 01:00am to 04:00am Monday to Friday (local time to the exchange) for maintenance. Service Provider will provide 5 working days’ notification of any of Service Provider’s scheduled maintenance on the exchange.

For Customer scheduled maintenance, Service Provider will forward a planned outage notification within 5 hours of receipt of the notice by Service Provider.

Under exceptional circumstances, it may be necessary to perform emergency maintenance, without prior notice. Service Provider will endeavour to provide as much notification as possible for emergency maintenance.

1. **Incident Classification**

The Classification level of an incident as indicated below, of an incident shall be proposed by Service Provider to the Customer and via mutual agreement will determine the actions to be undertaken. In case of disagreement, Service Provider shall decide on the classification to be applied to the incident.

The classification may be changed by Service Provider during the course of repairs (e.g. if an incident is classified as an “Emergency” and is temporarily repaired, it could be reclassified as “Major” or “Minor”). A new classification will determine the actions undertaken from then on.

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| **Fault Classification** | **Impact** | **Examples** |
| Emergency  | Faults which render the service unusable | 1. Total loss of connectivity
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| Major  | Faults which significantly degrade service  | 1. Incomplete Routing Table
2. Packet or signal loss
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| Minor  | Minor degradations, non-service affecting Issues, or service activation issues | 1. Non major routing issues
2. Technical queries
3. Requests for change
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| **Contact Level** | **Contact Function & Name(s)** | **E-mail Addresses** | **Phone Numbers/Mobile** |
| 1st Level | CRM | crm@suburbanfiberco.com | 09087812002 |
| 2nd Level | NOC Faults | nocfaults@suburbanfiberco.com | 09087812001 |
| 3rd Level | HOD, NOC/ Aliyu Usman | a.usman@suburbanfiberco.com | 08036591714 |
| 4th Level | GCOO/Suleiman Arzika | s.arzika@suburbanfiberco.com | 08181118880 |

1. **Fault Escalation**

If the problem is not being addressed in a satisfactory manner, or the problem needs higher management attention to be resolved, the following escalation sequence is available to the Customer.

Escalation starts once the issue has been logged with and fault confirmed by the Network Operations Center.

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| --- | --- | --- |
| **Escalation Level** | **Emergency or Major Fault** | **Minor Fault** |
| 1st level | Immediate | Immediate |
| 2nd level | Immediate | 8 hours |
| 3rd level | Immediate | 16 hours |
| 4thlevel | Immediate | 1 working day |