



GENERAL TERMS AND CONDITIONS

SCOPE OF AGREEMENT

The **General Terms and Conditions** outlines the specific levels of service that the CUSTOMER may expect from LAYER3 and shall be read together with the **Customer-Specific Terms** and all **Annexures** and the said documents shall constitute a single document and the entire Agreement between the CUSTOMER and LAYER3 for the provision of the services requested by the CUSTOMER. The Agreement and Annexures shall supersede any prior written or oral Agreement or understanding with respect to the subject matter hereof and shall each constitute only a valid part of the contract between the CUSTOMER and LAYER3. No misrepresentation of, variation of, and amendment to this Agreement shall be effective unless made out in writing and signed by both Parties.

1.0 INTERPRETATION

In this Agreement, the following words shall have the meaning as defined below:

- 1.1 **Agreement** means this Agreement, consisting of **General Terms and Conditions** and **Customer Specific Terms** and the **Annexures** including any amendments, variations or additions thereto from time to time.
- 1.2 **Associate** means any individual or corporate body associated with either Party to this Agreement.
- 1.3 **Billing Address** means the address of the CUSTOMER where bills in relation to this Agreement are to be sent.
- 1.4 **Confidential Information** shall have the meaning given to it in **clause 22**
- 1.5 **Customer Premises Equipment (CPE)** means the equipment / device installed at the CUSTOMER premises for the delivery of the Service. It may also include other accessories or ancillary equipment.
- 1.6 **Customer-Provided Facilities (CPF)** means all facilities used (other than facilities provided by LAYER3) for connectivity to the service.
- 1.7 **Data Speed Rate** means the specified speed at which the CUSTOMER wants its Data Traffic to travel.
- 1.8 **Date of Commission** means the date on which LAYER3 tests and confirms to the CUSTOMER that the Service has been activated and ready for use.
- 1.9 **Expiry Date** means the date on which the term expires and or delivery of the Service by LAYER3 to the CUSTOMER terminates
- 1.10 **Maintenance Hours** means the hours between 7.30am and 7.30pm when LAYER3 may carry out maintenance services on the CPE.
- 1.11 **NOC** means the Network Operating Centre of LAYER3
- 1.12 **Outage Credit** means provision of service in the month following any loss or degradation of service due to a confirmed outage, at no cost to the CUSTOMER for a period to be calculated in accordance with the provisions of **clause 9.6**

- 1.13 **Service** means the provision by LAYER3 to the CUSTOMER of Internet Connectivity / VPN Services under this Agreement.
- 1.14 **Service Availability Guarantee** means the monthly minimum service availability guaranteed by LAYER3 to be provided to the CUSTOMER
- 1.15 **Service Charge** means the total amount payable each month by the CUSTOMER to LAYER3 in consideration for provision of the Service and may also include additional or auxiliary service charge.
- 1.16 **Service Commencement Date** means the date agreed by the Parties in writing for the commencement of the Service as specified under this Agreement.
- 1.17 **Service Location** means the CUSTOMER site or location at which the service is provided.
- 1.18 **Service Maintenance** in relation to the CPE means carrying out repairs verifying or ensuring that the CPE performs in accordance with its specification or as may be required by CUSTOMER. This activity may include inspection cleaning adjustment, realignment, testing or replacement of the CPE.
- 1.19 **Service Maintenance Notification** means the notification of specific dates issued by LAYER3 to CUSTOMER in order to carry out the above activity. It also includes notification of the CUSTOMER to LAYER3 of any failure of service or malfunction of the CPE or the service in general.
- 1.20 **Term** is used with reference to the length of time or duration of the service beginning from the Service Commencement Date to Expiration Date as clearly defined in the Customer Specific Terms (Part 2)
- 1.21 **Taxes** means any taxes, charges, contributions, levies, duties, usage fees or other fee which may be levied on or asserted against LAYER3 or the CUSTOMER by any local or national authority with respect to or arising directly from this Agreement, connectivity of the Service, or attaching to the Service Charge.
- 1.22 **Termination Charge** means the charge for early termination of this Agreement by the CUSTOMER calculated in accordance with the provisions of clause 14.1.5

2.0 THE SERVICE

- 2.1 Layer3 shall provide the Service to the CUSTOMER at the specified service locations and Data Speed Rate as described in the Customer Specific Terms (Part2) and shall use all reasonable means to provide, maintain and ensure that the service is available during the service availability hours and throughout the duration of the Agreement.
- 2.2 LAYER3 shall not pre-empt or cause an interruption of the Service to the SUBSCRIBER except for purposes of service maintenance and shall under such circumstances give the CUSTOMER at least 24 hours notice of the proposed disruption. In the event of an outage or confirmed failure, LAYER3 shall use its best efforts to restore the Service as soon as possible as provided in clause 10

3.0 SERVICE CHARGES

- 3.1 The CUSTOMER shall be liable in each calendar month to pay Service Charges in advance for the Service provided by LAYER3. Service Charge shall begin to accrue three (3) days after the date of commission of the Service by LAYER3 and the CUSTOMER shall be liable for the Service Charge whether or not the Service is utilized. Subject to the agreement of the Parties, Service Charges shall be invoiced on a quarterly, bi-annually or annual basis and payment shall be made on or before the 30th day of the month preceding the next billing period.
- 3.2 The CUSTOMER shall receive one (1) month and one (1) week notices respectively in respect of quarterly and monthly payments, and a final reminder shall be sent at least three (3) days before the expiration of a billing period. Where payments are not received within three (3) days into the new billing period, the CUSTOMER will be issued a disconnection notice and will be required to make the outstanding payment within seven (7) days of receipt of such notice.
- 3.3 Where the CUSTOMER fails to make payment after receipt of a disconnection notice, LAYER3 reserves the right to disconnect the CUSTOMER from the Service. In the event that the CUSTOMER is disconnected from the Service and intends to continue with same, the CUSTOMER shall communicate its intention to LAYER3 and upon payment of all outstanding sums and a reconnection fee, the Service shall be restored. Restoration of the Service may take up to 72 hours.
- 3.4 Notwithstanding any other provision hereof, LAYER3 may, after giving 30 business days' notice to CUSTOMER and subject to the mutual agreement of both Parties vary at any time the charges and or tariffs payable by the CUSTOMER for the service provided hereunder after the expiry date of the initial term created by this Agreement.
- 3.5 In the event of a dispute on the amount billed the CUSTOMER (either in part or whole) for the Service for any given period, the CUSTOMER shall communicate same to LAYER3 within 30 days of the issue of the bill. Upon notification by the CUSTOMER, the Parties shall thereafter meet and resolve the same.
- 3.6 During the pendency of a dispute and provided services are not withdrawn, CUSTOMER shall continue to pay the already agreed rate with LAYER3 until the dispute is resolved after which the agreed terms of settlement will be implemented.
- 3.7 Subject to the eligibility of the CUSTOMER to pay taxes and in accordance with the provisions of Value Added Tax Act, all services invoiced shall attract VAT at the applicable ruling rate.

4.0 TERM AND RENEWAL

- 4.1 This Agreement shall be valid from the date of signature hereof and the Service shall commence from the date of commission (subject to an acceptance and sign off of the Job Completion Form by the CUSTOMER) and shall remain in full force for an initial period of 12 months except and until determined in the manner and circumstances specified in clause 14

- 4.2 The Service may be renewed for a further period of 12 months upon such terms as may be agreed by both Parties. Either Party may indicate their intention for renewal by giving the other Party a written notice stating the terms of renewal not later than 3 months to the expiration of the initial term and the other party shall accept or refuse such notice in writing within 14 days of receiving same. In the absence of any formal notice, the agreement shall be deemed to be automatically renewed upon the same terms.

5.0 CUSTOMER OBLIGATIONS

- 5.1 To provide at its own expense suitable and proper working environment for the effective service delivery, security and protection of the CPE and to indemnify LAYER3 in the event of any damage to or loss of the CPE.
- 5.2 To provide constant power and ensure the adequate protection of the Service and CPE against voltage spike, surge and erratic power by use of voltage protective devices such as Uninterrupted Power Supply device (UPS), Surge Suppressor, Spike Arrestor or other power regulating device.
- 5.3 To provide adequate security for the protection of the Service and CPE within the service location.
- 5.4 To provide adequate and maximum cooling conditions that meets the technical specifications of the Service and CPE to ensure effective and efficient service delivery.
- 5.5 Not to use, cause or allow others to use the said Service for any improper, immoral or unlawful purpose including but not limited to use in a manner which may affect or jeopardise or impair the operation of the Service and the CPE.
- 5.6 Not to use the CPE in conjunction with any accessory, attachment or equipment prior to obtaining the written consent of LAYER3.
- 5.7 To keep and operate the CPE in a proper and diligent manner and in accordance with the manufacturers or LAYER3 operating instructions and to ensure that only competent, trained and authorized personnel are allowed to operate the CPE.
- 5.8 Not to carry out service maintenance on the CPE or permit any person other than LAYER3 personnel to carry out service maintenance without having obtained the prior written approval of LAYER3.
- 5.9 Not to move or cause the CPE to be removed without the prior written approval of LAYER3.
- 5.10 To inform LAYER3 immediately and confirm the same in writing in the event of any complaints with regard to the Service and to co-operate fully with LAYER3 in resolving any such complaints.
- 5.11 Not to act or omit to act in any way which may damage or degrade the Service or LAYER3 equipment or service quality.

- 5.12 To provide LAYER3 with full and safe access to the CPE and its accessories at all reasonable times and provide to LAYER3 with sufficient space services and facilities to conduct its obligations provided by this Agreement.
- 5.13 To inform LAYER3 in writing of any changes to its billing address and it is hereby understood and agreed that LAYER3 accepts no liability for any inaccuracy or incorrectness to CUSTOMER's address.
- 5.14 To provide LAYER3 with prior written notice of not less than 30days of the CUSTOMEER's intention to move from the initial service location to another.
- 5.15 To notify LAYER3 of any work to be carried out by any third party which may affect the CPE.
- 5.16 Not to use service location in a manner so as to cause a disruption to accessibility of the service or CPE. In particular no structural building or other erection which is likely to interfere with the CPE shall be placed near or over the CPE or on any part thereof.

6.0 LAYER3 RESPONSIBILITIES

- 6.1 LAYER3 shall supply, deliver, install, test, commission, maintain and control the Service to the CUSTOMER as well as the CPE at the service location or any other location agreed by the Parties in writing.
- 6.2 LAYER3 obligation shall also include the overall service maintenance of such CPE during maintenance hours by competent and fully trained personnel.
- 6.3 Service maintenance may be provided on the CPE or any of the CPF outside maintenance hours at the request of the CUSTOMER and any such request shall attract an additional service charge at a rate to be determined by LAYER3 and communicated to the CUSTOMER.
- 6.4 Before the installation or commission of a link, LAYER3 shall within a reasonable time forward to the CUSTOMER such information and assistance as may be necessary to enable it effect the installation or commission of the link and the CUSTOMER shall prepare the service location for the delivery and installation of the CPE or other service equipment and provide all necessary environmental and operational conditions for the efficient working and maintenance of the CPE to ensure the delivery of reliable link to the CUSTOMER.
- 6.5 LAYER3 may at its discretion and with the written consent of the CUSTOMER examine and test the CPE to ascertain its eligibility for service maintenance. If upon examination, it is determined that the CPE is eligible for service maintenance due to the fault of the CUSTOMER, the CUSTOMER shall be charged for the service maintenance.
- 6.6 At the completion of every service maintenance, LAYER3 personnel shall duly complete a Service Maintenance Form indicating the nature of fault reported or detected, resolution step, work done and number of hours spent which will then be signed by the representatives of both Parties.

6.7 Subject to the further provision hereinafter specified, LAYER3 shall use its best efforts in ensuring that the guaranteed service availability specified in Clause 9 is attained at all times throughout the duration of this Agreement.

7.0 EXCEPTIONS TO SERVICE MAINTENANCE

7.1 Service maintenance shall not include maintenance of the CPE necessitated by any of the following occurrences:

7.1.1 Damage or fault occasioned by failure or fluctuation of electrical power, air-conditioning humidity control or CUSTOMER's failure to provide safe or proper environmental conditions.

7.1.2 A force majeure event

7.1.3 Damage or fault arising from the act or omission of any third party, provided such party is not the representative or agent of LAYER3.

7.1.4 Service maintenance other than at the service location or such other location as LAYER3 shall have previously approved in writing.

7.1.5 Correction of faulty operation due to operator error.

8.0 SERVICE AVAILABILITY MONITORING

8.1 LAYER3 shall monitor from its Network Operating Centre the quality of Service available to the CUSTOMER and on the last day of each month submit a written report of the month's service quality. The CUSTOMER shall be deemed to have accepted LAYER3 report if there is no dispute in writing within 14days of receipt of the report.

8.2 The Parties hereby agree that any dispute with regard to LAYER3 report submitted pursuant to sub clause 8.1 above will be resolved mutually within 7days from the date or receipt of the SUBSCRIBER's written objection.

9.0 SERVICE AVAILABILITY GUARANTEE

9.1 The parties acknowledge that the service being provided by LAYER3 does not constitute a perfect system of communication and may be affected by such vagaries which affect all telecommunications systems thereby affecting the integrity and quality of service. Subject to the foregoing, LAYER3 shall use its best endeavours in Troubleshooting the CPE or attend to any fault calls at the service location and hereby guarantees a minimum average monthly service availability of 99%.

9.2 Service availability guarantee shall not operate where there is damage to or loss of the CPE by any default or fault of the CUSTOMER or a third party or due to the failure of the CUSTOMER to provide safe or proper environmental conditions for the working of the CPE.

- 9.3 Where service availability falls below the guaranteed monthly minimum service availability, LAYER3 shall be penalized and downtime charges deducted according to the percentage of unavailability for the month and calculated in accordance with clause 9.6.
- 9.4 Downtime charges shall be applied by LAYER3 crediting the CUSTOMER with outage credit which shall be set off against the service charge due to be paid by the CUSTOMER within the next billing period immediately following the date upon which the outage credit became due.
- 9.5 LAYER3 shall not be liable to indemnify the CUSTOMER for unacceptable service levels under the following circumstances:
- 9.5.1 When the CUSTOMER cannot provide stable power supply for the CPE
 - 9.5.2 An occurrence of force majeure event
 - 9.5.3 Non adherence of the CUSTOMER to the operational procedure and guidelines of the CPE.
 - 9.5.4 Faults originating from the satellite provider
 - 9.5.5 Service suspension due to non payment of bills.
 - 9.5.6 Unavailability of Contact person to provide access
- 9.6 Monthly minimum service availability shall be calculated as follows:

$$\frac{\{\text{Total Expected Service Time} - \text{Total Downtime}\}}{\text{Total Expected Service Time}} \times 100$$

BONUS	Monthly Availability	Additional Payment to LAYER3
	Greater than or equal to 99%	0.0% of Monthly charge
PENALTY	Monthly Availability	Deduction from Payment to LAYER3
	Between 96% and 98.99%	2.5% of Monthly charge
	Between 90% and 95.99%	5.0% of Monthly charge
	Below 90%	10.0% of monthly charge.

10 SERVICE OUTAGES

- 10.1 If during the Term, the Service becomes unavailable or fails to meet the required service characteristics then either Party shall promptly notify the other upon becoming aware of the unavailability. Where service unavailability continues for two (2) or more consecutive hours, then subject to written confirmation of the same by LAYER3 the Service shall be deemed to have suffered a Confirmed Outage.
- 10.2 Confirmed Outage shall be measured as commencing from the time of notice by either Party to the other of such outage (or such earlier time as the Parties may mutually agree), provided the Service is in fact unavailable and or the affected service does not in fact meet the required service characteristics.
- 10.3 Confirmed Outage shall be deemed to have terminated upon the earlier occurrence of:
 - 10.3.1 Resumption of use of the affected service by the CUSTOMER
 - 10.3.2 Notice by LAYER3 to the CUSTOMER and confirmation by the CUSTOMER that the Service is available or that the affected service meets the required service characteristics.
- 10.4 Confirmed Outage shall be deemed not to have occurred in any of the circumstances enumerated in clause 9.5 or where the outage was caused by any of the following:
 - 10.4.1 Acts or omissions of the CUSTOMER or any of its employees, agents, or contractors in violation of the CUSTOMER obligations in clause 5
 - 10.4.2 Interference caused by owners or users of networks other than networks owned or serviced by LAYER3
- 10.5 In the event of a confirmed outage, LAYER3 shall use its best endeavours to restore the Service within its Restoration Targets. LAYER3 network performance target aims to minimize service restoration time and guarantees that the Service will be restored in accordance with the Mean Time To Repair (MTTR) as tabulated below. MTTR will begin to run immediately any support incident is reported to LAYER3 Helpdesk.

Priority	Service Type	Fault Severity	MTTR
1 st Level	Longhaul VPN, Internet , Metro Fiber, WIMAX	Severe – Emergency	1 hour
2 nd Level	Longhaul VPN, Internet, Metro Fiber, WIMAX	Major - Service Outage	2 hours
3 rd Level	Longhaul VPN, Internet, Metro Fiber, WIMAX	Minor - Service Degradation	4 hours

Table 2: Restoration Targets

11.0 SERVICE FAILURE

- 11.1 The Service shall be said to have failed where there is confirmed outage for a period of forty eight (48) consecutive hours, or the Service or any part thereof fails to meet the required service characteristics for ten (10) or more periods of at least one (1) hour each or a longer per occurrence within a period of thirty (30) consecutive days.
- 11.2 The Service shall be not be deemed to have suffered a confirmed failure where the same is attributable to any of the circumstances enumerated in clause 9.5.

12.0 PROTECTION AGAINST THIRD PARTY RIGHTS

- 12.1 The CUSTOMER undertakes during the continuance of this Agreement
 - 12.1.1 To protect the CPE and its accessories against distress, execution or seizure.
 - 12.1.2 Not to sell, offer to sell, assign, sub-let, pledge, mortgage, charge or cumber or part with possession of or otherwise deal with the CPE or any interest in them nor create or allow to be created any lien on the equipment.
 - 12.1.3 In the event of sales, disposal, mortgage or otherwise encumbrance of any land or building on or in which the CPE are kept, the CUSTOMER shall ensure that LAYER3 retrieve and take possession of it CPE equipment in the affected locations.
 - 12.1.4 Not to use the Satellite Bandwidth or Transponder Space Segment for any other use other than what is agreed on this Agreement.
 - 12.1.5 To indemnify LAYER3 against all losses, costs, charges, damages and expenses incurred by LAYER3 by reason of the failure of the CUSTOMER to comply with this clause.

13.0 FORCE MAJEURE

- 13.1 The parties hereof shall not be liable to each other howsoever for any delay or any failure to perform an obligation imposed by this agreement (except the payment of all charges , fees and tariffs hereunder), to the extent that it is caused by but not limited to an act of God, acts or omission of government, local government authorities or other competent authorities, directives from such government authorities or its securities operatives ,industrial disputes of any kind and sit-in-strikes (whether or not involving that party's employees) or other labour difficulties, embargoes, fire, flood, lighting, explosion, inclement, weather acts or omission of persons or bodies for whom the affected there by it is not responsible or any other cause whether or dissimilar outside the reasonable control of that party. In the event of force majeure, the date(s) of performance of any obligations hereunder shall be extended for a period equal to the time lost by reason of the delay.
- 13.2 In the event of force majeure occurrences, the prevented parties /party shall inform the other party/parties as soon as possible that a force-majeure event has occurred

within five (5) days of occurrence of the force majeure event, the prevented party/parties shall, as soon as possible inform the other party/parties to that effect. In the same manner as afore stated.

- 13.3 Should the force majeure event continue for a period in excess of 30 days following the notice referred to in clause 14.2, the parties may terminate this agreement on giving written notice to the other Party without further liabilities save for those in existence prior to the occurrence of the force majeure event.

14 TERMINATION

- 14.1 Without prejudice to any claim or remedies that either party may have against the other at the date of termination, either party may terminate this agreement at any time by notice to the other in any of the following circumstances:
- 14.1.1 If the service remains suspended for a period of 14 days or more by either party giving 7 days' notice to the other.
 - 14.1.2 Where the service level becomes abysmally low and LAYER3 could not restore service to the CUSTOMER 14 days or more after receipt of notice of complaint from the CUSTOMER.
 - 14.1.3 If a party is unable to pay its debts or makes any arrangement and compromise with its creditors or a petition for winding up is presented to any court or a receiver of the undertaking property or assets or any part thereof is appointed.
 - 14.1.4 Notice in writing having effect forthwith, if CUSTOMER shall be in persistent material breach of this agreement and shall have failed to remedy such breach within 14 days after receipt or a notice specifying the breach and requiring their remedy.
 - 14.1.5 Upon forty-five (45) days written notice of termination from one party to the other. Where the termination thereof is not as a result of the failure of LAYER3 to meet the Service availability level as contained in this Agreement, the CUSTOMER shall pay LAYER3 seventy-five percent (75%) of the unbilled amount for the term of the Agreement.
- 14.2 Termination of this Agreement shall not operate as a waiver of any breach of any of the provisions hereof and shall be without prejudice to any rights liabilities or obligations of any of the parties which may arise at law as a consequence of such breach or which may have accrued up to the date of such termination or expiry.
- 14.3 If this Agreement is terminated for any reason whatsoever, LAYER3 shall have the right to remove any equipment(s) it might have installed at any of CUSTOMER service locations within 7 days of such termination upon reasonable notice to the CUSTOMER.

15 REVIEW

- 15.1 Either Party may at any time upon giving the other written notice seek to modify the terms of this Agreement (including but not limited to the charges and tariff(s) hereunder if:
- 15.1.1 There occurs a material change in any relevant circumstance (including but not limited to any material change in any law, statute or regulation governing telecommunications in Nigeria) or any material change caused or to be caused as a result of any directive, order or code of conduct (whether having the force of law or not issued by a competent regulatory authority) which significantly affects or which the party reasonably expects significantly to affect the commercial basis on which this Agreement is founded.
 - 15.1.2 There occurs any other event which the parties agree should give rise to a review of any term of this Agreement
 - 15.1.3 At the expiration of the initial term of 12months, either party wishes on any grounds to initiate a review of this Agreement.
- 15.2 The review notice specified in Clause 15.1 shall set out in reasonable detail the modifications sought by the party giving the notice and (where appropriate) shall specify such material change as is referred to in Clause 15.1.1 or such event as is referred to in Clause 15.1.2.
- 15.3 Immediately after service of the review notice, the parties shall discuss and negotiate in good faith with a view to modifying the terms of this Agreement at the earlier possible date.
- 15.4 Any agreed modifications to the terms of this Agreement shall be drawn up formally and executed by both parties as in these present and shall become effective on the date agreed between the parties for this purpose.

16.0 LIMITATION OF LIABILITY AND INDEMNIFICATION

- 16.1 It is expressly agreed that the CUSTOMER's exclusive rights against LAYER3 for any cause whatsoever arising out of or relating to this Agreement under any theory of law or equity are limited to those set forth in **Clause 6** and **Clause 9**, and all other rights of any kind are expressly excluded. Without limiting the generality of the foregoing, with respect to any claim or suit by the CUSTOMER or by any other party arising from or in connection with the Service, the liability of LAYER3, if any, shall not exceed an amount equal to the aggregate of the Service Charges payable in respect of the Service during the period to which the claim relates. Nothing contained in this Clause shall preclude either Party from seeking injunctive relief to prevent a wilful breach of, or to compel performance in the event of a wilful failure to comply with, this Agreement.
- 16.2 In no event shall LAYER3 be liable for any incidental or consequential damages or loss of profit or of revenues, whether foreseeable or not, occasioned by any defect in the network, or the provision of the Service to the CUSTOMER, or any delay in the provision of the Service to the CUSTOMER, any failure of LAYER3 to provide the

Service, or any other cause whatsoever. Neither party excludes liability for death or personal injury caused by its negligence.

17.0 ASSIGNMENT

This Agreement is exclusive to the CUSTOMER and LAYER3 and neither party shall, without the prior written consent of the other Party, assign or cause to be assigned the use of the Service hereunder to any third party, or transfer, sub-let, broker, re-sale, change, encumber howsoever or otherwise deal with the whole or any part of this Agreement.

18.0 WAIVER

Any delay or failure of any of the Parties to exercise any right or remedy shall not constitute a waiver of such right or remedy either Party may enforce its right or remedy separately or concurrently with any other right or remedy now or in the future accruing to the party to the effect that such right or remedy is cumulative and not exclusive of each other.

19.0 VARIATIONS

No variations, modifications or addition to or cancellation of any provision of this Agreement shall be effective unless agreed in writing and executed in the same form and manner as these presents.

20.0 NO PARTNERSHIP

LAYER3 and CUSTOMER hereby declare that it is not the intention of either of them to enter into a joint venture with each other hereby and nothing herein shall be deemed to constitute a partnership between the said Parties hereto or constitute one party the agent of the other for any purpose whatsoever.

21.0 SETTLEMENT OF DISPUTES.

21.1 Any disputes or difference whatsoever that may arise at any time between the Parties in connection to this contract, either during the continuance or afterwards of this Agreement, the Parties shall make every effort to resolve the difference or dispute through amicable resolution. If it is not so resolved, any of the Parties may give notice of the difference or dispute to the other(s) and such difference or dispute shall be referred to arbitration.

21.2 A single arbitrator shall be appointed by unanimous consent of the Parties. If the Parties, however, cannot reach agreement on an arbitrator within Thirty (30) days of the submission of a Notice of arbitration, the appointing authority for the implementation of such procedure shall be the Chairman of the Institute of Charter Arbitrators, who shall appoint an independent arbitrator who does not have any financial interest in the dispute, controversy or claim. If the Chairman of the Institute of Chartered Arbitrators refuses or fails to act as the appointing authority within thirty (30) days after being requested to do so, then the appointing authority shall be the Chief Judge of the High Court of the Federal Capital Territory, who shall appoint an independent arbitrator who does not have any financial interest in the dispute, controversy or claim.

- 21.3 Unless otherwise expressly agreed in writing by the Parties to the arbitration proceedings:
- 21.3.1 the arbitration proceedings shall be conducted in accordance with the Arbitration and conciliation Act, Cap A 18, Law of the Federal Republic of Nigeria 2004 or any other statutory modification or re-enactment thereof for the time being in force on the relevant Date.
 - 21.3.2 the arbitration proceedings shall be held in Abuja, Nigeria;
 - 21.3.3 the arbitration proceedings shall be conducted in the English language and the arbitrator shall be fluent in the English language;
 - 21.3.4 the costs of the arbitration proceedings (including attorneys' fees and costs) shall be borne in the manner determined by the arbitrator;
 - 21.3.5 the decision of the sole arbitrator, shall be reduced to writing; final and binding without the right of appeal

22 CONFIDENTIALITY

- 22.1 The Parties, to the extent of their contractual and lawful right to do so, shall exchange such proprietary or confidential information as is reasonably necessary for each to perform its obligations under this Agreement. All information relating to this Agreement provided by any party to the other(s), whether oral or written, and when identified as confidential or proprietary in writing, is hereby deemed to be confidential and proprietary information ("Proprietary and Confidential Information").
- 22.2 A party/parties receiving Proprietary and Confidential Information pursuant hereto ("Receiving Party") shall not without the prior written consent of the party disclose such information ("Disclosure Party"):
- 22.2.1 Use any portion of the Proprietary Information for any other purpose other than the purpose of this Agreement.
 - 22.2.2 Disclose any particular of the proprietary information to any person(s) or entities other than the authorized employees, agents and consultants of the Receiving Party who reasonably need to have access to the Proprietary Information in connection with the purpose of this Agreement and who have agreed in writing to protect the Proprietary and Confidential Information as though they were a party to this Agreement.
 - 22.2.3 Proprietary and Confidential Information shall remain the property of the Disclosing Party and shall, at the Disclosing Party's request and after it is no longer needed for the purpose of this Agreement, promptly be returned thereto or be destroyed, together with all copies made by the Receiving Party in accordance with the provisions of this section.
 - 22.2.4 Notwithstanding the preceding provisions, either parties may be required by law to disclose any information or particulars pertaining to the other to

any statutory authority, including but not limited to any security agency or regulatory authority. Such party shall however give notice to the other before disclosure is made.

ENTIRE AGREEMENT

The parties acknowledge that this Agreement contains the whole agreement between them.

NOTICES

Any notice required to be served on either on the Parties may be hand-delivered or sent by courier service or facsimile between the hours of 8.00am and 5.00pm on Mondays to Fridays (Public Holidays exclusive) and shall be deemed to have been delivered on the date of actual receipt thereof. Where delivered by email, the notice shall be deemed to have been delivered when the delivery notification is received by the addressee. Notices shall for the purposes of this Clause include any approvals, consents, instructions, orders and certificates to be given under this Agreement.

SEVERABILITY

In the event of any one or more of the provisions of this Agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this agreement, and this agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this agreement, and the Agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

GOVERNING LAW

This Agreement shall in all respects be governed by and construed and enforced in accordance with by the laws of the Federal Republic of Nigeria, including all matters of construction, validity and performance.

FAULT REPORTING

All faults related to LAYER3 services should be reported immediately to the LAYER3 Helpdesk by opening a trouble ticket at the relevant severity level. Upon evaluation of the report, or throughout the course of responding to the report, LAYER3 may reclassify the severity based upon this evaluation. All fault reports should be made directly to LAYER3's Helpdesk through the following methods only.

NOTE: LAYER3 WILL MAKE ITS BEST EFFORT BUT CANNOT ASSURE PROMPT RESPONSE TIME FOR FAULTS REPORTED BY OTHER MEANS OTHER THAN THESE STATED.

Fault Reporting	
Phone	09 782 2522, 09 8706059 (24Hours)
	0704 0499 268 (After work hours & weekends and to be used on the condition that the primary lines are

	<i>unreachable)</i>
Email	support@layer3.cc
Online Helpdesk	http://csportal.layer3.cc

Figure 1 – Fault Reporting Procedure

When notifying a problem to the LAYER3 Helpdesk, the Customer is requested to provide the following information to ensure efficient and proper handling of the report:

- Trouble Ticket number (if assigned)
- Customer ID or Account ID, if relevant
- Name, Company Name, Contact telephone number(s)
- Date & Time of the incident being reported
- Full description of the problem, including all relevant information available (e.g. router logs)

NOTE: ANY INCIDENT REPORTED BY ANY MEANS OTHER THAN THOSE LISTED WILL NOT BE ATTENDED TO.

Reports

LAYER3 shall prepare and provide the reports detailed below.

- Weekly report of Service Availability for each Service Location.
- Weekly report of all Service Failures and associated Service Tickets.
- Weekly report on connectivity quality i.e. RTT
- Weekly report on Mean Time To Repair (MTTR)
- Monthly report of Bandwidth availability for each Service Location.
- Monthly report of Bandwidth utilisation for each Service Location.
- Monthly root cause analysis for resolved issues.