

# TFL IPVPN Application Form



## Service Request Type

<input type="checkbox"/> Installation	<input type="checkbox"/> Relocation	<input type="checkbox"/> Upgrade/Downgrade	<input type="checkbox"/> Cancellation
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## Company Details

<b>Company Name:</b>	
<b>Company Address:</b>	
<b>Billing Address:</b> (If different from above)	
<b>Postal Address:</b>	

## Contact Details

	For Application Form	For Technical Setup
<b>Contact Person:</b>		
<b>Position:</b>		
<b>Phone:</b>		
<b>Email:</b>		
<b>Mobile:</b>		
<b>Fax:</b>		

## Service Details

<b>Speed:</b>			
<b>Contract Period:</b>	<input type="checkbox"/> 1 Year	<input type="checkbox"/> 2 Year	<input type="checkbox"/> 3 Years
<b>Date of Service Required:</b> (See Clause 6.2 for Lead Times)			



Installation Site Details	
Site Type	<input type="checkbox"/> <b>Central Site</b> (Select only Once) <input type="checkbox"/> <b>Remote Site</b>
Building Name:	
Floor No:	
Street Address:	
Town/City:	
Contact Person	
Phone:	
Mobile:	
Email	

Relocation Site Details		
	From Location A	To Location B
Building Name:		
Floor No:		
Street Address:		
Town/City:		
Contact Person		
Phone:		
Mobile:		
Email		

Upgrade/Downgrade		
	Central Site	Remote Site
Circuit ID:		
Existing Speed:		
New Speed:		

Cancellation	
Circuit ID:	
Cancellation Date:	

Account Manager			
Account Manager:			
Phone:		Mobile:	
Email:		Fax:	



**Charges**

**1. New Installation/Upgrade/Downgrade**

**A. Central Site**

Speed	Monthly Recurring Charge	Installation Charge	Other Charges

**B. Remote Site**

Speed	Monthly Recurring Charge	Installation Charge	Other Charges

**2. Relocation**

Circuit	Relocation Installation Charge			New Monthly Recurring Charge of Circuit
	One-Time	Wiring	Other (eg. NTU)	

**3. Other Charges (Please Specify)**

**4. Remarks (Special arrangement, Circuit/Network Configuration Plan. If space is insufficient, attach additional sheets)**



**Agreement and Declaration**

I/We agree to subscribe for TFL’s IPVPN Service on the following terms and conditions, which shall apply on TFL’s acceptance of this application:

- (a) TFL’s Standard Terms and Conditions of Service;
- (b) The Specific Terms and Conditions for TFL’s IPVPN Service; and including any amendments TFL may make from time to time to those terms and conditions.

I/We acknowledge that I/we have read and understood the above terms and conditions, and that the terms and conditions may be viewed at <http://www.tfl.com.fj>, and are available from TFL on request.

I/We agree that TFL shall be entitled to use or disclose any information or data disclosed by me/us.

I/We confirm that all information given by me/us in connection with this application is true and correct

Signed for and on behalf of the Applicant by its Authorised Officer

Name of Authorised Officer	Signature of Authorised Officer	Date	Company Stamp

# TFL IPVPN Application Form



**For Official (AM) Use Only**

<b>Customer Order Date:</b>		
<b>Customer Order Receive Date:</b>		
<b>Request for Service Date:</b>		
<b>Agreement Ref:</b>		
<b>Bill Invoice Ref:</b>		
<b>Quotation Attached:</b>	<input type="checkbox"/> Yes Ref No:	<input type="checkbox"/> No

**Additional Information and Special Instructions :**

**Document Verified & Submitted By AM**

Name	Signature	Date

## 1. DEFINITIONS

1.1. In these Specific Terms and Conditions, the following words and expressions shall have the following meanings:

"After Hours" shall include weekdays from 5 pm to 8am, weekends and public holidays

"Agreement" shall be referred to this service agreement.

"Application Form" means the form prescribed by TFL and used by the Customer to subscribe for the Service.

"Business Day" means any day other than the eve of public holidays, public holidays and weekends.

"Business Hours" means the following hours on a Business Day: 8:00am to 4:30pm Monday to Thursday, and 8:00am to 4:00pm Friday.

"CE" means the Customer's router connected to the service.

"Charges" means the charges payable by the Customer to TFL in respect of the Service as prescribed by TFL from time to time.

"CPE" means Customer Premises Equipment and is any hardware or software provided by the Customer and is located at the Customer's premises.

"Customer" shall hereon be referred to (you) the subscriber of the Service.

"Service" means the service known as the IPVPN service provided by TFL.

"System" means the computer systems, programming and communication facilities and any other equipment required by TFL for the operation of the Service.

"Term" means the Initial Contract Term (as defined in Clause 3.4) and any renewal or amendment thereof.

"TFL" shall be referred to as Telecom Fiji Limited, the provider of the IPVPN service.

## 2. GENERAL CONDITIONS

2.1. The Customer shall be bound by and shall fully observe and comply with all the General Terms as well as such other terms and conditions as may be agreed or accepted by the Customer. The rights and protections conferred on TFL under these Specific Terms and Conditions shall be additional to the rights and protections conferred on TFL under the General Terms and any other terms and conditions agreed or accepted by the Customer.

2.2. The words and expressions used in these Specific Terms and Conditions, which are defined in TFL Standard Terms and Condition but are not defined in these Specific Terms and Conditions shall have the same meanings as defined in the Standard Terms and Condition unless the context otherwise requires. The Customer can refer to <http://www.tfl.com.fj/> for perusal.

2.3. The headings or titles to the Clauses in these Specific Terms and Conditions are to facilitate reference and shall not be referred to or relied upon in the construction of any provision of these Specific Terms and Conditions.

2.4. Any Clause in the Standard Terms and Condition, these Specific Terms and Conditions, or any other terms and conditions as may be agreed or accepted by the Customer, that is invalid, unenforceable or illegal shall be enforced as nearly as possible in accordance with its terms, but shall otherwise be deemed severed and shall not affect the enforceability of any other Clauses, which Clauses shall continue to be valid and enforceable to the fullest extent permitted by law.

2.5. The Service provided by TFL under these Specific Terms and Conditions may not be re-sold or otherwise re-provided by the Customer to any other person(s) whomsoever.

2.6. TFL shall downgrade or suspend the Customer's service without any prior notice if TFL deems that there is service degradation attributed to the Customer interfacing equipment.

## 3. COMMENCEMENT AND TERM OF SERVICE

3.1. The Service shall commence on the Date of Service Required as stated in the Application Form or, in the event that TFL is unable to provide the Service on the Date of Service Required, the date specified by TFL in writing, as the case may be (the "Commencement Date of Service").

3.2. Billing will begin on the Commencement Date of Service regardless of whether Customer is prepared to use Service.

3.3. The minimum period of subscription for the Service shall be:

3.3.1. twelve (12) consecutive months; or

3.3.2. the period selected by the Customer (as stated in the Application Form).

3.4. The minimum period of subscription for the Service is calculated to commence on the Commencement Date of Service (the "Initial Contract Term"). Thereafter the Service shall continue in force for successive periods corresponding with the Initial Contract Term.

3.5. Unless one Party notifies the other in writing at least thirty (30) days prior to the expiration of the original or any renewal term of Service that it intends not to renew Service, Service shall automatically renew for the same term of Service period at the same pricing, terms and conditions.



- 3.6. This Agreement shall reflect price reductions or discounts if there are further market rate reductions or discounts during this contractual term.

#### 4. SERVICE REQUIREMENTS AND LIMITATIONS

- 4.1. The terminating or end-point(s) of the Service must be a legally valid business or residential address at premises owned by the Customer in Fiji. The Service shall not terminate at any premises not approved by TFL for that purpose, including but not limited to cable stations, earth stations, TFL telephone exchanges, manholes, rooms housing a main distribution frame, power rooms, lead-in pipes, ducting, at any outdoor site, or at any premises not owned by the Customer. TFL shall not entertain any request for termination of Service at any such sites.
- 4.2. The Customer acknowledges that Service availability is subject to:
- 4.2.1. availability of resources including, without limitation, availability of a suitable network infrastructure at the time at which the Service is requested or delivered;"
  - 4.2.2. geographic and technical capability of the TFL network and of TFL's delivery systems at the time at which the Service is requested or delivered; and
  - 4.2.3. provisioning time for equipment that is required by TFL to provide the Service.
- 4.3. Service is only available for installation and operation indoors, and the Customer shall at all times ensure it maintains an indoors environment for the Service.
- 4.4. The Customer shall not:
- 4.4.1. through the use of the e-mail name or password infringe any copyright or other intellectual property rights pertaining to the information or resources available nor shall the Customer retain such information or resources for re-use in any computer system or otherwise;
  - 4.4.2. attempt to gain access to any computer system connected to the Internet without due authorisation by the computer system;
  - 4.4.3. use the Service to access information or resources which are private to individuals and organisations unless permission to do so has been granted by the owners or holders of the rights to such resources and information; or
  - 4.4.4. when accessing any other network through the Services breach the rules or regulations appropriate for such other network.
- 4.5. The Customer shall obtain TFL's prior written approval before:
- 4.5.1. interconnecting the Service to any third party's network whatsoever; or
  - 4.5.2. making any changes to the Customer's network configuration that may affect TFL's network or services during the Term.
- 4.6. If the Customer enlists an external party, at its own expense, to install any wiring or cabling required for the provision of the Service, then the Customer must ensure that:
- 4.6.1. the proper installation and testing of such wiring or cabling is completed prior to the Commencement Date of Service; and
  - 4.6.2. such wiring or cabling is labelled clearly to demarcate it as belonging to the Customer.
- For the avoidance of doubt, the Customer shall be fully liable for any act(s) or omission(s) of the said third party.
- 4.7. The Customer may, with the written consent of TFL, purchase additional features or services ancillary to the Service and, on provision of those additional services or features, these Specific Terms and Conditions shall also apply to those additional services or features.

#### 5. EQUIPMENT

- 5.1. Service must terminate into a TFL-approved CE router on the Customer Premises. A CE router is required for the exchange of traffic between the TFL Network and the Customer and must be furnished by Customer. Customers will be solely responsible for all router provisioning, configuration, maintenance, management, and support.
- 5.2. Unless specified in this Agreement, Customer is solely responsible for provisioning, configuration and maintenance of all CPE hardware and software, including without limitation TCP/IP routers and CSU/DSU line interface units. TFL shall not be responsible for delays in the provision of Service resulting from incompatibility of such CPE, or resulting from improper provisioning, configuration or maintenance of such CPE. TFL may provide configuration files for certain routers, at its sole discretion, and only as a convenience to Customer. The connection of CPE and wire will at all times comply with the terms, conditions, limitations and responsibilities normally applicable to the connection of customer premise equipment to the telephone network.
- 5.3. Customer will provide the proper environment, electrical and telecommunication connections for the Services and Router, if applicable, as specified by TFL and/or the Router manufacturer. Customer will be responsible for the installation, operation and maintenance of all CPE. No combination of CPE will: require change in or alteration of the equipment or Service of TFL; cause electrical hazards to TFL's personnel or damage to TFL's equipment; cause the malfunction of TFL's billing equipment; or cause



degradation of Service to persons other than the user of the subject terminal equipment or communications system. Upon notice from TFL that Customer's CPE is causing such hazard, damage, malfunction or degradation of Service, Customer will promptly make such changes as will be necessary to remove such hazard, damage, malfunction or degradation of Service.

### 6. SERVICE PROVISION

- 6.1. TFL reserves the right not to accept or not to proceed with any application for Work if:
  - 6.1.1. the Application Form submitted by the Customer and received by TFL is not duly completed and signed;
  - 6.1.2. TFL considers it is unable to provide the Service due to non-availability of resources (including, without limitation, unavailability of cable or network equipment);
  - 6.1.3. TFL discovers that any facility or resource the Customer was requested to provide as required by TFL and under the operating conditions and specifications stipulated by TFL to the Customer for the proper performance of the Work, or the installation, operation and maintenance of the Service and all TFL Equipment, was not provided as requested; and/or
  - 6.1.4. The condition of Clause 4.1, 4.6, 5.1 is not satisfied by the Customer.
- 6.2. The service provisioning lead-times for Service are as follows:
  - 6.2.1. The standard service provisioning lead-time is 20 working days for up to 3 links;
  - 6.2.2. the express service provisioning lead-time for the Services is 10 working day which is only applicable for link speeds upto 4Mbps;
  - 6.2.3. More than 3 links will be treated as a project and an implementation plan will be provided upon request.

The lead times serve only as a guide and are subject to resource availability. TFL will give the committed lead-time for a service at the point when TFL accepts the application and provides the Request For Service (RFS) date. Installation charges for service provisioning are based on standard lead-times, and the charges for express provisioning lead-times may be different.

- 6.3. If the Customer requests for service activation to be done in a shorter time frame as that stipulated under the normal provisioning scheme, express charges, where applicable, shall apply.
- 6.4. The Customer acknowledges and agrees that:
  - 6.4.1. for the purposes of determining the date on which TFL shall complete the installation (the "RFS Date"), unless TFL agrees otherwise the RFS Date shall be set on a Business Day and all installation work shall take place within Business Hours. TFL shall be entitled to impose additional charges for any work done pursuant to any RFS Date that does not fall on a Business Day and for installation work that the Customer requests to be conducted outside Business Hours; and
  - 6.4.2. if the application for the Service is received before 12 noon, that day (or, if that day is not a Business Day, the next Business Day) shall be counted as the first day of application, and if an application for the Service is received after 12 noon on any day, the next Business Day shall be counted as the first day of application.
- 6.5. If TFL is unable to complete all or any of the Work on or before the RFS Date, then the Customer must either:
  - 6.5.1. cancel that part of the Work that TFL is unable to complete on or before the RFS Date, without being liable to pay the cancellation charges referred to in Clause 6.7 of these Specific Terms and Conditions;
  - 6.5.2. accept that part of the Work that TFL has completed, and pay for the same at TFL's then prevailing rate; or
  - 6.5.3. agree to a revised RFS Date for TFL to complete the Work, and pay for the same at TFL's then prevailing rateand other than a claim (if any) available to the Customer under Clause 7.5, the Customer shall have no other claim against TFL, and TFL shall have no liability in contract, at law or in equity, for failure to complete the Work on or before the RFS Date.
- 6.6. Where the Customer requests a deferment of the RFS Date:
  - 6.6.1. TFL reserves the right not to accept the deferment request and, in such an event, the Service ordered as specified in the Application Form shall be deemed cancelled and the Customer shall pay TFL cancellation charges in accordance with Clause 6.7.
  - 6.6.2. If TFL agrees to the deferment:
    - 6.6.2.1. the revised RFS Date shall be no more than thirty (30) days from the initial RFS Date. If the Customer wishes the revised RFS Date to be beyond thirty (30) days, then TFL reserves the right to discontinue the Work and, in such an event, the Service ordered as specified in the Application Form shall be deemed cancelled and the Customer shall pay TFL cancellation charges in accordance with Clause 6.7; and



- 6.6.2.2. the Customer shall be liable to pay a reservation fee at TFL's then prevailing rate. For the purposes of this Clause, the period of reservation shall be the period between the originally agreed RFS Date and the date of completion of the Work.
- 6.6.2.3. No deferment request shall be entertained by TFL after the activation of the Service on the RFS Date.
- 6.7. If the Customer cancels, or is deemed to have cancelled, the Work, the Customer shall be liable to pay the cancellation charges at TFL's then prevailing rate.
- 6.8. If TFL commissions the equipment and Service and the Customer's facility subsequently deteriorates to a level below the specifications and operating conditions advised by TFL, then the Customer shall rectify the situation forthwith to meet the specification, failing which TFL shall charge to the Customer all repair or replacement costs for any affected TFL equipment housed in the deteriorated facility.
- 6.9. If the Customer requests for a change of the terminating point and this results in a change of original serving distribution point, then that request shall be deemed a cancellation of the Work by the Customer, and the Customer shall pay TFL cancellation charges in accordance with Clause 6.7.
- 6.10. If the Customer's request for a change of the terminating point results in re-wiring of any completed wiring work from the original serving distribution point, then the Customer shall be liable to pay the charges for the rewiring at TFL's prescribed rate for the internal removal of circuit.
- 6.11. Relocation of the Service shall be subject to resource availability. In addition, the Customer shall also be liable for any applicable relocation or one-time installation charges for the relocation of the relevant Service.

### 7. SERVICE LEVEL GUARANTEE

- 7.1. The Customer shall be entitled to the following Service Level Guarantee (SLG) for the Service, subject to the terms and conditions specified in this Clause 7 and the Schedules to these Specific Terms and Conditions.
- 7.2. The SLG guarantees the installation ("Installation Work") and maintenance ("Maintenance Work") for the Service.
- 7.3. In consideration of the Customer fulfilling and complying with each of its obligations and covenants relating to Services, TFL commits to the service level(s) described in Schedule 1.
- 7.4. Details of the SLG
  - 7.4.1. TFL guarantees to complete the Installation Work and/or Maintenance Work for the Service within the respective guaranteed periods as stated below:
    - 7.4.1.1. to complete the Installation Work for the Service by the RFS Date;
    - 7.4.1.2. to complete the Maintenance Work for the Service within such period as may be specified by TFL in such manner as may be appropriate, which period shall commence from the time the fault is reported by the Customer to TFL's designated fault reporting centre.
  - 7.4.2. Installation Work
    - 7.4.2.1. The Installation Work under this SLG covers the provision of the Service up to TFL's network interface points.
    - 7.4.2.2. If the Customer's premises are not under TFL's telecommunication cabling distribution scheme or the cabling network within the said premises is not provided by TFL, then TFL shall propose for it to provision and install wiring and socket(s) for the Customer from TFL's network interface points to the Customer's premises, which shall form part of the Installation Work, and TFL shall charge and the Customer shall be liable to pay an additional cost as prescribed by TFL from time to time.
    - 7.4.2.3. If the Customer wishes to decline TFL's proposal in respect of the provision and installation of wiring and/or socket(s), then the Customer may either:
      - 7.4.2.3.1. appoint, at its own cost, a licensed contractor to carry out the said work and perform the necessary testing with TFL upon completion of the said work, by the agreed upon RFS Date; or
      - 7.4.2.3.2. terminate the Service.

If the Customer's licensed contractor fails to complete the said work and testing by the RFS Date, then the Customer shall be required to request for a deferment of the RFS Date specified under Clause 6.6. If the Customer terminates the Service before the relevant RFS Date, then the Customer shall pay to TFL the amounts as stated in Clause 6.7. Where the Service is terminated after the relevant RFS Date, the Customer shall be subject to Clause 10.3.
    - 7.4.2.4. Subject to the Customer agreeing to the proposal under Clause 7.4.2.2, if TFL fails to complete the Installation Work by the RFS Date owing to matters within TFL's control, then the Customer may make a claim in accordance with Clause 7.5.



7.4.2.5. Where the Service is provided without a physical visit by TFL's staff and/or agent to the Customer's premises, TFL shall notify the Customer of the date and/or time ("Activation Time") when the Service shall be activated. If the Service is not activated at or after the Activation Time, then the Customer shall report such non-activation "fault" to TFL within the First Period (as hereafter specified) after the Activation Time to enable TFL to check and rectify the fault leading to the non-activation, if necessary. However, if the Customer reports such fault after the said First Period, then TFL shall check and rectify the fault within the Second Period (as hereafter specified) from the time such fault is reported by the Customer, and the RFS Date shall be correspondingly extended to the end of the said Second Period. The First Period and Second Period shall be as specified by TFL from time to time in such manner as TFL considers appropriate.

### 7.4.3. Maintenance Work

The scope of the Maintenance Work under this SLG covers:

7.4.3.1. restoration of the Service up to TFL's network interface points; and

7.4.3.2. any replacement, if deemed necessary by TFL, of such wiring and/or socket(s), which has been laid or installed by TFL, under Clause 7.4.2.2, between TFL's network interface points and the Customer's premises. Such replacement shall be payable by the Customer to TFL at a cost prescribed by TFL from time to time. If the Customer does not agree to pay the said cost, then TFL reserves the absolute right not to carry out any replacement work and shall be absolved from any obligation to maintain the Service.

7.4.3.3. If TFL fails to restore the Service in accordance with Clause 7.4.1.2 owing to matters within TFL's control, then the Customer may make a claim in accordance with Clause 7.5.

## 7.5. Customer Claim

7.5.1. The Customer may claim a rebate of no more than the applicable installation charges in respect of the Service affected at any one time for the period of delay of the Installation Work beyond RFS Date. For the purposes of this Clause, the installation charges applicable as at the date of the completion of the Installation Work shall be used to determine the amount of the rebate. The claimable amount and the period of delay leading to such claim shall be as specified by TFL from time to time. Any costs incurred under Clause 7.4.2.3 shall fall outside the scope of the rebate.

7.5.2. Subject to Clauses 7.4.3.1 and 7.4.3.2, the Customer may claim a rebate of no more than the applicable monthly recurring charges in respect of the Service with respect to which a fault reported by the Customer to TFL's designated fault reporting centre is confirmed at any one time and there is a delay of Service restoration by TFL. The claimable amount and the period of delay of Service restoration leading to such claim shall be as specified by TFL from time to time.

7.5.2.1. The Customer's claim under Clause 7.5.2 shall be limited to the failure of the Service only. The Customer shall not be entitled to make any claim in respect of any other Service whatsoever which may be or is directly or indirectly affected by the failure of the said Service.

7.5.2.2. The aggregate of the claims made by the Customer for the Service in any calendar month shall in no event exceed the latest monthly recurring charges payable for that Service for that month. For the purpose of this Clause, the fault restoration time for the Service is used to determine a claim made in that calendar month.

7.5.3. If the Customer is entitled to make a claim in respect of the affected Service under other service level guarantee schemes besides this SLG, then the Customer shall only be permitted to make a claim under one of the applicable service level guarantee schemes.

7.5.4. A claim by the Customer hereunder shall be received in writing (with the information in Clause 7.5.5) through TFL's appointed Account Manager by the fourteenth (14<sup>th</sup>) day of the following calendar month of the completion of either the Installation Work or the Maintenance Work, as the case may be. The amount in respect of any claim hereunder shall be paid to the Customer in the form of a rebate.

7.5.5. The following information **must** be enclosed to support the claim:

7.5.5.1. Service Number(s) of the circuit(s) affected;

7.5.5.2. Account Number(s) of the affected circuit(s);

7.5.5.3. Date and time of the complaint(s);

7.5.5.4. TFL's Fault Ticket Number(s) for the stated Fault(s);

7.5.5.5. Name of the person(s) who lodged Fault(s);

7.5.5.6. Reason for dissatisfaction and/or claim.



- 7.5.6. TFL will assess the claims submitted by the customer with its own Fault records, and if the Customer is entitled to a rebate pursuant to the claim made hereunder, TFL will notify the customer and then the amount of the rebate will be credited into the Customer's affected account(s) after it has been processed by TFL and will be reflected in TFL's bill to the Customer in accordance with TFL's billing cycle on the following month.
- 7.5.7. The guarantee and rebates provided by TFL under this SLG:
- 7.5.7.1. are of an ex-gratia nature and personal to the Customer, and are non-transferable;
  - 7.5.7.2. are available subject to Service schemes and any Laws; and
  - 7.5.7.3. are subject to the terms of this SLG and any rules or regulations made under the same.
- Notwithstanding anything to the contrary in this Clause 7.5, if the Customer qualifies to make any claim under this SLG, TFL shall honour its obligations in respect of that claim but in the event of a dispute as to whether the Customer qualifies to make a claim or as to the quantum of the claim payable to the Customer, TFL's decision on the matter or issues shall, in its sole discretion, be final and conclusive. Further, TFL reserves the right to vary or withdraw this SLG at any time without being liable to the Customer in any manner whatsoever whether in damages or otherwise, provided always that any variation to the SLG or withdrawal shall not affect any rebates that may already have accrued under this SLG prior to such variation or withdrawal.
- 7.6. Monitoring & Payment Process for Service Level Guarantee
- 7.6.1. TFL shall use its own Fault records to track the time taken by TFL to rectify Faults.
  - 7.6.2. The RFS Date shall be used by TFL in determining the amount of Rebate, if any, available to the Customer in accordance with Schedule 1.
  - 7.6.3. Service Availability  
For any Month in which a Fault has occurred, TFL shall determine the number of minutes of Service Availability for that Month. This information shall be used by TFL in determining the amount of Rebate, if any, available to the Customer in accordance with Table 2 of Schedule 1
  - 7.6.4. MTTR Performance  
For any Month in which a Network Outage has occurred, TFL shall determine the average number of hours taken to restore Circuits in that Month. This information shall be used by TFL to determine the amount of Rebate, if any, available to the Customer in accordance with Table 3 of Schedule 1.
  - 7.6.5. Subject to Clause 7.6.2, Rebates for Provision of Service shall be calculated as a percentage of the one-time Installation Charge, which percentage shall depend on the number of Business Day(s) the Access Service is commissioned after the RFS Date, as set out in Table 1 of Schedule 1.
  - 7.6.6. Subject to Clause 7.6.3, Rebates for Service Availability shall be calculated as a percentage of the Monthly Rental for the relevant Circuit(s) in the particular Month, and will be credited within two (2) Months after the Month in which the Customer submitted a claim in accordance with Schedule 2.
  - 7.6.7. Subject to Clause 7.6.4, Rebates for MTTR shall be calculated as a percentage of the Monthly Rental for the relevant Circuit(s) and will be credited within two (2) Months after the Month in which the Customer submitted a claim in accordance with Schedule 2.
  - 7.6.8. If the Customer disputes TFL's record on the service level of the relevant Circuit(s) and/or as to the amount of any Rebate available to the Customer, the Customer shall not be entitled to be credited with any Rebate until and unless the dispute has been resolved.
- 7.7. Exclusion from SLG
- Notwithstanding anything to the contrary in this SLG, the Customer shall not be entitled to make any claim under this SLG in any of the following circumstances:
- 7.7.1. disconnection and/or reconnection of the Service due to any non-payment of any Fees and Charges; or where the Service is disconnected by reason of it being used for any illegal or unlawful purpose; or otherwise where the Customer is in breach of the terms and conditions of Service;
  - 7.7.2. provision of the Service under promotional packages or trials with or without any fees or charges;
  - 7.7.3. fault due to any equipment, wiring and/or socket(s) and/or cabling network owned or operated by the Customer, or Customer acts or omissions, including those of Customer's employees, officers, contractors, agents or vendors;
  - 7.7.4. provision or restoration of the Service where overhead pole erection is involved, or where any site co-ordination meeting is involved, or where any offshore island is involved, or where TFL needs to obtain or maintain any license, wayleave, permission or easement necessary to the provision or maintenance of the Service;



- 7.7.5. TFL's staff and/or its agent have difficulty accessing to or working in the Customer's premises due to the premises being inaccessible, in unsafe working condition or in any other inadequate or deficient state;
  - 7.7.6. provision of the Service upon the Customer's requested appointment time on the RFS Date, or on a date different from RFS Date as agreed, or where the RFS Date is changed by the Customer;
  - 7.7.7. delay in provision or restoration of the Service, or interruption to the Service, caused by events beyond TFL's reasonable control, including but not limited to removal of or damage caused to TFL's distribution point, cables or poles by whomsoever and for whatsoever reasons;
  - 7.7.8. provision of the Service in areas where there is no existing or sufficient TFL cable or equipment capacity in the vicinity;
  - 7.7.9. where TFL is unable to provide or maintain the Service or there is a delay in providing or maintaining the Service owing to any regulatory constraints, prohibitions or limitations or any failure, refusal or delay by any building owner or regulatory authority, including IDA in granting TFL any wayleave, license, approval or consent to use the MDF or TER(s) in any building which is necessary or incidental to the provision or maintenance of the Service;
  - 7.7.10. disruption of the Service due to deterioration of the Customer's facility housing TFL equipment to a level below the specifications and operating conditions advised by TFL;
  - 7.7.11. provision of the circuit for temporary usage;
  - 7.7.12. planned outages of which TFL has given advance notice;
  - 7.7.13. Customer equipment not being ready thereby affecting the RFS Date;
  - 7.7.14. network outages for which the Customer has not reported a fault. Pro-active monitoring and any detection by TFL of any Fault are excluded in this SLG;
  - 7.7.15. throughput of the Circuit bandwidth;
  - 7.7.16. any period for which TFL, during testing action, confirms has Circuit performance consistent with TFL's performance standards.
  - 7.7.17. periods where the Circuit(s) has been restored by diverting all information from the affected site to another local location chosen by the Customer as part of a disaster recovery plan separately subscribed for by the Customer;
  - 7.7.18. fault reported by Customer but no fault is found or confirmed by TFL;
  - 7.7.19. periods where Customer's staff are not available or contactable;
  - 7.7.20. a Circuit is able to communicate with at least one other Circuit or application on the TFL Network.
- 7.8. Miscellaneous
- 7.8.1. Except for the claims that the Customer may make under Clause 7.5, TFL shall not be liable to the Customer or any person claiming through the Customer for any direct, indirect, consequential or incidental damages or losses or expenses whatsoever, such as, but not limited to, loss of profits or business.
  - 7.8.2. Under this Clause "Service" shall mean the affected circuit.
  - 7.8.3. Under this Clause "MDF" shall mean the room housing the main distribution frame and "TER" shall mean the room housing telecommunications equipment.

### 8. SERVICE DEMARCATION

- 8.1. The point of demarcation for Service is the physical network location to which the Customer provided router is connected or, if Equipment is furnished by TFL, the LAN port at which interconnection takes place.

### 9. CUSTOMER RESPONSIBILITY

- 9.1. It is the Customers responsibility to maintain and manage data traversed through the connection at all times. All management of data or content management is the Customers responsibility and the Customer shall be responsible for all data (including SPAM/Junk Mail or Virus Attacks) traversed through the circuit. In case where traffic causes excessive resource utilization on the TFL's interfacing equipment or network that results in degraded performance for other TFL customers, TFL reserves the right to immediately downgrade or suspend service without prior notice.
- 9.2. The Customer shall provide TFL with access to all wiring closets, equipment rooms and Customer's premises to facilitate Service installation, testing and maintenance requirements.
- 9.3. The Customer is responsible for any TFL System placed within the boundary of the Customer's Premises and for its proper use; if any part of TFL's System is lost, destroyed or damaged (except for fair wear and tear) the Customer must pay TFL for its replacement and/or repair. The Customer must not interfere with the System nor permit anybody else (except someone authorised by TFL) to do so.



## 10. TERMINATION OF AGREEMENT

- 10.1. Subject to Clause 10.3, TFL or the Customer may terminate the Service by giving to the other not less than thirty (30) days' prior written notice.
- 10.2. If, at any time during the Term, the Customer wishes to change the Term or the speed(s) of the Service subscribed by the Customer, then the Customer shall give TFL not less than thirty (30) days' prior written notice. In such an event, the Service shall be deemed to be terminated on the effective date of the notice, and Clause 10.3 below shall apply.
- 10.3. On termination of the Service, the Customer shall be liable to pay TFL:
  - 10.3.1. where the termination date is the same as the expiry date of the Term, the Fees and Charges up to and including the date of termination;
  - 10.3.2. where the termination date is before the expiry date of the Initial Contract Term:
    - 10.3.2.1. the Fees and Charges up to and including the date of termination;
    - 10.3.2.2. except where the Service is terminated by TFL under Clause 10.1, 100% of monthly recurring charges for the period between the date of termination and the expiry date of the Initial Contract Term; and
  - 10.3.3. where the termination date is after the expiry date of the Initial Contract Term:
    - 10.3.3.1. the Fees and Charges up to and including the date of termination;
    - 10.3.3.2. except where the Service is terminated by TFL under Clause 10.1, 100% of monthly recurring charges for the period between the date of termination and the expiry of the renewed Term; and
- 10.4. TFL reserves the right to amend the terms and conditions ("sections 1 to 17") set herein within a thirty day notice (30 days). Amended terms and conditions shall be addendum to any valid Agreement in force at that time. Price changes shall be provided in writing but the Customer may terminate this Agreement within 30 days without a penalty payment if no mutual Agreement is reached on pricing with TFL. The Customer shall be liable for any charges up to the date of termination of service by either party.
- 10.5. TFL reserves the right to terminate all or partial service if there is a dispute between the Customer and the TFL or if there is a breach of any TFL terms and conditions.
- 10.6. The Customer must pay all prior charges on other services if in dispute. Failure to do this may result in partial suspension or disconnection of the service.

## 11. CHARGES, CREDIT STATUS AND BILLING PROCEDURES

- 11.1. TFL reserves the right to perform credit check on the Customer to determine the credit status. TFL reserves the right to seek advance monthly payments if TFL deems there is a "NON STATUS" or low credit rating.
- 11.2. The Customer will be billed monthly and the bill will include a charge for the Monthly Access Fee (fixed monthly rental), (payable in advance if deemed necessary by TFL or when your credit ratings degrade due to non-payment of previous bills or an outstanding debt with "TFL") as well as any other charges you have incurred. Any advance payment requests shall be in writing to client and shall be addendum to a current valid Agreement if one exists.

## 12. MAINTENANCE AND TESTING

- 12.1. TFL shall issue a commissioning report to the customer which shall provide the technical status of the link at the time of delivery.
- 12.2. The parties will cooperate with each other in performing joint tests to the extent reasonably necessary to establish the Service or to detect, isolate and remedy Service related problems. Joint tests will be at no charge to the other party, if such tests are conducted by remote testing systems. If an on-site technician is necessary and the trouble is located on Customer's side of the interface, actual material and labour prices at TFL's standard rates will apply.
- 12.3. TFL will perform routine maintenance as is customary to reasonably maintain the Service, Transport, and Router, if applicable, as described herein. All such maintenance will be performed at no additional charge to Customer if the fault which gives rise to the maintenance request is determined by TFL to reside on the TFL side of the point of demarcation between TFL and Customer or in the Router.
- 12.4. Customer understands and agrees that temporary interruptions may occur as normal and reasonable events in the provision of the Service. All Systems need routine maintenance from time to time. TFL will endeavour to provide Customer five (5) business days advance notice, or if not possible, reasonable advanced notice if TFL believes that such routine scheduled maintenance will affect Customer's Service. In the event of a network/systems emergency requiring immediate attention, TFL reserves the right to perform emergency maintenance without notice or upon short notice, and shall use all reasonable efforts to minimize the effect of such work on Customer's Service.
- 12.5. Customer acknowledges and agrees that TFL has no control over third party networks Customer may access in the use of the Service, and therefore, delays and disruption of other network transmissions

## IPVPN Specific Terms and Conditions



are completely beyond the control of TFL. TFL will not be responsible for Customer's inability to access the Service due to circumstances not in the direct control of TFL, such as individual user's own equipment capabilities and/or limitations and/or software limitations.

### 13. FAULT REPAIR

- 13.1. The Customer must report a fault in Service by calling TFL's Call Center on 112233 or such other number as TFL may from time to time provide to the Customer. The Customer will at the time of report provide TFL with a Contact Telephone Number to enable TFL to advise on the progress being made to clear the fault.
- 13.2. If the Customer reports a fault in Service, TFL will respond by carrying out one or more of the following actions:
  - 13.2.1. providing advice by telephone, including advice, where appropriate, as to tests and checks to be carried out by the Customer;
  - 13.2.2. where possible, carrying out diagnostic checks from TFL's premises; or
  - 13.2.3. visiting the Customer's Premises only if TFL's action under clause 13.2.1 and 13.2.2 does not result in the fault being diagnosed or cleared and where such a visit is considered necessary by TFL.
- 13.3. TFL will take all proper steps without undue delay to correct the fault.
- 13.4. If the Customer reports a fault and, following investigation by TFL, either no fault is found or TFL determines that the fault is not with the TFL network or TFL Equipment, then TFL may, at its discretion, charge the Customer a fee for the fault report at TFL's then prevailing rate.
- 13.5. If TFL agrees to attend a reported fault in Service After Hours, the Customer must pay a charge calculated at TFL's standard rates.

### 14. USE AND LIMITATIONS

- 14.1. TFL may:
  - 14.1.1. reject or refuse to perform any Services that are not in compliance with its applicable specifications and standards, laws and regulations and/or public interest standards as determined by TFL; and
  - 14.1.2. from time to time and without notice, make changes in Services that in its sole judgment will best serve TFL's customers. TFL's partial rejection or refusal of any portion of Services will not release Customer from its obligations with respect to the remaining Services being performed.

### 15. LIMITATION OF LIABILITY

- 15.1. The Customer agrees to indemnify and hold TFL harmless from any claims resulting from the use of the Service. TFL shall not be liable for any indirect, incidental, special, punitive or consequential damages of any kind that may result from the Customers' use of the Service including, but not limited to, any such damages for loss of data or loss of profits resulting from delays, non-deliveries or service interruptions

### 16. CONFIDENTIALITY

- 16.1. This application form is to be treated as confidential and should not be changed or distributed to any third party outside your organization.

### 17. GOVERNING LAWS AND JURISDICTION

- 17.1. The rights and obligations of signatories of this document shall be governed by, and this Agreement shall be construed and enforced in accordance with, the local, domestic laws of The Republic of Fiji and in Courts of Republic of Fiji Islands.

# IPVPN Specific Terms and Conditions



## SCHEDULE 1: SERVICE LEVEL GUARANTEE AND REBATES

- The rebates in this Schedule apply at the highest applicable level in the particular circumstance and are not cumulative (e.g. if a 15% rebate for Provision of Service is available to the Customer, that amount is the only amount of rebate available to the Customer in that circumstance).
- The Customer will only be entitled to receive Rebates for Provision of Service if TFL is unable to provide the service per the RFS date. The service level committed by TFL is per indicated in Table 1 of this Schedule.
- The Customer will only be entitled to the higher applicable Rebates for either Service Availability or MTTR. The service level committed by TFL is per indicated in Table 2 and Table 3 of this Schedule.

Table 1 - Provision of Service

Service Level	Rebate (% of Installation Charges)
<b>Delay:</b>	
<b>1 working day</b>	5%
<b>2 working days</b>	10%
<b>3 working days</b>	15%
<b>4 working days</b>	25%
<b>&gt;5 working days</b>	40%

Table 2 - Service Availability

Zones	Access Types		Rebate (% of Monthly Rental)
	Fiber	Copper	
<b>Zone 1</b>	Below 99.7%	Below 99.4%	10%
<b>Zone 2</b>	Below 99.4%	Below 99.1%	5%
<b>Zone 3</b>	Below 99.1%	Below 98.9%	5%

Table 3 - MTTR Performance

Service Level			Rebate (% of Monthly Rental)
Zone 1	Zone 2	Zone 3	
<b>4 - 10 Hours</b>	<b>6 - 12 Hours</b>	<b>8 - 14 Hours</b>	5%
<b>10 - 24 Hours</b>	<b>12 - 24 Hours</b>	<b>14 - 24 Hours</b>	10%
<b>24 - 48 Hours</b>	<b>24 - 48 Hours</b>	<b>24 - 48 Hours</b>	20%
<b>More than 48 Hours</b>	<b>More than 48 Hours</b>	<b>More than 48 Hours</b>	30%

Table 4 - Zones

Zones	Towns/City
<b>Zone 1</b>	CBD Suva city, Lami, Lautoka, Namaka, Labasa
<b>Zone 2</b>	Other Major Towns Ba, Nausori, Nadi, Sigatoka
<b>Zone 3</b>	Other Towns Pacific Harbour, Navua, Rakiraki, Savusavu, Tavua, Taveuni

# IPVPN Specific Terms and Conditions



## SCHEDULE 2: REBATE CALCULATION

To determine the Rebate amount, TFL shall make a same period comparison of the Rebate derived from the Service Availability calculation and Mean Time To Repair calculation methods, and rebate the higher of the two amounts calculated.

### Service Availability Calculation

Service Availability is calculated on a calendar month basis as follows:

$$\frac{(A - B)}{\text{-----}} \times 100\%$$

(A)

Where A = Total available time for the Month  
= 24 hours \* days in Month  
B = Total Network Outage time for each Circuit in the Same Month

### Network Outage Time

Network Outage time is the sum of all minutes in which the Customer's line to the TFL Network is unavailable for reasons other than those set out in Clause 7.7 of the Specific Terms and Conditions for TFL's services. It is calculated from the time of TFL's acknowledgement of the Customer's report of a Fault via telephone to TFL's Contact Center, to the time of TFL's notification to the Customer that the line connection had been restored.

### Mean Time To Repair (MTTR) Calculation

MTTR is calculated on a Monthly basis as follows:

$$\frac{B}{\text{---}}$$

F

Where B = Total Network Outage time per Circuit in the Month  
= 24 hours \* days in Month  
F = Total number of Faults for same Circuit in the same Month