

Application Performance Management

I. Description

(a) XO Application Performance Management (“APM”) is an optional product which may be added to Customer’s XO network services. APM refers to the tool within systems management that monitors and manages the performance and service availability of network and software applications. XO APM provides IT tools to detect, diagnose, troubleshoot, and report the performance of the XO Network and applications running through the XO Network.

(b) XO offers the following APM options:

(i) Tier 1 provides network visibility with the following capabilities:

- Single-screen view of network performance, which collects and filters port and circuit information.
- Network condition and application visibility up and down the protocol stack. It also provides real-time visibility from the physical layer up to the application layer, identifying utilization and top talkers across the infrastructure, as well as the sources of traffic for key protocols and applications.
- Identifies intermittent and chronic issues by providing on-demand reporting and visibility of Customer’s application and network performance, including SLAs.
- Critical visibility needed to manage and optimize CoS settings for private IP environments

(ii) Tier 2 provides application visibility with the following capabilities (in addition to the tier 1 functions):

- Fully-functional protocol analyzer at every location in a network. Ability to trace, filter and decode the most common network protocols and gain in-depth visibility into subtle problems, such as protocol violations, incorrect configurations, and timeouts.
- Auto-discovery of applications and servers, along with monitoring of server connect times and server response times.
- Customers may collect and filter port and circuit information, obtain end-to-end visibility into individual application flows, and identify which applications are on each port and isolate which clients are using specific servers. Customer may also measure application connect and response time to improve application performance.

(iii) APM Enhanced (previously referred to as “Tier 3”) provides the visibility to VoIP application with the following capabilities (in addition to tier 1 and tier 2 functionalities):

- Customer can assess VoIP readiness, monitor individual calls and pinpoint possible performance degradation across any location in the network.

(iv) NetVisor provides network and application visibility with the following capabilities:

- Traffic information of Cisco NetFlow or Internet Protocol Flow Information Export (“IPFIX”) collected from routers.
- Analyze application and protocol data in depth. This includes user, server and applications activity. Traffic views by user, user group, conversation, system and application are available.
- Drill down into specific device and interface views through web interface. Create comparative views of data using a range of filters.

(v) APM Standard provides the following capabilities (in addition to the NetVisor functionalities):

- Provides network performance report between sites based on round trip delay.

II. Feature Charges

Customer will be billed a separate monthly charge for the XO APM feature, as set forth in the Service Order Agreement. Monthly Recurring Charges (“MRC’s”) are billed in advance. Billing shall commence upon the Start of Service Date

III. Disclaimer

NOTWITHSTANDING ANYTHING TO THE CONTRARY, INCLUDING ANY OTHER DISCLAIMERS ASSOCIATED WITH XO IP VPN OR IP FLEX WITH VPN SERVICES, CUSTOMER UNDERSTANDS AND AGREES THAT THE XO APM FEATURE DOES NOT INCLUDE SERVICE LEVEL AGREEMENTS (SLA'S). FURTHER, XO MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY OF THE DATA OR ANY INFORMATION OBTAINED THROUGH THE APM FEATURE. XO WILL NOT BE LIABLE FOR DAMAGES OF ANY KIND RESULTING FROM CUSTOMER'S USE OF THE APM FEATURE, INCLUDING BUT NOT LIMITED TO CUSTOMER CHANGES TO HARDWARE OR SOFTWARE CONFIGURATIONS BASED ON DATA OBTAINED THROUGH THE APM FEATURE.

IV. Term and Renewal

The term for the APM feature shall be set forth in the Service Order Agreement and shall begin on the Start of Service Date for APM. The minimum term for the APM feature is one (1) year. Unless a Party notifies the other Party in writing not less than thirty (30) days prior to the expiration of the original or renewal term that it intends not to renew the APM feature, the APM feature shall automatically renew for the same service term and at the same pricing, terms, and conditions as set forth herein.

V. Termination and Cancellation Charges

(a) Upon the cancellation or termination of the APM feature, Customer will, within ten (10) days of such cancellation or termination, return, at Customer's expense, any equipment which may be owned by XO, in the same condition as when initially installed or delivered (less reasonable wear and tear), as well as any software, and other information and material provided by XO.

(b) If the APM feature is cancelled after the feature has been ordered but prior to the Start of Service Date, Customer will pay XO a cancellation fee equal to two (2) month's Monthly Recurring Charges for the APM feature, plus any applicable service ordering and installation charges.

(c) If the APM feature is terminated after it has been activated, including termination due to non-payment, Customer will pay XO an early termination charge equal to the Monthly Recurring Charges for the APM feature for the remaining term of the Service Order Agreement, plus any unpaid (or waived) service ordering and installation charges.

(d) It is agreed that XO's damages in the event of APM feature cancellation/termination shall be difficult or impossible to ascertain. The provisions set forth above are intended, therefore, to establish liquidated damages in the event of cancellation and are not intended as a penalty.

VI. Other Requirements

(a) For Government End-Users: Customer acknowledges that: (i) the APM feature has been developed at private expense and is commercially available at published prices and (ii) the XO-provided Fluke Networks software and any user documentation constitute "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 CFR 12.212 (or any successor regulations). Should this Agreement be determined to be inconsistent with Federal law or otherwise fail to satisfy a Government End User's needs, the Fluke Networks software, and any user documentation shall be provided to such End User as "RESTRICTED COMPUTER SOFTWARE" as defined in 48 CFR 52.227-19 (or any successor regulations) and the rights granted in such Fluke software and user documentation shall in no event exceed those specified in 48 CFR 52.227-19(c) (or any successor regulations).

(b) Customer and all End-Users shall comply with the U.S. Foreign Corrupt Practices Act and all export laws of the United States and other applicable foreign governments, agencies and authorities, and shall not export or re-export, or permit the export or re-export, of the APM feature, including the XO-provided software, hardware, and any component of the APM feature, any confidential information of XO or its suppliers, or any copy or direct product of any of the foregoing in violation of any such laws.

VII. Third Party Software

(a) XO PROVIDES, AND CUSTOMER HEREBY ACCEPTS THE THIRD PARTY SOFTWARE, AND ANY XO OR OTHER THIRD PARTY HARDWARE OR SOFTWARE PROVIDED TO OR USED BY CUSTOMER IN CONNECTION

WITH THE XO ANYWHERE PACKAGE "AS IS" WITH NO EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF ANY KIND, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. NOTHING HEREIN SHALL BE INTERPRETED TO ENHANCE OR CREATE ANY WARRANTY WITH RESPECT TO ANY THIRD PARTY SOFTWARE. XO DISCLAIMS ANY AND ALL LIABILITY ARISING OUT OF THE DELIVERY, INSTALLATION, SUPPORT OR USE OF ANY SOFTWARE. XO ASSUMES NO OBLIGATION TO CORRECT ERRORS IN ANY SOFTWARE. CUSTOMER UNDERSTANDS AND ACCEPTS ALL RESPONSIBILITY FOR ANY SOFTWARE MEETING CUSTOMER'S REQUIREMENTS OR EXPECTATIONS.

(b) Software License Agreement. Customer agrees to the terms of the Fluke Networks Software License Agreement ("Fluke License"), set forth on XO's website at www.terms.xo.com. The Fluke License is hereby incorporated into and made a part of this Agreement.

Rev. 1/5/15