

## XO SIP Terms and Conditions

**1.0 Service Description.** XO SIP is a service that utilizes IP technology to provide converged voice and data service over a single IPVPN connection to a Customer Premises via a local loop furnished by XO. XO SIP Service accommodates both inbound and outbound converged voice and data traffic by utilizing channels available via the local loop. XO SIP supports up to 400 voice-grade equivalent channels, subject to Customer's selection of port speeds, and provides local, long distance and data communications service capabilities.

### 2.0 Local Services

XO SIP includes unlimited local calling minutes subject to the usage requirements described below, which includes features such as Local Directory Assistance, Local Operator Services and Directory Listings at the rates set forth at [www.terms.xo.com](http://www.terms.xo.com).

XO SIP includes unlimited 'Site to Site' Calling (i.e. calls for customers with multiple locations calling between locations are included at no additional charge). This includes any site for a customer utilizing any of the following XO products: XOptions Flex, XOptions Flex with IP VPN, XO SIP and XO IPBX.

Customer is required to retain at least one (1) local line/telephone number throughout its Service Term. In the event Customer chooses to port out all of its local lines/telephone numbers prior to the expiration of its then current Service Term, XO may, upon thirty (30) days notice: (1) terminate Customer's Service, thereby subjecting Customer to early termination charges, as set forth in Section 8.0 below; or (2) convert Customer to a more appropriate technological solution, thereby requiring Customer to execute a new SOA with XO for the provision of such appropriate technological solution with a Service term length either: (a) equal to or greater than the length of time remaining on its then current Service Term, if the length of time remaining on Customer's then current Service Term is greater than one (1) year; or (b) one (1) year, if the length of time remaining on Customer's then current Service Term is equal to or less than one (1) year.

### 3.0 Long Distance Services

Long Distance Services refers to long distance usage outside of the local calling area (i.e., IntraLATA, Intrastate, Interstate and International). Unless otherwise set forth on XO's website at [www.terms.xo.com](http://www.terms.xo.com) with respect to specific Long Distance plans, all Domestic Long Distance calls (i.e., IntraLATA, Intrastate, and Interstate calls) for the below listed Long Distance products are billed in six (6) second minimums and six (6) second increments and rounded to the nearest penny. All other Long Distance calls, such as International Long Distance calls, will be billed in XO standard billing increments in accordance with the terms and conditions set forth at [www.terms.xo.com](http://www.terms.xo.com). If in any given month more than ten percent (10%) of Customer's Long Distance calls are six (6) seconds or less in duration ("Short Duration Calls"), then XO will bill, and Customer agrees to pay, a surcharge of one penny (\$.01) per call for such Short Duration Calls to be billed by XO in the following month or quarter, depending on the review period, as determined by XO.

The Service includes long distance calling minutes for inbound or outbound domestic usage subject to the limitations and usage requirements described below. Customer must select the appropriate calling plan based on Customer's long distance calling needs. A single basic Toll-Free number is available with the Service at no additional charge. Charges for international long distance calling will be billed at the applicable standard service rates reflected at [www.terms.xo.com](http://www.terms.xo.com). Customer must select from (i) a XO Corporate Long Distance Plan, or (ii) one of the XO IP Long Distance Business Plans set forth at [www.terms.xo.com](http://www.terms.xo.com) or (iii) a pay as you go rate based on Customer's calling needs. Corporate Long Distance and IP Long Distance plans, pricing and terms are located at [www.terms.xo.com](http://www.terms.xo.com) (unless provided to Customer as a separate addendum) and are hereby incorporated into this Exhibit.

### 4.0 Data Services

**4.1** Dedicated Internet access service is included with XO SIP. The bandwidth available will vary based on simultaneous voice usage at any given time. The SIP Service also includes standard website hosting

services on orders placed prior to July 1, 2014.

**4.2 Acceptable Use Policy.** Customer acknowledges that it has reviewed the XO Acceptable Use Policy ("AUP") which may be found at: <http://www.xo.com/legal-and-privacy/acceptable-use/> and agrees to be bound by the then current version of the AUP. The terms and conditions of the AUP, which may be updated from time to time, are hereby incorporated by reference and made a part of this Agreement.

## **5.0 Other Requirements**

**5.1 Usage Requirements.** XO SIP usage levels must be consistent with average business usage levels. XO SIP may not be used in connection with auto-dialers, foreign exchange services, public telephone services, calls to Internet Service Providers, broadcast facsimile applications, or aggregated end-user traffic such as that undertaken by educational institutions, nor may XO SIP be deployed at any Customer collocation space. The Company reserves the right either to discontinue furnishing XO SIP or to move Customer to an alternative usage plan or product if Customer's usage, in XO's sole discretion, is deemed not to be that of a typical business user or if the service is being used by Customer for any prohibited application. Customer shall remain responsible for any applicable early termination charge if it chooses to terminate service as a result of XO's modification of the Customer's usage plan or product.

**5.2 E911 Capability.** To receive XO SIP, Customer must review and acknowledge acceptance of a Disclosure Addendum indicating that any E911 calling capability associated with Service: (a) may not be available during an electrical power outage affecting the Service location; (b) will not be available if Customer's broadband connection service has been disrupted and not restored; (c) will not be available if Service has been discontinued for any reason, including Customer non-payment; (d) may not be available or may be routed to emergency personnel unable to respond at locations other than the location for which a Service address has been furnished to XO; (e) may not be available or may be routed to emergency personnel unable to respond, if Customer has disabled or damaged the Company-provided Interactive Access Device or removed it to a location other than one for which a Service address has been provided to the Company; or (f) may be delayed or unavailable due to network congestion or other problems affecting the network. Customers are encouraged to acquire and maintain alternative means of accessing E911 service and to inform their authorized users of emergency calling alternatives available to them.

**5.3 Nomadic 911 Service.** Nomadic 911 is an optional service which may be added to SIP Service. If Customer chooses to add Nomadic 911 Service, it must comply with the Nomadic 911 Service Terms and Conditions set forth at [www.terms.xo.com](http://www.terms.xo.com) and use the Nomadic 911 Service for each telephone number that can be used at a location other than the particular Customer Premises at which SIP Service is being provided by XO. Unless Customer subscribes to XO's Nomadic 911 Service, Customer is prohibited from making 911 calls via XO's SIP Service from any location other than the particular Customer Premises at which SIP Service is being provided by XO.

**5.4 Equipment.** XO SIP requires the use of XO-managed equipment located on Customer Premises. Customers with DS3 access are not required to have XO-provided equipment.

**5.5 Customer PBX Configuration.** Notwithstanding successful lab testing of XO SIP with respect to the compatibility and operability of Customer's PBX configuration, XO makes no representations or warranties of any kind regarding the impact that such configuration will have on Customer's business requirements or interoperability with Customer's other systems. Although XO will configure Customer's voice service according to the specified standard configuration, it is the sole responsibility of Customer and Customer's PBX vendor to ensure that the phone equipment is set up to accept XO Service and that the PBX configuration is suitable to satisfy Customer's business requirements. XO does not support open-source software and Customer is prohibited from using open-source software in its provision of the service. In the event that Customer utilizes a PBX system that has not been tested and certified by XO prior to installation ("Non-Certified PBX"), then XO may nonetheless agree to provide the SIP Service, provided that XO's Service Level Agreements (SLAs) for SIP will not apply with respect to SIP Services connected to such Non-Certified PBX; and further, Customer may be charged for costs incurred by XO that are associated with XO SIP Services connected to a Non-Certified PBX, including technician fees for installation, maintenance, troubleshooting, and configuration.

**5.6 Virtual DID's.** XO SIP Virtual DIDs enable customers to receive local telephone calls from remote XO markets – different from the XO market in which the customer is physically located. There is a 10 DID maximum per market for virtual DIDs. Customer agrees and understands that Virtual DIDs are provided to Customer pursuant to all applicable tariffs and price lists of XO and/or its affiliates and successors. Customer represents and warrants that all traffic being delivered by Customer to XO for local termination, and all traffic that XO delivers to Customer, has originated in the same local calling area in which the Customer's NPA-NXX is assigned, or that the traffic is legally entitled to be treated as local. Customer further represents and warrants that it will comply with all applicable laws, rules, and regulations relative to any use of telephone numbers provided to Customer by XO.

**5.7 Use of XO SIP.** Customer may use XO SIP Services solely for its own benefit and the benefit of its End Users. Customer shall not share, resell or allow the use of the XO SIP Service, in whole or in part, by any third party, including but not limited to other providers of computer or communications services. Customer is prohibited from intermingling traffic or for utilizing this Service for anything other than providing a SIP originated and/or terminated service to its End Users in accordance with all applicable federal and state regulations. Customer expressly agrees, represents and warrants that all traffic delivered by Customer to XO hereunder is SIP-originated, and all traffic delivered by XO to Customer hereunder is SIP-terminated, in accordance with all applicable federal and state law and regulation and, without limiting the foregoing, it will not use the Services to originate or terminate TDM or voice calls in a manner that bypasses applicable switched access or other charges. In addition, Customer expressly agrees, represents and warrants that no calls will be made via use of XO SIP from any location, including but not limited to remote and virtual DID locations, other than the actual Customer Premises specifically designated by Customer on the SOA and at which XO SIP Service is established. Customer understands and agrees that these covenants and the provisions set out in the Agreement are material and essential parts of the Agreement and that Customer's breach of any of these provisions constitutes a material default of the Agreement. XO reserves the right to modify rates to reflect applicable access or other charges and/or terminate the Agreement and/or the Services for cause immediately upon written notice to Customer if XO determines in its sole discretion that Customer is using or plans to use the Services in a manner inconsistent with any of applicable laws or regulations or Customer fails to pay any such access or other charges. Without limiting any other provision of the Agreement, Customer further represents and warrants that it will use the Services in conformance and compliance with the federal Telephone Consumer Protection Act and other laws or regulations pertaining to "do not call" lists or registries. XO may audit Customer's traffic to ensure that Customer is complying with the applicable laws and regulations, as well as with the prohibitions set forth above.

## **6.0 Features and Price Changes**

**6.1 Online Feature Management:** This feature provides Customer with a web-based interface that allows Customer to make changes to its existing voice services by accessing XO's customer portal. Terms applicable to the customer portal apply to such use and the Customer must agree to such terms.

**[6.2 Price and Price Changes.** In addition to the NRC and MRC, all additional costs and charges owed by Customer to XO shall be listed on the SOA for the XO SIP Service executed by both Customer and XO. Charges for XO SIP Service are subject to change during the Service Term in accordance with the following procedures. XO will provide notification to the Customer in advance of any price increases. Price reductions will be effective immediately without any written notification. If Customer elects not to accept a price increase, it may notify XO in writing of its intent to terminate the agreement for XO SIP within thirty (30) days of receipt of the notice of the rate increase. After XO receives such notice, it will terminate Customer's service within sixty (60) days of such receipt without imposing any termination liabilities. Customer will be obligated to pay the increased price, prorated if applicable, during the termination notice period. Customer's use of XO SIP after the thirty (30) day notice period will constitute its acceptance of the price increase.]

## **7.0 Service Level Guarantees**

**7.1 Network Availability.** The Dedicated Internet Access ("DIA") SLAs set forth at [www.terms.xo.com](http://www.terms.xo.com) apply. The XO IP Network, as defined in this section, is guaranteed to be available and capable of

forwarding IP packets one hundred percent (100%) of the time, as averaged over a calendar month. The XO IP network includes Customer's access port (the port on the XO aggregation router upon which the customer's circuit terminates) and the XO IP backbone network. The XO IP backbone network includes XO owned and controlled routers and circuits (including any transit connections). The one hundred percent (100%) XO Network Availability guarantee does not apply to local access (e.g., the local loop), Customer owned or leased equipment (net protocol converter or router) or Customer's Local Area Network (LAN), scheduled maintenance events, network events on redundant network elements, customer caused outages or disruptions, interconnections to or from and connectivity within other Internet Service Provider (ISP) networks, or force majeure events (as defined in the applicable service agreement).

If the Network Availability guarantee is not met during a calendar month, the Customer will receive a credit in the amount of 1/30th of the monthly recurring charge (MRC) for that month for each full hour of outage in excess of the one hundred percent (100%) guarantee following the opening by Customer of a trouble ticket pertaining to the outage.

**7.2 Latency Guarantee.** The XO IP backbone network (as defined in the previous section) is guaranteed to have an average round trip packet transit time within the XO IP backbone network over a calendar month of 65ms or less, which is measured as the average of 15-minute samples across the XO IP backbone network taken throughout the month. This Latency Guarantee does not apply to local access (e.g., the local loop), Customer-owned or leased equipment (net protocol converter or router) or Customer's LAN, scheduled maintenance events, customer caused outages or disruptions, interconnections to or from and connectivity within other ISP networks, or force majeure events (as defined in the relevant service agreement).

If the Latency Guarantee is not met during a calendar month, the Customer will receive a credit in the amount of 1/30th of the monthly recurring charge (MRC) for that month for each full 1ms above the 65ms average maximum guarantee following the opening by Customer of a trouble ticket pertaining to the deficiency.

**7.3 Packet Loss.** Maximum average packet loss of one percent (1%) during any calendar month. If the Packet Loss guarantee is not met during a calendar month, the Customer will receive a credit of one-thirtieth (1/30th) of the monthly recurring charge (MRC) for the month the packet loss exceeded one percent (1 %) for each affected XO SIP service following the opening by Customer of a trouble ticket pertaining to the deficiency.

**7.4 Network Jitter Guarantee.** The Network is guaranteed to have a monthly average network jitter delay of no greater than one (1) millisecond during any calendar month. If the Network Jitter Guarantee is not met during a calendar month and the failure is reported to Company by Customer, Customer will receive a credit equal to the pro-rated one-day amount of the MRC for Service for the month during which the Guarantee was not met.

**7.5 Voice.** For voice service outages due exclusively to the fault or failure of XO, Customer, after an outage has been reported and the fault or failure is shown, will receive credit based on the monthly recurring charge (MRC) as follows:

1 hour to 4 hours	1/4 day credit
4 hours to 8 hours	3/4 day credit
8 hours to 24 hours	1 day credit
Over 24 hours	1 day for each 8 hour period over 24 hours

Credit will not be given for outages due to local access (e.g. the local loop), Customer-owned or leased equipment (net protocol converter or router) or Customer's Local Area Network (LAN), scheduled maintenance events, network events on redundant network elements, customer caused outages or disruptions, interconnections to or from and connectivity within other Internet Service Provider (ISP)

networks, or force majeure events (as defined in the applicable service agreement).

**8.0 Termination Charges.** As set forth in Section 8 of the General Terms and Conditions, an early termination charge equal to one hundred percent (100%) of the monthly recurring charge multiplied by the number of months remaining in the Service Term will apply if Service is terminated, in whole or in part, after the Start of Service Date but prior to the expiration of the Service Term, including discontinuation of Service due to Customer's failure to pay any amount required under the Agreement when payment is due.

**9.0 Service Extension Charges.** XO will terminate Service at no additional charge at a minimum point of entry ("MPOE") on Customer or End User Premises. The MPOE will be determined in all instances solely by XO. If Customer needs an extension of Service beyond the MPOE (and XO is willing to provide the extension), the charge for such extension will be as set forth at [www.xo.com/SiteCollectionDocuments/information/Rates\\_Charges/dedicated\\_transport\\_service\\_charges.pdf](http://www.xo.com/SiteCollectionDocuments/information/Rates_Charges/dedicated_transport_service_charges.pdf). If, after preparing to begin work on Customer or End User Premises, XO determines that additional work is required, XO will so advise Customer and the Parties will agree in writing to any additional charges before XO continues with the work.

**10.0 XO WorkTime Feature.** XO WorkTime is a mobile application of XO's VoIP services that may be added to Customer's Service for an additional monthly charge. XO WorkTime allows Customers to use their existing or XO-provided telephone numbers ("TN") as a mobile application. Customers must provide their own devices and such devices must be Operating System compatible (i.e., Android or Apple iOS). XO WorkTime includes voice and video calling, instant messaging and presence, and texting. Data usage is not included with XO WorkTime and must be provided by Customer. XO WorkTime includes five thousand (5,000) texts per month per TN; Customer will be charged twenty-five cents (\$0.25) per text per TN for each text during a monthly billing cycle thereafter. WorkTime includes unlimited instant messaging and presence. There are no guarantees or SLAs associated with XO WorkTime. Customer is authorized to originate calls using XO WorkTime from the United States. Nomadic 911 is included with the PC version of XO WorkTime. Customers that are using the PC version of XO WorkTime must comply with XO's Nomadic 911 Terms and Conditions set forth at [www.terms.xo.com](http://www.terms.xo.com) and use the Nomadic 911 Service for each telephone number that can be used at a location other than the particular Customer Premises at which Service is being provided by XO.

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