

TERMS & CONDITIONS DOCUMENT

Section 17 - Obligations of the Customer

17.1 General Obligations

The Customer shall be responsible for:

17.1.1 The payment to Company of:

- (A) all applicable charges as set forth in this document including the full amount of any services provided pursuant to term (multi-year) arrangements;
- (B) charges associated with the Customer's use of Services that may be owed to other carriers, including but not limited to any access charges the Company may incur as a result of Customer actions; and
- (C) Service furnished to Customer even if by virtue of any use, misuse or abuse of the Service or Customer provided systems, equipment, facilities, or services interconnected to the Service, which use, misuse or abuse may be occasioned by third parties, including, without limitation, the Customer's employees or other members of the public. For example, the Customer agrees to pay the Company for all charges billed as a result of any use of the Customer's authorization code(s), whether such use is by Customer or by a third party in connection with a lost, stolen or misappropriated authorization code, or otherwise. It is the Customer's responsibility to inform the Company that an authorization code(s) has been stolen or lost; and
- (D) charges resulting from any collection activity, including but not limited to reasonable attorney's fees, unless otherwise prohibited by law.

17.1.2 Damage or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer, authorized user, or joint user or the noncompliance by the Customer, authorized user, or joint user with these regulations; or by fire or theft or other casualty on the premises of the Customer, authorized user, or joint user unless caused by the negligence or willful misconduct of the employees or agents of the Company;

17.1.3 Providing as specified from time to time by the Company any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the premises of the Customer, authorized user, or joint user and the level of heating and air conditioning necessary to maintain the proper environment on such premises;

TERMS & CONDITIONS DOCUMENT

Section 17 - Obligations of the Customer (cont'd)

17.1 General Obligations (cont'd)

- 17.1.4** Obtaining, maintaining, and otherwise having full responsibility for all rights of way and conduit necessary for installation of facilities and associated equipment used to provide Advanced Communications Service to the Customer, authorized user, or joint user from the point of entry to the termination point of the Customer's premises. Any and all costs associated with the obtaining and maintaining of the rights of way described herein, including the costs of altering the structure to permit installation of the Company provided facilities, shall be borne entirely by, or may be charged by the Company to, the Customer. The Company may require the Customer to demonstrate its compliance with this section prior to accepting an order for service.
- 17.1.5** Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if harm to the Company's employees or property might result from installation or maintenance by the Company.
- 17.1.6** Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Customer premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the premises of the Customer, authorized user, or joint user at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of service as stated herein, removing the facilities or equipment of the Company.
- 17.1.7** Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which service is interrupted for such purposes.
- 17.1.8** Keeping the Company's equipment and facilities located on the Customer's premises or rights-of-way obtained by the Customer free and clear of any liens or encumbrances relating to the Customer's use of the Company's services or from the locations of such equipment and facilities.

TERMS & CONDITIONS DOCUMENT

Section 17 - Obligations of the Customer (cont'd)

17.1 General Obligations (cont'd)

- 17.1.9** Customer agrees that, if another carrier and/or regulatory agency determines it is necessary to audit the Customer's traffic, Customer will cooperate in any such investigation. In addition, to the extent any third party attempts to recover access charges from Company as a result of such audit/investigation, Customer agrees that it will indemnify and hold harmless Company for any and all costs resulting from such third party actions. This does not prohibit Customer from challenging charges assessed by the third party or the classification of its traffic being subject to access charges but Customer shall immediately pay Company any cost incurred by Company pursuant to this indemnity should Customer challenge such charges.
- 17.1.10** Answer supervision must be provided when a Company service offering is connected to switching equipment or a Customer-provided communications system. The Customer's equipment or system must provide answer supervision so that the measure of chargeable time that begins upon the delivery of the Customer's call to the switching equipment or to the equipment connected to the communications system and ends upon termination of the call by the calling party. If a Customer's communications system fails to promptly return to Company an idle (on-hook) state upon completion of the call, the Customer will be held responsible for all charges that result up until the time the Customer's communication system signals the Company's network that the call has been terminated or until such a time that the Company's own system terminates the call. Furthermore, Customer and Customer's communications system will not reject, fail to answer or fail to signal calls routed via the Company's network. If Customer fails to comply with these terms, Customer shall be liable for any and all charges Company incurs from third parties as a result of such act or omission.
- 17.1.11** Customer shall not route calls to a Public Safety Answering Point ("PSAP") or other emergency answering point over XO services from any location other than the Customer Premises at which XO's local voice service is established, unless Customer has subscribed to XO's PS/ALI service as set forth in XO's Local Exchange Services Product Document.
- 17.1.12** Dedicated long distance is to be used for long distance service only. Customers of dedicated long distance service, who elect to place local calls across such service, either intentionally or unintentionally, will be billed at the applicable dedicated long distance intrastate rate per minute and the associated charges will not be included toward any Customer long distance commitment level.

TERMS & CONDITIONS DOCUMENT

Section 17 - Obligations of the Customer (cont'd)

17.2 Indemnification of Company

The Customer shall defend, save harmless and indemnify the Company from any and all claims, demands, causes of action for any liabilities whatsoever, including costs, expenses and reasonable attorney's fees arising from the use or misuse of Services or related acts or omissions furnished under this document, incurred on account thereof, by third persons (including the Customer's employees) including:

- 17.2.1** claims arising out of the Customer's compliance or non-compliance with the Company's tariffs and documents;
- 17.2.2** claims arising from the Customer's resale or other use of a service;
- 17.2.3** claims for libel, slander, invasion of privacy, or infringement of copyright arising out of the material, data, information, or other content transmitted via Company's Service;
- 17.2.4** patent infringement claims arising from combining or connecting Company's Service or equipment with apparatus and systems furnished by the Customer or others;
- 17.2.5** infringement of any copyright, patent, trade secret or any proprietary or intellectual property right of any third party, arising from any act or omission by the Customer, including, without limitation, use of Company's Services and facilities in a manner not contemplated by the agreement between the Customer and the Company; and
- 17.2.6** incurred in connection with (i) Customer's breach or failure of any representation or warranty; or (ii) Customer's traffic being processed through the Company's facilities or equipment.

This indemnification shall survive the termination of Customer's service.

Customer shall immediately notify Company of any notices that are served on Customer that might adversely affect Company, including but not limited to notices of any claims or proceedings that involve the Services.