

XO™ Carrier IP Virtual Private Network Service

ARTICLE 1 - SERVICE DESCRIPTION

1.1 Service Description. IP Virtual Private Network Service ("IP VPN Service") is a layer 3 data networking service that supports traditional private data networking services (e.g., Frame Relay and Ethernet) over a MultiProtocol Label Switching ("MPLS")-enabled IP backbone.

1.2 Access Methods and Port Speeds. IP VPN Service supports the following access methods and port speeds:

Access	Available Port Speeds
DS1	1.544Mbps, 3Mbps, 4.5Mbps and 6Mbps
DS3	6Mbps, 9Mbps, 12Mbps, 18Mbps and 45Mbps
OC3	155Mbps
OC12	622Mbps
Ethernet	10Mbps
Fast Ethernet	100Mbps
Gigabit Ethernet	1000Mbps
10 Gigabit Ethernet	10000Mbps

Other port speeds may be provided on an individual case basis ("ICB").

1.3 Additional Definitions

(a) "Class of Service ("CoS")" - a traffic managing approach (not available for DIA Service) used by XO that involves the combining of similar types of traffic (e.g., e-mail, streaming video, voice, large document file transfer) and treating each type as a separate class having its own unique level of service priority.

(b) "Committed Data Rate" - the minimum data rate (expressed in Megabits per second (Mbps)) to which Customer commits, as set forth in a Service Order. .

(c) "DIA" - Dedicated Internet Access Service.

(d) "Point of Termination" - the location at which the Customer Local Area Network (LAN) and the XO Wide Area Network (WAN) interconnect, e.g., RJ-x, Ethernet hand-off interfaces or Telco Smartjacks.

(e) "Receive Traffic" - traffic received by the Customer via the XO IP Network from any origination point.

(f) "Send Traffic" - traffic sent by the Customer via the XO IP Network to any termination point.

ARTICLE 2 - IP VPN AND DIA SERVICES

IP VPN Service and DIA Service may be provisioned on the same local loop and associated IP VPN port, and Customer may allocate the port bandwidth between its IP VPN and DIA permanent virtual Circuits. Customer may also provision more than one VPN, not to exceed one hundred VPNs, across the same local loop and associated IP VPN port.

ARTICLE 3 - CLASS OF SERVICE ("CoS")

Customer may use the CoS employed by XO to prioritize traffic when there is congestion at a port. The following CoS classes are available:

Real Time CoS: For Customer applications highly sensitive to latency and jitter (e.g., VoIP and Citrix).

Critical CoS: For Customer applications capable of withstanding higher latency and jitter but still are sensitive to delay and jitter (e.g., video applications).

Priority CoS: For Customer applications that require priority treatment, but are not susceptible to variations in latency or jitter (e.g., database applications).

Standard CoS: For Customer applications capable of withstanding moderate to high variations in latency or jitter (e.g., e-mail and web browsing).

The maximum bandwidth per port for Real Time CoS is fifty percent (50%) of the total port bandwidth for speeds of OCx and greater. Regardless of the class of CoS employed by Customer, its traffic may not be deliverable if the volume of traffic sent by Customer exceeds what an affected port is capable of supporting.

ARTICLE 4 - CHARGES AND BILLING

4.1 Charges. Charges for IP VPN Service will be established in the applicable Service Order and will either be billed on a flat-rate basis for the local loop, IP-VPN port and CoS or on a usage basis as set forth in Article 4 (a).

(a) **Usage Billing.** If usage-based billing applies, Customer will be billed for Service based on the Committed Data Rate and applicable fixed rates. Fixed-rate charges consist of two (2) components: (a) a non-recurring installation charge per port; and (b) a monthly recurring port charge. Usage-based billing is available only on ports with Fast Ethernet, OC3, OC12, 1Gbps and 10Gbps speeds. The Committed Data Rate will be applied per-VPN on each port.

(b) **DIA.** If the Committed Data Rate applies to a particular DIA VPN, Customer's per-VPN usage of Service (both Send Traffic and Receive Traffic) via such VPN will be sampled every five (5) minutes for the previous five (5) minute period. At the end of the month, the highest five percent (5%) of Send Traffic and Receive Traffic samples for such VPN will be discarded. The greater of the resulting ninety-fifth (95th) percentile value for Send Traffic or Receive Traffic for such VPN will be compared to the Committed Data Rate applicable to the DIA VPN. If the ninety-fifth (95th) percentile of either Send Traffic or Receive Traffic exceeds the applicable Committed Data Rate, Customer, in addition to being liable for the Committed Data Rate, will be liable for payment at the ninety-fifth (95th) percentile level for any usage in excess of the Committed Data Rate at the contracted per-Mbps rate.

(c) **VPN.** If the Committed Data Rate applies to a particular VPN, Customer's per-VPN usage of Service (Send Traffic) via such VPN will be sampled every five (5) minutes for the previous five (5) minute period. At the end of the month, the highest sample of Send Traffic for such VPN will be compared to the Committed Data Rate applicable to the VPN. If the Send Traffic exceeds the applicable Committed Data Rate, Customer, in addition to being liable for the Committed Data Rate, will be liable for payment for any usage in excess of the Committed Data Rate at the contracted per-Mbps rate.

ARTICLE 5 - MONTHLY REPORTING

5.1 Monitoring and Reporting. Monthly Service reports are available to Customer using XO's online reporting system, "XO Stats," which may be accessed by clicking on the following: <http://x41.xostats.xo.com/cgi-bin/xostats/Login.pl>

5.2 Management VPN. Customer may acquire a Management VPN port to obtain information and manage its different End User networks. It is Customer's responsibility to obtain the consent of its End Users in connection with this offering and, in addition, to maintain the security of its and its End User networks at all times.

ARTICLE 6 - POINT OF TERMINATION

6.1 XO will provision and maintain Service to the Point of Termination. Customer will be responsible for all matters beyond the Point of Termination including, without limitation, those relating to LAN-facing or that originate in a Customer LAN.

6.2 XO will not be responsible for the provisioning of Customer-owned or managed routers, servers, workstations, Network devices or any other equipment, software or applications residing on Customer's LAN or, otherwise, beyond the Point of Termination.

6.3 If requested by Customer, XO, for an additional charge, will provide routers for use on Customer Premises with Service. XO will not be responsible for maintaining these routers unless the Customer subscribes to XO's router maintenance service.

6.4 Service Extension Charges. Charges established in an ASR or Service Order are based on the termination of XO Service responsibility at a minimum point of entry ("MPOE") on Customer or End User Premises. The MPOE will be determined in each instance solely by XO. If an extension beyond the MPOE is required, Customer will be so advised and required to pay a one-time fee for standard extensions beyond the MPOE at the rate of \$200 for a single DS1 Circuit, \$500 for a DS3 Circuit, and \$350.00 for an Ethernet Service provided over copper facilities (up to a maximum of 6 DS0s). If there are multiple DS1 Circuits provisioned at the same Service location, the MPOE extension fee will be \$200 for the first DS1 Circuit and \$100 for each additional DS1 Circuit at the location. In addition, XO may impose additional non-recurring or monthly recurring charges, or both, not otherwise established in the ASR or Service Order when it is necessary to construct a non-standard extension via additional infrastructure, cabling, electronics or other materials needed to reach the appropriate location on Customer or End User Premises. XO will notify Customer of the applicability of any of these additional charges as soon as practicable but in no event after the Start of Service Date.

ARTICLE 7 - RESPONSIBILITIES OF THE PARTIES

7.1 Service Maintenance Responsibilities:

- (a) For Customer-provided Customer Premises Equipment ("CPE"), Customer must address and resolve Service-related problems arising on the LAN side of the Point of Termination, including those involving Customer-managed CPE and IP configuration issues, such as IP routing, and the disabling of usage over the WAN connection(s).
- (b) For XO-provided CPE not involving XO's management service, Customer must manage the XO-provided CPE and notify XO of any equipment failure.
- (c) For XO-provided CPE involving XO's management service, XO is responsible for addressing any equipment failure.
- (d) XO is responsible for addressing and resolving Service-related problems on the WAN side of the Point of Termination.

7.2 In all events, Customer is responsible for the effects of any changes to its firewall policies (e.g., lower level of security and unsecured access to Customer's Network) and assumes all risks and liabilities associated with or resulting from such changes.

ARTICLE 8 - TERM AND TERMINATION

8.1 Start of Service Date. XO will notify Customer of Service availability, the date of which will be the Start of Service Date when billing commences, regardless of Customer's readiness at that time. XO will not be liable for any delay in meeting requested or specified installation dates or from an inability on its part to provide Service. Customer will cooperate with XO to install and test Service, including, but not limited to, providing (a) complete and accurate information required for the timely completion of site surveys; and (b) adequate space and power for Service-related equipment furnished by XO.

8.2 Term and Renewal Options. The term of each IP VPN Service will be established in the Service Order. Unless one Party notifies the other in writing not less than thirty (30) days prior to the expiration of the original or any renewal term that it intends not to renew the IP VPN Service, the IP VPN Service will automatically renew for an identical service term pursuant to the same terms and conditions, including charges, established in the applicable Service Order and these Supplemental Product Terms and Conditions.

8.3 Termination and Cancellation Charges.

(a) **Return of XO-Provided Equipment.** Upon termination of Service for any reason, XO will retrieve its facilities and equipment from Customer Premises, or Customer, at its expense, will return to XO, within thirty (30) days of Service termination, all XO-provided facilities and equipment along with any software and other information or materials provided by XO in connection with the furnishing of Service. The facilities, equipment, software or other materials retrieved or returned will be in the same condition as when initially delivered to Customer, normal wear and tear excepted. If Customer fails to return XO's property or to allow for its retrieval, Customer must reimburse XO, upon demand, for the replacement cost of the facilities, equipment, software, and other information or materials provided, as well as any costs incurred by XO resulting from the Customer's failure to return XO's property.

(b) **Change and Cancellation Charges.** Change and cancellation charges, as established in an ASR or Service Order, will apply if Customer changes or cancels Service between the date an ASR or Service Order is accepted by XO and the projected Start of Service Date. These charges are additional to any charges due as a result of special construction or acquisition of telecommunications facilities or imposed by third-party providers responsible for provisioning portions of Service.

(c) **Early Termination Charges.** Early termination charges will apply if Customer discontinues a Service after the Start of Service Date and prior to the expiration of the Service term, including any discontinuation of Service for non-payment. If an early termination charge applies, Customer will pay for all charges associated with the installation of the Service, plus one hundred percent (100%) of the monthly recurring charges multiplied by the number of months remaining in the Service term.

(d) **Liquidated Damages.** Because XO's damages would be difficult or impossible to ascertain with certainty if a Service was cancelled or discontinued, this provision is intended to establish liquidated damages and not a penalty.

ARTICLE 9 - ACCEPTABLE USE POLICY

Customer use of the Service is subject to XO's Acceptable Use Policy ("AUP"), which is located at: (<http://www.xo.com/legal>). Said AUP is incorporated into these Supplemental Product Terms and Conditions by reference and may be updated from time to time by XO.