

City of Seattle
CONTRACT FOR LONG DISTANCE TELEPHONE SERVICE

7x No.

This Contract is made effective ~~December~~ ^{JANUARY 15} 2008 (the "Effective Date"), and entered into by and between the City of Seattle ("Seattle"), a Washington municipal corporation; and XO Communications Services, Inc. ("Contractor"), a **corporation** of the State of Delaware, and authorized to do business in the State of Washington.

Contractor	XO Communications Services, Inc.
Representative	Mark Almeda
Address	1000 Denny Way Ste 200, Seattle WA 98109
Phone	206-315-6363
Fax	503-419-1458
E-mail	mark.almeda@xo.com

WHEREAS, the purpose of this contract is to secure long distance telephone service from the Contractor; and

WHEREAS, Contractor was selected as a result of Request for Proposal # DIT-38 initiated 5/12/2008 as required by SMC since costs are anticipated to exceed \$40,000 in value; and

WHEREAS, funds for this purpose are authorized through City of Seattle annual budget;

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance of the scope of work contained herein, as attached and made a part hereof, Seattle and Contractor mutually agree as follows:

- 1. Entire Agreement:** This Contract, including all attachments, amendments and subsequently issued change notices, comprises the entire agreement between Seattle and the Contractor. The Request for Proposal #DIT-38, Addenda, Contractor's Master Service Agreement and Proposal are explicitly included as Attachments. Where there are conflicts between these documents, the controlling document will first be this Contract as amended, the RFP and Addenda and then the Contractor's Master Service Agreement and Proposal.

- 2. Term of Contract.**
 This contract shall be for five (5) years, with two extensions allowed, at two-years each. Such extensions shall be automatic, and shall go into effect with or without written confirmation from the City to the Contractor, unless the City provides the Contractor advance notice of the intention to not renew. Such notice shall be given prior to the otherwise automatic renewal date.

- 3. Time of Beginning and Completion**
 Contractor shall begin the work stated in the "Scope of Work" ("work") section upon receipt of written notice to proceed from Seattle. Seattle will acknowledge in writing when work is complete. Time limits established pursuant to this Contract shall not be extended because of delays for which Contractor is responsible, but may be extended by Seattle, in writing, for its convenience or for conditions beyond Contractor's control. Time is of the essence.

4. Scope of Work.

Contractor shall provide the following services as specified below and/or as attached. These services shall be termed "work" herein.

Services Performed: The basic services to be acquired via this RFP shall include the delivery of long distance telecommunications services for:

- A. intrastate-intraLATA calls
- B. intrastate-interLATA calls
- C. interstate within the USA
- D. calls to Canada, Mexico and all international destinations

In addition to the basic services described above, the long distance contractor shall provide the following services.

- A. Port the City's existing 1-800 numbers
- B. Provide monthly billing that is in electronic form on compact disc or electronic mail, via XO's business Center, formatted as MDB, CSV, XLS, ASC, TXT or other readable, exchange format.
- C. Appoint one point of contact to manage the City's account.
- D. Provide twenty-four hour customer support and service via a toll free number.
- E. Have a toll fraud detection plan for direct access and switched access.
- F. Provide long distance service over standard, digital T-1 circuit or interface with an extended super frame and B8ZS line coding. Each T-1 will have 24 trunks. The signaling type will be E&M. The start arrangement will be WNK/WNK. Supervision must be turned on.
- G. Verify that all these factors are in compliance by supplying a signed statement indicating that the point of presence is built out as specified above in #6, that the system has been tested end to end and that one can call in and out. After reviewing the services and accepting the statement, the City will authorize the change to the successful Vendor's services.

5. Payment/Payment Procedures.

Seattle agrees to compensate as specified herein or attached, in consideration of acceptable Contractor performance. Payment shall only be made for services performed and/or product delivered, after receipt, review and authorization by the City. Such payment shall be paid according to early payment discount terms, or if no early payment discount is offered, thirty (30) days after the City's receipt and acceptance of the goods or completion and acceptance of the services. Payment periods will be computed from either the date of delivery or acceptance of all goods ordered, the acceptance by the City of completion of all services, or the date of receipt of a correct invoice, whichever date is later. This section is not intended to restrict partial payments that are specified in the contract. All dollars referenced in this Contract and attachments are US Dollars.

6. Invoices.

Invoices must show a breakdown of services provided and price for each.

7. Taxes, Fees and Licenses.

- A. Fees and Licenses: Contractor shall pay for and maintain in a current status, any license fees, assessments, permit charges, etc., which are necessary for contract performance. It is the Contractor's sole responsibility to monitor and determine any changes or the enactment of any subsequent requirements for said fees, assessments, or charges and to immediately comply with said changes during the entire term of this Contract. Contractor must pay all custom duties, brokerage or import fees where applicable as part of the contract price. Contractor shall take all necessary actions to ensure that materials or equipment purchased are expedited through

customs.

- B. Taxes: Where required by state statute, ordinance or regulation, Contractor shall pay for and maintain in current status all taxes that are necessary for contract performance. Unless otherwise indicated, Seattle agrees to pay State of Washington sales or use taxes on all applicable consumer services and materials purchased. No charge by the Contractor shall be made for federal excise taxes and Seattle agrees to furnish Contractor with an exemption certificate where appropriate.
- C. Withholding payment for taxes/business license fees due the City of Seattle: Seattle Municipal Code 5.45.060 specifies that the Contractor will have taxes or fees paid in full for Seattle Business License requirements, before receiving any warrant or the final payment for performing within any contract for the City. The Director of the Department of Executive Administration may withhold payment due a City contractor pending satisfactory resolution of unpaid taxes and fees due the City under title 5.45.060.
- D. Supplier is to calculate and enter the appropriate Washington State and local sales tax on the invoice. Tax is to be computed on new items after deduction of any trade-in, in accordance with WAC 458-20-247.

8. Pricing.

Pricing is subject to the following terms. The Buyer may exempt these requirements for extraordinary conditions that could not have been known by either party at the time of bid or other circumstances beyond the control of both parties, as determined in the opinion of the Buyer.

Requests for Rate Increases must be delivered to the City Purchasing Buyer in accordance to the rules below. No other employee may accept a rate increase request on behalf of the City. Any invoice that is sent to the City with pricing above that specified by the City in writing within this Contract or specified within an official written change issued by City Purchasing to this contract, shall be invalid. Payment of an erroneous invoice does not constitute acceptance of the erroneous pricing, and the City would seek reimbursement of the overpayment or would withhold such overpayment from future invoices.

- 1. **Price Adjustments:** Original pricing shall be fixed and firm for the first two years of the contract. Rate increases are at the discretion of the Buyer; and must also be:
 - a. The direct result of increases to wage rates that do not exceed the CPI Index or other appropriate service rate index agreed upon between the Buyer and the Vendor.
 - b. Incurred after contract commencement date.
 - c. Not produce a higher profit margin than that on the original contract.
 - d. Clearly identify the service titles and the hours of service performed if specified within the contract.
 - e. Be filed with Buyer a minimum of 90 calendar days before the effective date of proposed increase.
 - f. Be accompanied by detailed documentation acceptable to the Buyer sufficient to warrant the increase.
 - g. The United States published indices such as the Producer Price Index or other government data may be referenced to help substantiate the Vendor's documentation. A link to the PPI Commodity Data is available at <http://data.bls.gov/PDQ/outside.jsp?survey=wp>.
 - h. The Adjustment, if any, shall remain firm and fixed for at least 365 days after the effective date of the adjustment.
 - i. Should not deviate from the original contract pricing scheme/methodology

9. Cost Reductions.

Any cost reductions to the Vendor, such as rebates or "specials", shall be reflected in a reduction of the contract price effective immediately. Seattle will not be bound by prices contained in an invoice that are higher than those in the contract. Unless the higher price has been accepted by the City and the contract amended, the invoice may be rejected and returned to the Vendor for corrections.

10. Contract Notices, Deliverable Materials and Invoices Delivery

The City of Seattle agent for Contract changes shall be the City of Seattle Buyer named below, hereinafter referred to as "Buyer." Contract notices such as change requests, shall be delivered to the Buyer at the following addresses (or such other address as either party may designate in writing):

If delivered by the U.S. Postal Service, it must be addressed to:

Michael Mears
City of Seattle Purchasing and Contracting Services
PO Box 94687
Seattle, WA 98124-4687

If delivered by other than the U.S. Postal Service, it must be addressed to:

Michael Mears
City of Seattle Purchasing and Contracting Services
Seattle Municipal Tower
700 5th Ave., #4112
Seattle, WA 98104-5042

Phone:
Fax:
E-Mail:

Project work, invoices and communications shall be delivered to the City Project Manager:

City of Seattle, Department of
Attention:
Address
Phone

11. Representations.

Contractor represents and warrants that it has the requisite training, skill and experience necessary to provide Work and is appropriately accredited and licensed by all applicable agencies and governmental entities.

12. Warranties.

Contractor represents and warrants to Seattle that all On-Net–Service rendered by it hereunder shall be designed, produced, installed, furnished and in all respects provided and maintained in conformance and compliance with applicable federal, state and local laws, administrative and regulatory requirements and any other authorities having jurisdiction over the subject matter of this Agreement. Acceptance of any service and inspection incidental thereto by Seattle shall not alter or affect the obligations of the Contractor or the rights of Seattle.

13. Independent Contractor.

It is the intention and understanding of the Parties that Contractor shall be an independent contractor and that Seattle shall be neither liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. The Contractor shall pay all income and other taxes as due. Industrial or other insurance that is purchased for the benefit of the Contractor shall not be deemed to convert this Contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that Seattle is not the exclusive user of the services that

Contractor provides.

14. Inspection.

The Work shall be subject, at all times, to inspection by and with approval of Seattle, but the making (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Work in accordance with this Contract, notwithstanding Seattle's knowledge of defective or noncomplying performance, its substantiality or the ease of its discovery. Contractor shall provide sufficient, safe, and proper facilities and equipment for such inspection and free access to such facilities.

15. Title, Risk of Loss, Freight, Overages or Underages.

Title of goods received under this contract shall remain with the Contractor until they are delivered to the address specified, at which time title passes to Seattle. Regardless of FOB point, Contractor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein which occur prior to delivery and acceptance. Such loss, injury, or destruction shall not release Contractor from any obligations under. Prices include freight prepaid and allowed. Contractor assumes the risk of every increase, and receives the benefit of every decrease, in delivery rates and charges. Shipments shall correspond with the Contract; any unauthorized advance or excess shipment is returnable at Contractor's expense.

16. Performance.

Acceptance by Seattle of unsatisfactory performance with or without objection or reservation shall not waive the right to claim damage for breach, or terminate the contract, nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by Contractor.

17. Affirmative Efforts for Utilization of Women and Minority Subcontracting and Employment, Non discrimination in providing services

- A. Employment Actions: Contractor shall not discriminate against any employee or applicant for employment because of race, religion, creed, age, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, age, color, sex, national origin, marital status, political ideology, ancestry, sexual orientation, gender identity, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to employment, upgrading, promotion, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training.
- B. In accordance with Seattle Municipal Code Chapter 20.42, Contractor shall actively solicit the employment and subcontracting of women and minority group members when necessary and commercially useful for purposes of fulfilling the scope of work required for this Contract. Contractors shall actively solicit subcontracting bids from subcontractors as needed to perform the work of this contract, from qualified, available and capable women and minority businesses. Contractors shall consider the grant of subcontracts to women and minority bidders on the basis of substantially equal proposes in the light most favorable to women and minority businesses. At the request of Seattle, Contractor shall promptly furnish evidence of the Contractor's compliance with these requirements.
- C. If upon investigation, the Director of Executive Administration finds probable cause to believe that the Contractor has failed to comply with the requirements of this Section, the Contractor shall notified in writing. The Director of Executive Administration shall give Contractor an opportunity to be heard, after ten calendar days' notice. If, after the Contractor's opportunity to be heard, the Director of Executive Administration still finds probable cause, s/he may suspend the Contract and/or withhold any funds due or to become due to the Contractor, pending compliance by the

Contractor with the requirements of this Section.

- D. Any violation of the mandatory requirements of this Section, or a violation of Seattle Municipal Code Chapter 14.04 (Fair Employment Practices), Chapter 14.10 (Fair Contracting Practices), Chapter 20.45 (City Contracts – Non-Discrimination in Benefits), or other local, state, or federal non-discrimination laws, shall be a material of contract for which the Contractor may be subject to damages and sanctions provided for by the Vendor Contract and by applicable law. In the event the Contractor is in violation of this Section shall be subject to debarment from City contracting activities in accordance with Seattle Municipal Code Section 20.70 (Debarment).

18. Equal Benefits.

Compliance with SMC Ch. 20.45: The Contractor shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Contractor is obligated to provide the same or equivalent benefits (“equal benefits”) to its employees with domestic partners as the Contractor provides to its employees with spouses. At Seattle’s request, the Contractor shall provide complete information and verification of the Contractor’s compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract. (For further information about SMC Ch. 20.45 and the Equal Benefits Program Rules call (206) 684-0430 or review information at <http://cityofseattle.net/contract/equalbenefits/>.)

Remedies for Violations of SMC Ch. 20.45: Any violation of this Section shall be a material breach of Contract for which the City may:

- A. Require Contractor to pay actual damages for each day that the Contractor is in violation of SMC Ch. 20.45 during the term of the Contract; or
- B. Terminate the Contract; or
- C. Disqualify Contractor from bidding on or being awarded a City contract for a period of up to five (5) years; or
- D. Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

19. Publicity.

No news release, advertisement, promotional material, tour, or demonstration related to Seattle’s purchase or use of the Contractor’s product or services performed pursuant to this Contract shall be produced, distributed, or take place, without the prior, specific written approval of the City’s Project Manager or his/her designee.

20. Proprietary and Confidential Information

Contractor’s Understanding and Obligations:

1. Contractor understands that any records (including but not limited to bid or proposal submittals, the Agreement, and any other contract materials) it submits to the City, or that are used by the City even if the Contractor possesses the records, are public records under Washington State law, RCW Chapter 42.56. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. The Contractor also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.
2. Contractor must separate and clearly mark as “proprietary” all records related to this Agreement or the performance of this Agreement that the Contractor believes are exempt from disclosure. The Contractor is familiar with potentially-applicable public-disclosure exemptions and the limits of those exemptions, and will mark as “proprietary” only information that the Contractor believes legitimately fits within an exemption and will state the statutory exception upon which it is relying.

3. If Seattle notifies the Contractor under Paragraph B 2 of a public disclosure request, and the Contractor believes records are exempt from disclosure, it is the Contractor's responsibility to make determination and pursue a lawsuit under RCW 42.56 to enjoin disclosure. The Contractor must obtain the injunction and serve it on the City before the close of business on the tenth business day after the City sent notification to the Contractor. It is the Contractor's discretionary decision whether to file the lawsuit.
4. If the Contractor does not timely obtain and serve an injunction, the Contractor is deemed to have authorized releasing the record.
5. Notwithstanding the above, the Contractor must not take any action that would affect (a) the City's ability to use goods and services provided under this Agreement or (b) the Contractor's obligations under this Agreement.
6. The Contractor will fully cooperate with the City in identifying and assembling records in case of any public disclosure request.

City's Obligations

1. The City will disclose those parts of records the Contractor has marked as "proprietary" information only to authorized persons unless:
 - (a) the City receives a public disclosure request, in which case steps 2 and 3 below will be exercised before release of the information or
 - (b) The Contractor has given the City express advance written permission to disclose the records. "Authorized persons" means those City officers, employees, contractors and consultants for whom the proprietary information is necessary to perform their duties or obligations to the City.

The term "proprietary information" does not include ideas, concepts, know-how or techniques related to any information that, at the time of disclosure, is in the public domain, unless the entry of that information into the public domain is a result of a breach of this Agreement.

2. If the City receives a public disclosure request for records that the Contractor has marked as "proprietary" information, the City may promptly notify the Contractor of the request. The City may postpone disclosing these records for ten business days after it has sent notification to the Contractor, in order to allow the Contractor to file a lawsuit under RCW 42.56 to enjoin disclosure. It is the Contractor's discretionary decision whether to file the lawsuit.
3. If the City has notified the Contractor of a public disclosure request, and the Contractor has not obtained an injunction and served the City with that injunction by the close of business on the tenth business day after the City sent notice, the City will then disclose the record.
4. The City has no other obligations concerning records the Contractor has marked as "proprietary information" under this Agreement. The City has no obligation to claim any exemption from disclosure. The City is not obligated or liable to the Contractor for any records that the City releases in compliance with this Section or in compliance with the order of a court of competent jurisdiction.

21. General Legal Requirements.

- A. General Requirement: Contractor, at no expense to Seattle, shall comply with all applicable laws of the United States and the State of Washington; the Charter and ordinances of Seattle; and rules, regulations, orders, and directives of their administrative agencies and the officers thereof. Without limiting the generality of this paragraph, the Contractor shall specifically comply with the following requirements of this section.

- B. Licenses and Similar Authorizations: Contractor, at no expense to Seattle, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof.
- C. Taxes: The Contractor shall pay, before delinquency, all taxes, import duties, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Contractor's interest in this Contract.

22. American with Disabilities Act.

Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. In particular, if the Contractor is providing services, programs or activities to Seattle employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities, to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.

23. OSHA/WISHA

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the State of Washington, the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued thereunder and certifies that all items furnished and purchased under this order will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless purchaser from all damages assessed against purchaser as a result of Contractor's failure to comply with the acts and standards thereunder and for the failure of the items furnished under this order to so comply.

24. Indemnification.

To the extent permitted by law, the Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, or trade secret arising out of the work performed or goods provided under this Contract, or the Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the sole negligence of the City. As to the City of Seattle, the Contractor waives any immunity it may have under RCW Title 51 or any other Worker's Compensation statute. The parties acknowledge that this waiver has been negotiated by them, and that the contract price reflects this negotiation.

25. Insurance.

Contractor shall maintain at its own expense at all times during the term of this Contract the following insurance:

1. MINIMUM COVERAGES AND LIMITS OF LIABILITY. Vendor shall at all times during the term of this Agreement maintain continuously, at its own expense, minimum insurance coverages and limits of liability as specified below:
 - A. Commercial General Liability (CGL) insurance, including:
 - Premises/Operations
 - Products/Completed Operations
 - Personal/Advertising Injury
 - Contractual
 - Independent Contractors

- Stop Gap/Employers Liability
with minimum limits of liability of \$1,000,000 each occurrence combined single
limit bodily injury and property damage ("CSL"), except:
\$1,000,000 Personal/Advertising Injury
\$1,000,000 each accident/disease/employee Stop Gap/Employer's
Liability

- B. Automobile Liability insurance, including coverage for owned, non-owned, leased or hired vehicles with a minimum limit of liability of \$1,000,000 CSL.
 - C. Worker's Compensation for industrial injury to Vendor's employees in accordance with the provisions of Title 51 of the Revised Code of Washington.
2. CITY AS ADDITIONAL INSURED. The City of Seattle shall be included as an additional insured under CGL and Automobile Liability insurance for primary and non-contributory limits of liability.
 3. NO LIMITATION OF LIABILITY. The limits of liability specified herein in subparagraph 1.A. are minimum limits of liability only and shall not be deemed to limit the liability of Vendor or any Vendor insurer except as respects the stated limit of liability of each policy. Where required to be an additional insured, the City of Seattle shall be so for the full limits of liability maintained by Vendor, whether such limits are primary, excess, contingent or otherwise.
 4. MINIMUM SECURITY REQUIREMENT. All insurers must be rated A- VII or higher in the current A.M. Best's Key Rating Guide and licensed to do business in the State of Washington unless coverage is issued as surplus lines by a Washington Surplus lines broker.
 5. SELF-INSURANCE. Any self-insured retention not fronted by an insurer must be disclosed. Any defense costs or claim payments falling within a self-insured retention shall be the responsibility of Vendor.
 6. EVIDENCE OF COVERAGE. Prior to performance of any scope of work under paragraph 5., Vendor shall provide certification of insurance acceptable to the City evidencing the minimum coverages and limits of liability and other requirements specified herein. Such certification must include a copy of the policy provision documenting that the City of Seattle is an additional insured for commercial general liability insurance on a primary and non-contributory basis. Certification should be issued to The City of Seattle, Risk Management Division, Seattle, WA and shall be delivered in electronic form either as an email attachment to riskmanagement@seattle.gov or faxed to (206) 470-1270.

26. Audit.

Upon fifteen (15) days prior written notice, Contractor shall permit Seattle, and any other governmental agency involved in the funding of the Work ("Agency"), to inspect and audit all invoices and agreements related to this Contract as deemed necessary by Seattle at a time mutually agreed upon by the parties, including up to six years after the final payment or release of withheld amounts has been made under this Contract. Such inspection and audit shall occur in King County, Washington or other such reasonable location as Seattle or Agency selects. The Contractor shall supply Seattle with, or shall permit Seattle to make, a copy of any invoices and agreements related to this Contract and any portion thereof. The Contractor shall ensure that such inspection, audit and copying right of Seattle and Agency is a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform work under this Contract.

27. Contractual Relationship

The relationship of Contractor to Seattle by reason of this Contract shall be that of an independent contractor. This Contract does not authorize Contractor to act as the agent or legal representative of Seattle for any purpose whatsoever. Contractor is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of Seattle or to bind Seattle in any manner or thing whatsoever.

28. Assignment and Subcontracting

Contractor shall not assign or subcontract any of its obligations under this Contract without Seattle's written consent, which may be granted or withheld in Seattle's sole discretion. Notwithstanding the foregoing, Contractor may assign this Contract without Seattle's written consent to an affiliate or to an entity that has acquired substantially all of Contractor's assets. Any subcontract made by Contractor shall incorporate by reference all the terms of this Contract except for Equal Benefit provisions. Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract, except for Equal Benefit provisions. Seattle's consent to any assignment or subcontract shall not release the Contractor from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract.

29. Supervision and Coordination.

Contractor shall:

- Competently and efficiently, supervise and direct the implementation and completion of all contract requirements specified herein.
- Designate in its bid or proposal to Seattle, a representative(s) with the authority to legally commit Contractor's firm. All communications given or received from the Contractor's representative shall be binding on the Contractor.
- Promote and offer to Purchasers only those materials, equipment and/or services as stated herein and allowed for by contractual requirements. Violation of this condition will be grounds for contract termination.

30. Involvement of Former City Employees

Contractor shall promptly notify Seattle in writing of any person who is expected to perform any of the Work and who, during the twelve (12) months immediately prior to the expected commencement date of such work or subcontract, was a City officer or employee. Contractor shall ensure that no Work or matter related to the Work is performed by any person (employee, subcontractor, or otherwise) who was a City officer or employee within the past twelve (12) months; and as such was officially involved in, participated in, or acted upon any matter related to the Work, or is otherwise prohibited from such performance by SMC 4.16.075.

31. Anti-Trust.

Seattle maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore the Contractor hereby assigns to Seattle any and all claims for such overcharges except overcharges which result from antitrust violations commencing after the price is established under this contract and which are not passed on to Seattle under an escalation clause.

32. No Conflict of Interest.

Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

33. No Gifts or Gratuities.

Contractor shall not directly or indirectly offer gifts and resources to any person employed by the City that is intended, or may be reasonably intended, to benefit the Vendor by way of award, administration, or in any other way to influence purchasing decisions of the City. This includes but is

not limited to, City Purchasing office employees and City employees that do business with, order, purchase or are part of decision-making for business, contract or purchase decisions. The Vendor shall not offer meals, gifts, gratuities, loans, trips, favors, bonuses, donations, special discounts, work, or anything of economic value to any such City employees. This does not prohibit distribution of promotional items that are less than \$25 when provided as part of routine business activity such as trade shows. Any violation of this provision may result in termination of this Contract. Nothing in this Contract prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

34. Errors & Omissions: Correction.

Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by or on the behalf of the Contractor under this Contract. The Contractor, without additional compensation, shall correct or revise any errors or omissions in the designs, drawings, specifications, and/or other Contractor services immediately upon notification by Seattle. The obligation provided for in this section with respect to any acts or omissions during the term of this Contract shall survive any termination or expiration of this Contract and shall be in addition to all other obligations and liabilities of the Contractor.

35. Intellectual Property Rights.

Patents: Contractor hereby assigns to Seattle all rights in any invention, improvement, or discovery, together with all related information, including but not limited to, designs, specifications, data, patent rights and findings developed in connection with the performance of Contract or any subcontract hereunder. Notwithstanding the above, the Contractor does not convey to Seattle, nor does Seattle obtain, any right to any document or material utilized by Contractor that was created or produced separate from this Contract or was preexisting material (not already owned by Seattle), provided that the Contractor has clearly identified in writing such material as preexisting prior to commencement of the Work. To the extent that preexisting materials are incorporated into the Work, the Contractor grants Seattle an irrevocable, non-exclusive, fully paid, royalty-free right and/or license to use, execute, reproduce, display, and transfer the preexisting material, but only as an inseparable part of the Work.

Copyrights: For materials and documents prepared by Contractor in connection with the Work, Contractor shall retain the copyright (including the right of reuse) whether or not the Work is completed. Contractor grants to Seattle a non-exclusive, irrevocable, unlimited, royalty-free license to use every document and all other materials prepared by the Contractor for Seattle under this Contract. If requested by Seattle, a copy of all drawing, prints, plans, field notes, reports, documents, files, input materials, output materials, the media upon which they are located (including cards, tapes, discs and other storage facilities), software programs or packages (including source code or codes, object codes, upgrades, revisions, modifications, and any related materials) and/or any other related documents or materials which are developed solely for, and paid for by, Seattle in connection with the performance of the Work, shall be promptly delivered to Seattle.

Seattle may make and retain copies of such documents for its information and reference in connection with their use on the project. The Contractor does not represent or warrant that such documents are suitable for reuse by Seattle, or others, on extensions of the project, or on any other project. Contractor represents and warrants that it has all necessary legal authority to make the assignments and grant the licenses required by this Section.

36. Interlocal Cooperation Act.

RCW 39.34 allows cooperative purchasing between public agencies, and other political subdivisions. SMC 20.60.100 also allows non profits to use these agreements. If a public agency files or has filed an Intergovernmental Cooperative Purchasing Agreement with the City of Seattle, those agencies are eligible to purchase from Contracts established by the City. Such agencies may ask City of Seattle Contractors to accept orders from the agency, citing the City of Seattle contract as the basis for the

order. The Vendor may accept or decline such orders. If the Vendor accepts an order from another public agency using the City of Seattle contract as the basis, the Vendor agrees to sell additional items at the contract prices, terms and conditions. The City of Seattle accepts no responsibility for the payment of the purchase price by other governmental agencies.

37. Extra Work.

Extra work shall be defined to include additional products or services ordered in connection with this project other than that expressly provided for in the "Scope of Work" section of this Contract. Contractor shall not proceed with extra work unless authorized by a written amendment issued by the RFP Coordinator. Such extra work may be authorized by a Contractor proposal and a written acceptance from the City through a Change Order issued to the Contractor, or may be authorized by a Change Order signed by both parties, whichever the City Buyer requires. Any costs incurred due to the performance of extra work prior to execution of an amendment will not be reimbursed under this Contract or an amendment. Notwithstanding the foregoing, the RFP Coordinator may make reasonable and immaterial changes to this Contract, including place of delivery, installation or inspection, the method of shipment or packing, labeling and identification, extension of the contract, and ancillary matters that Contractor may accommodate without substantial additional expense to Seattle.

38. Key Persons.

Contractor shall not transfer or reassign any individual designated in this Contract as essential to the Work, without notifying Seattle in writing. If, during the term of this Contract, any such individual leaves the Contractor's employment, the Contractor shall present to Seattle one or more individual(s) with greater or equal qualifications as a replacement, subject to Seattle's approval, which shall not be unreasonably withheld. Seattle's approval or disapproval shall not be construed to release the Contractor from its obligations under this Contract.

39. Disputes.

The parties shall endeavor to resolve any dispute or misunderstanding that may arise under this Contract concerning Contractor's performance, if mutually agreed to be appropriate, through negotiations between the Contractor's Project Manager and Seattle's Project Manager, or if mutually agreed, referred to the City's named representative and the Contractor's senior executive(s). Either party may decline or discontinue such discussions and may then pursue other means to resolve such disputes including termination as allowed for within the contract, or may by mutual agreement pursue other dispute alternatives such as alternate dispute resolution processes. Nothing in this dispute process shall in any way mitigate the rights, if any, of either party to terminate the contract for cause or convenience.

Notwithstanding all above, if Seattle believes in good faith that some portion of Work has not been completed satisfactorily, Seattle may require Contractor to correct such work prior to Seattle payment. In such event, Seattle will provide to Contractor an explanation of the concern and the remedy that Seattle expects. Seattle may withhold from any payment that is otherwise due, an amount that Seattle in good faith finds to be under dispute, or if the Contractor does not provide a sufficient remedy, Seattle may retain the amount equal to the cost to Seattle for otherwise correcting or remedying the work not properly completed.

40. Termination.

- A. For Cause: Seattle may terminate this Contract if the Contractor is in material breach of any of the terms of this Contract, and such breach has not been corrected to Seattle's reasonable satisfaction in a timely manner.
- B. For City's Convenience: Seattle may terminate this Contract at any time, without cause and for any reason including Seattle's convenience, upon written notice to the Contractor.

- C. Nonappropriation of Funds: Seattle may terminate this Contract at any time without notice due to nonappropriation of funds, whether such funds are local, state or federal grants, and no such notice shall be required notwithstanding any notice requirements that may be agreed upon for other causes of termination.
- D. Acts of Insolvency: Seattle may terminate this Contract by written notice to Contractor if the Contractor becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or is wound up or liquidated, voluntarily or otherwise.
- E. Termination for Gratuities: Seattle may terminate this Contract by written notice to Contractor if Seattle finds that any gratuity in the form of entertainment, a gift, or otherwise, was offered to or given by the Contractor or any agent therefor to any City official, officer or employee.
- F. Notice: Seattle is not required to provide advance notice of termination. Notwithstanding, the Buyer may issue a termination notice with an effective date later than the termination notice itself. In such case, the Contractor shall continue to provide products and services as required by the Buyer until the effective date provided in the termination notice.
- G. Actions Upon Termination: In the event of termination not the fault of the Contractor, Contractor shall be paid for the services properly performed prior to the effective termination date that has been specified by the Buyer, together with any reimbursable expenses then due, but in no event shall such compensation exceed the maximum compensation to be paid under the Contract. Contractor agrees that this payment shall fully and adequately compensate Contractor and all subcontractors for all profits, costs, expenses, losses, liabilities, damages, taxes, and charges of any kind whatsoever (whether foreseen or unforeseen) attributable to the termination of this Contract. Upon termination for any reason, Contractor shall provide Seattle with the most current design documents, contract documents, writings and other product it has completed to the date of termination, along with copies of all project-related correspondence and similar items. Seattle shall have the same rights to use these materials as if termination had not occurred.

41. Force Majeure – Suspension and Termination.

This section applies in the event that either party is unable to perform the obligations of this contract because of a Force Majeure event as defined herein, to the extent that the Contract obligations must be suspended in full. A Force Majeure event is an event that prohibits performance and is beyond the control of the party. Such events may include natural or man-made disasters, or an action or decree of a superior governmental body, which prevents performance.

Force Majeure under this Section shall only apply in the event that performance is rendered not possible by either party or its agents. Should it be possible to provide partial performance that is acceptable to the City under Section #2 (Emergencies or Disasters), Section #2 below shall instead be in force.

Should either party suffer from a Force Majeure event and is unable to provide performance, such party shall give notice to the remaining party as soon as practical and shall do everything possible to resume performance.

Upon receipt of such notice, the party shall be excused from such performance as is affected by the Force Majeure Event for the period of such Event. If such Event affects the delivery date or warranty provisions of this Agreement, such date or warranty period shall automatically be extended for a period equal to the duration of such Event.

42. Major Emergencies or Disasters:

The City may undergo an emergency or disaster that may require the Contractor to either increase or decrease quantities from normal deliveries, or that may disrupt the Contractor's ability to provide normal performance. Such events may include, but are not limited to, a storm, high wind, earthquake, flood, hazardous material release, and transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above. In such events, the following shall apply.

- (a) The City shall notify the Contractor that the City is experiencing an emergency or disaster, and will request emergency and priority services from the Contractor.
- (b) The City may request that the Contractor provide either increased or decreased quantities from traditional orders, or may request Contractor provide additional products or services.
- (c) Upon such notice by the City, the Contractor shall make reasonable efforts to provide the City the materials in the quantities requested and within the schedule specified by the City, adhering to the conditions in this Section.
- (d) The City of Seattle shall be the customer of first priority for the Contractor, except where preceded by State or Federal government mandates. The Contractor shall provide its best and priority efforts to provide the requested goods and/or services to the City of Seattle in as complete and timely manner as possible. Such efforts by the Contractor are not to be diminished as a result of Contractor providing service to other customers, except as mandated by State or Federal governments.
- (e) If the Contractor is unable to respond in the time and/or quantities requested by the City, the Contractor shall promptly assist the City to the extent practicable, to gain access to alternative materials and/or services. This may include:
 - a. Coordinating with other distributors or subsidiaries beyond those in the local region to fulfill order requests;
 - b. Offering the City substitutions provided the Contractor obtains prior approval from the City for such substitution.

The Contractor shall charge the City the price determined in this Contract for the goods and services provided, and if no price has been determined, it shall charge the City a price that is normally charged for such goods and/or services (such as listed prices for items in stock). However, in the event that the City's request results in the Contractor incurring unavoidable additional costs and causes the Contractor to increase prices in order to obtain a fair rate of return, the Contractor shall charge the City a price not to exceed the cost/profit formula found in this Contract.

43. Debarment.

In accordance with SMC Ch. 20.70, the Director of Executive Administration or designee may debar a Vendor from entering into a Contract with the City or from acting as a subcontractor on any Contract with the City for up to five years after determining that any of the following reasons exist:

- a. Contractor has received overall performance evaluations of deficient, inadequate, or substandard performance on three or more City Contracts.
- b. Contractor failed to comply with City ordinances or Contract terms, including but not limited to, ordinance or Contract terms relating to small business utilization, discrimination, prevailing wage requirements, equal benefits, or apprentice utilization.
- c. Contractor abandoned, surrendered, or failed to complete or to perform work on or in connection with a City Contract.
- d. Contractor failed to comply with Contract provisions, including but not limited to quality of workmanship, timeliness of performance, and safety standards.
- e. Contractor submitted false or intentionally misleading documents, reports, invoices, or other statements to the City in connection with a Contract.
- f. Contractor colluded with another contractor to restrain competition.
- g. Contractor committed fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Contract for the City or any other government entity.

- h. Contractor failed to cooperate in a City debarment investigation.
- i. Contractor failed to comply with SMC 14.04, SMC Ch. 14.10, SMC Ch. 20.42, or SMC Ch. 20.45, or other local, State, or federal non-discrimination laws.

The Director may issue an Order of Debarment following the procedures specified in SMC 20.70.050. The rights and remedies of the City under these provisions are in addition to any other rights and remedies provided by law or under the Contract.

44. Recycle Products Requirements

Whenever practicable, Contractor shall use reusable products, recyclable products and recycled-content products including recycled content paper on all documents submitted to the City.

Contractors are to duplex all materials that are prepared for the City under this Contract, whether such materials are printed or copied, except when impracticable to do so due to the nature of the product being produced. Contractors are to use 100% post consumer recycled content, chlorine-free paper in such products that are produced for the City, whenever practicable, and to use other paper-saving and recycling measures in business they conduct with and for the City. This directive is executed under the Mayor's Executive Order, issued February 13, 2005.

45. Miscellaneous Provisions.

- A. Amendments: No modification of this Contract shall be effective unless in writing and signed by an authorized representative of the City, except as otherwise authorized herein. The City shall issue change notices to Contractor, and such notices shall take effect under the signature of the City unless written objection of the notice is received by the Contractor upon Contractor receipt of the change notice.
- B. Conflict: In the event of conflict between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford Seattle the maximum benefits.
- C. Liens, Claims and Encumbrances: All materials, equipment, or services shall be free of all liens, claims or encumbrances of any kind and if Seattle requests a formal release of same shall be delivered to Seattle.
- D. Binding Contract: This Contract shall not be binding until signed by both parties. The provisions, covenants and conditions in this Contract shall bind the parties, their legal heirs, representatives, successors, and assigns.
- E. Applicable Law/Venue: This Contract shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for King County, Washington
- F. Remedies Cumulative: Rights under this Contract are cumulative and nonexclusive of any other remedy at law or in equity.
- G. Captions: All titles, including sections or subsections, are for convenience only and do not define or limit the contents.
- H. Severability: Any term or provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Contract.
- I. Waiver: No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or

succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by Seattle of any performance by the Contractor after the time the same shall have become due nor payment to the Contractor for any portion of the Work shall constitute a waiver by Seattle of the breach or default of any covenant, term or condition unless otherwise this is expressly agreed to by Seattle, in writing. The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.

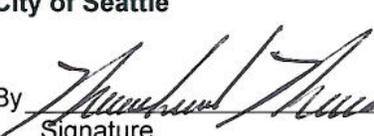
- J. Entire Contract: This document, along with any attachments and work orders, constitutes the entire agreement between the parties with respect to the Work. No verbal agreement or conversation between any officer, agent, associate or employee of Seattle and any officer, agency, employee or associate of the Contractor prior to the execution of this Contract shall affect or modify any of the terms or obligations contained in this Contract.
- K. Negotiated Contract: The parties acknowledge that this is a negotiated Contract, that they have had the opportunity to have this Contract reviewed by their respective legal counsel, and that the terms and conditions of this Contract are not to be construed against any party on the basis of such party's draftsmanship thereof.
- L. No personal liability: No officer, agent or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Contract.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Contract by having their authorized representatives affix their signatures below.

XO Communications Services, Inc.

By 
Signature Date
Paul Merritt
(Printed Name)
General Manager
Title

City of Seattle

By 
Signature Date
12-08-2008
MICHAEL HEALY
(Printed Name)

MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT is made and entered into this ~~1st~~ day of December, 2008 (the "Effective Date"), by and between XO Communications Services, Inc., a Delaware corporation, on behalf of itself and its operating affiliates (collectively referred to hereinafter as "XO"), whose principal place of business is located at 13865 Sunrise Valley Drive, Herndon, VA 20171 and City of Seattle, a Washington corporation (hereinafter referred to as "Customer"), whose place of business is located at Seattle Municipal Tower, 700 5th Avenue, #4112, Seattle, WA 98104-5042. Customer and XO are collectively referred to herein as the "Parties."

Preliminary Statement

Customer and XO hereby enter into this Agreement to enable Customer to obtain telecommunications services from XO. The Services will be offered in each area to the Customer by an entity ("Authorized Entity"), which is an Affiliate of XO. The terms and conditions of this Agreement are, and shall be, applicable to the Services provided to the Customer by each Authorized Entity.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties hereby mutually agree as follows:

ARTICLE 1 – DEFINITIONS/SERVICE OFFERINGS

1.1 The capitalized terms used in this Agreement shall have their normal or common meaning, the meaning given them in the Tariffs, or the meaning as defined in the text hereof, except that the following terms shall have the following meanings for the purpose of this Agreement:

(a) **Access Service Request (ASR).** "Access Service Request" or "ASR" shall mean the capacity order for certain Services which delineates the type of Service, quantity of Circuits, location served, Point of Termination, protocols, Circuit term, requested Start of Service Date and other information necessary for XO to provide Service to the Customer.

(b) **Affiliate.** "Affiliate" shall mean, with respect to either Party, any other party which controls, is controlled by, or is under common control with such Party. For purposes hereof, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any such party whether through the ownership of voting securities, by contract, or otherwise.

(c) **Agreement.** "Agreement" shall mean this Master Services Agreement, including any schedules, appendices, Exhibits, Tariffs, and documents attached hereto and made a part hereof, or incorporated herein by reference as well as any written amendments to this Agreement which have been signed by the authorized representatives of the Parties.

(d) **Circuit.** "Circuit" shall mean an individual telecommunications facility included as part of a Service.

(e) **Emergency Maintenance.** "Emergency Maintenance" shall mean maintenance which, if not accomplished promptly by XO, could result in a serious degradation or loss of Service to the Customer or the End User or damage to XO's Network or its customers.

(f) **End User.** "End User" shall mean a user to whom Customer will provide telecommunications services utilizing, in part, the Services provided by XO to Customer under this Agreement.

(g) **Exhibit.** "Exhibit" shall mean an attachment to this Agreement for a particular Service, including any schedules and attachments thereto, which contains the product description, pricing, and terms and conditions associated with that specific Service.

(h) **Network.** "Network" shall mean the telecommunications network of one of the Parties, as the context of the provision requires or as contemplated under this Agreement.

(i) **Off-Net Services.** "Off-Net Services" are those where one or both locations to be connected are not served by XO's Network and therefore a portion of the Services is provided by another service provider. Where XO is able to provide Off-Net Services, the terms, conditions and pricing of such Service will be provided on an individual case basis ("ICB") subject to the terms and conditions of the underlying service provider. XO shall invoice Customer for Off-Net Services rendered and shall manage ordering pursuant to the applicable Exhibit, but XO shall not be liable for any failures on the part of the underlying service provider.

(j) **On-Net Services.** "On-Net Services" shall mean those Services which connect two (2) locations served by XO's Network. On-Net Services are provided entirely by XO.

(k) **Planned Service Outage.** "Planned Service Outage" shall mean any Service Outage caused by scheduled maintenance or planned enhancements or upgrades to the XO Network as described in the applicable Service exhibits.

(l) **Point of Presence (POP).** "Point of Presence" or "POP" shall mean a specific location within a Local Access Transport Area (LATA) where service terminates and/or originates.

(m) **Point of Termination.** "Point of Termination" shall mean the point at which XO's responsibility to provide equipment and service ends and where Customer's or Customer's End User's responsibilities begin, identified as the interface between XO and Customer at Customer's Point of Presence, the local exchange carrier's central office, a long-distance carrier's Point of Presence or End-User sites identified on the ASR. The Service will include any entrance cable or drop wire from the XO Network terminating at XO's distribution panel

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(DSX) which is generally located in the basement of Customer's building or where XO's outside plant terminates. Any other internal wiring to Customer's floor or suite is the sole responsibility of Customer unless otherwise expressly agreed in writing by the Parties.

(n) **Premises.** "Premises" shall mean the address to which Service is provided or delivered, identified as a Point of Termination or Service Location on the Service Order.

(o) **Service.** "Service" shall mean XO-provided telecommunications service or collocation license, as further described in the applicable Exhibit and as specifically identified on the Service Order.

(p) **Service Order.** "Service Order" shall mean an ASR or other applicable service ordering form or Collocation Schedule (as defined in the Telco Collocation Exhibit attached hereto if applicable) provided by XO and entered into by the Parties pursuant to this Agreement.

(q) **Service Outage.** "Service Outage" shall mean a disruption or degradation of On-Net Service as set forth in the applicable Exhibit.

(r) **Service Request Date.** The "Service Request Date" is the date requested by Customer for in-service as indicated on the Service Order.

(s) **Start of Service Date.** The "Start of Service Date" for a Service shall be the later of (i) the Service Request Date, (ii) the date XO notifies Customer that the Service is installed or connected, successfully tested and available for Customer use, or (iii) the date after Circuit testing and acceptance has been completed per the relevant Service Exhibit, where applicable, regardless of whether Customer agrees to accept or uses the Service. Notwithstanding the above, the Start of Service Date shall never be later than the date Customer begins to use the Service. Billing for a Service will begin on the Start of Service Date unless Customer fails to permit XO to begin testing on a Service within five (5) days of the Service Request Date, in which case billing will begin on the Service Request Date.

(t) **Tariffs.** "Tariffs" pertain to certain XO intrastate and local services, including voice and PRI services, that Customer may acquire from XO under this Agreement. When acquired by Customer, this Agreement shall be deemed to incorporate by reference the terms of each applicable Tariff, which XO may modify from time to time in accordance with law and thereby affect the Service(s) being furnished to Customer. The terms and conditions of this Agreement may supplement, but not vary, the terms and conditions contained in any XO Tariff. If any of XO's applicable Tariffs are cancelled during the term of this Agreement, such cancelled Tariff(s) will be deemed to be incorporated by reference into this Agreement on the effective date of cancellation, as supplemented by any non-inconsistent product descriptions, definitions, prices and other terms and conditions contained in the XO Service Description and Price Guide ("Guide").

The Guide will be maintained on an XO web-site accessible by Customer, such as www.terms.xo.com, and may be modified by XO from time to time and thereby affect the previously tariffed Service furnished to Customer.

(u) **Voice Services.** "Voice Services" consist of local and long distances services, including, but not limited to, basic business lines, plain old telephone service ("POTS"); XOptions, trunk services and ISDN-PRI service, all as set forth in the applicable XO Tariffs, price lists or contracts. Voice Services do not include XO IP-based services including, but not limited to, VoIP Termination, VoIP Origination, XOptions Flex and Managed IP PBX Services.

1.2 **Services and Service Exhibits.** XO shall provide to Customer the Services Customer has specifically contracted for on a Service Order pursuant to the applicable Service Exhibit(s), attached hereto and made a part hereof. The Parties may add other Services to this Agreement by amending it to add additional Service Exhibit(s) and entering into additional Service Orders pursuant to such additional Exhibit(s). However, Customer may contract for Voice Services on a Service Order in accordance with XO's standard terms and pricing, including those set forth in any applicable Tariffs, without the incorporation of a Voice Services Exhibit hereunder.

1.3 **Interconnected Voice over Internet Protocol ("VoIP") Services.** XO does not support the provision of Interconnected VoIP Services, as defined in 47 C.F.R. §9.3, by Customer or any third party via any XO Voice Service.

1.4 **911 Calling.** Customer must ensure that no calls to a public safety answering point ("PSAP") or other emergency answering point can be made via an XO Voice Service from any location other than the particular Customer Premises at which a Voice Service is established.

1.5 **Access to Premises.** Customer agrees to cooperate with XO to accomplish Service activation by providing reasonable access to Customer's and its End Users' Premises and facilitating testing and Service delivery requirements, and Customer agrees XO shall have reasonable access to such Premises to repair, maintain or retrieve XO equipment. If the requisite access rights to all applicable buildings are not reserved to Customer, Customer shall secure any building owner or manager approval prior to such visit and shall ensure that personnel representing XO have ready access to all portions of the grounds, building and adjunct areas and facilities needed by XO to perform the installation, removal, inspection and scheduled or emergency maintenance of XO's equipment. If applicable, Customer will be responsible for ensuring that its vendors and End Users cooperate with XO or its vendors in connection with the performance by XO of its obligations with respect to the Services, including, without limitation, the installation, modification, testing, maintenance and operation of XO's equipment. XO shall not be liable for any damages whatsoever resulting from delays in meeting Service delivery dates requested or specified by Customer, or

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inability to provide Services.

ARTICLE 2 - BILLING AND PAYMENT

2.1 Except as set forth in Section 2.2, Customer shall pay the recurring and non-recurring rates and charges and the usage charges set forth herein and/or in the Service Orders beginning on the Start of Service Date without deduction, setoff or delay for any reason. Customer agrees to pay for the Services, by check sent to the address provided for herein or on the invoice or by wire transfer sent in accordance with applicable instructions provided by XO, within thirty (30) days from the receipt of the invoice ("Payment Period"). Restrictive endorsements or statements on checks accepted by XO will not be binding upon XO. Monthly recurring charges are billed in advance while usage and related charges are billed in arrears. The Parties shall provide one another with reasonably requested information for bill validation including, but not limited to, the number of Circuits and charges for each Service.

2.2 Except for amounts in dispute, interest not to exceed 1.5% monthly may be charged on the unpaid balance not paid within the Payment Period. If the interest rate set out above exceeds the maximum rate allowable by law, then the interest chargeable shall be equal to the maximum rate allowed by law. Customer agrees to reimburse XO for any costs incurred as a result of any collection activity, including without limitation reasonable attorneys' fees and court costs, unless otherwise prohibited by law. Customer authorizes XO to request information from a reporting agency to enable XO to assess Customer's credit history. Customer agrees that such action is not the extension of "credit" to Customer and further agrees that XO, in its sole discretion, may alter any billing arrangements as a result of such report or upon determination of a change in Customer's financial circumstances. Customer agrees that as a condition of initial or continued Service, it must provide financial statements to XO's Credit Department within ten (10) days of receiving a request for such statements from XO or Service, if already installed, may be suspended or terminated. Further, in the event XO's accounts receivable associated with Customer exceed sixty (60) days or Customer is in default due to nonpayment as provided herein, Customer understands and agrees that XO may require weekly payments or a surety of up to two (2) times Customer's aggregate monthly invoicing. Failure by Customer to comply with such requirement by XO may result in Service suspension or termination.

2.3 If Customer disputes any invoice, Customer shall notify XO in writing, providing the billing identification, Circuit number, any trouble ticket number and an explanation for the dispute, and shall nevertheless pay the affected invoice within the Payment Period, provided that Customer may withhold payment of the amount in good faith dispute up to twenty percent (20%) of the invoiced charges. No charges may be disputed more than sixty (60) days after the date such charges are invoiced, and if not disputed within that time, all such charges shall be

deemed valid and undisputed by Customer. Payment shall not prejudice Customer's right to dispute charges, so long as they are disputed in good faith in the manner and within the timeframes specified in this Section. The Parties will cooperate in good faith to resolve any such disputes within a thirty (30) day period after the dispute is submitted to XO. If the dispute is not resolved during this period, then either Party may seek resolution of the dispute in accordance with Article 13.

2.4 If a disputed amount is determined to be a legitimate charge, interest not to exceed 1.5% monthly may be charged on the balance not paid within the original Payment Period. If a disputed amount is determined to be an inaccurate charge, interest not to exceed 1.5% monthly may be charged on the undisputed balance held by XO during the dispute process. If the interest rates set out above exceed the maximum rate allowable by law, then the interest chargeable in either case shall be equal to the maximum rate allowed by law.

2.5 If Customer does not make payment of all invoiced charges in accordance with the provisions herein within the Payment Period, XO may suspend any and all Service provided by XO under this Agreement and/or any other service agreement after XO has given Customer written notice. Following suspension of Services for non-payment, XO is not required to reinstate Services to Customer until: (1) Customer has paid in full all charges then due, including any late fees, interest charges, collection costs and any cost of reinstating Services; and (2) Customer provides to XO satisfactory assurance as requested by XO (such as a deposit) of Customer's ability to pay for Service for the remainder of the applicable Service term(s). If Customer fails to timely cure the non-payment within the timeframe specified by XO, Customer will be deemed to have terminated the affected Services as of the effective date of Service suspension. If Customer has not paid an invoice within the Payment Period and XO owes any amounts to Customer, XO may offset respective payments by first applying such amounts owed by XO to the full balance due from Customer and the remaining amounts owed by XO, if any, will be remitted in the normal course of business.

2.6 When Service is initiated on a day other than the first day of the month or terminates on a day other than the last day of the month, any monthly recurring charges for that month shall be prorated accordingly.

2.7 Notwithstanding anything contained herein to the contrary, if XO is required to construct and/or acquire telecommunications facilities in order to provide Service to Customer, Customer acknowledges and agrees that XO therefore incurs significant costs and expenses in provisioning such Service to Customer, including but not limited to costs associated with constructing and/or acquiring the telecommunications facilities necessary for delivery of XO Services to Customer. In addition to any other rights and remedies XO may have at law, in equity or as provided herein, Customer agrees that if Customer cancels this Agreement or any individual Service Order after signature but prior to the Start Of Service Date, or if Customer

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terminates this Agreement or any individual Service Order prior to expiration of the committed Service term, Customer shall reimburse XO for all costs and expenses XO incurred in constructing and/or acquiring such telecommunications facilities.

2.8 Monthly Minimum Commitment. During each month of the Agreement, Customer shall purchase Services from XO in an amount that shall equal or exceed Three Thousand One Hundred Sixty and no/Dollars (\$3,160) per month (the "Monthly Minimum"). If, at the end of each such month, Customer's purchase of Services are less than the Monthly Minimum, then Customer shall pay: (1) all accrued but unpaid Service charges and other charges incurred by Customer; and (2) a shortfall charge (which Customer hereby agrees is reasonable) equal to the difference between the Monthly Minimum and Customer's actual purchase of XO's Services (including any applicable cancellation charges), excluding taxes, tax related surcharges, and other surcharges during that month.

ARTICLE 3 - TAXES

3.1 The rates, pricing and charges for Services set forth herein or in the any Service Order do not include applicable taxes and surcharges. Customer shall be responsible for and shall pay any taxes, arising in any jurisdiction, including without limitation, sales, use, excise, gross receipts, value added, access, bypass, franchise, telecommunications, consumption, or other taxes, fees, duties, charges or surcharges; however designated, imposed on or based on the provision, sale or use of the Services, including taxes or surcharges imposed directly on XO. If Customer believes it or the Services is exempt from any tax, Customer will provide XO with a properly executed exemption certificate evidencing such claimed exemption. In no case shall Customer be responsible for any income taxes levied upon XO's (or any underlying carrier's) net income. Customer agrees that its obligation to pay taxes and surcharges under this Section shall survive the expiration or early termination of the Agreement.

ARTICLE 4 - TERM AND RENEWAL OPTIONS

4.1 The term of this Agreement shall commence on the Effective Date of this Agreement, and shall terminate five (5) years thereafter. Thereafter, this Agreement shall be automatically renewed in successive two-year periods unless terminated by written notice by one of the Parties at least sixty (60) days prior to the end of the initial term or any one-year renewal period (collectively, "Term"); provided, however, that if the period of time set out in the applicable Exhibit or Service Order for a particular Service(s) extends beyond the effective date of termination of this Agreement, such Service(s) shall remain in effect for such agreed upon time period, subject to all of the terms and conditions of this Agreement as if it were still in effect with respect to such Service(s). If Customer wishes to terminate a Service or Circuit(s) for any reason, or not to renew such Service or Circuit(s), Customer shall provide XO with written notice ("Termination Notice") addressed to XO

at such location as XO shall specify from time to time. Such Termination Notice must specify all necessary identifying details about the Service or Circuit being terminated (e.g., Circuit Identification number, the A and Z locations of such Circuit) and the requested effective date of such termination (which date must not be less than thirty (30) days from the date notice is received by XO). Termination of Service/Circuit(s) by any form of communications or means other than as provided above shall not be effective and Customer shall remain obligated to XO for all Services/Circuit(s) rendered. For the avoidance of doubt, Customer may be liable for cancellation charges upon termination of Service/Circuit(s) as further provided in the applicable Service Exhibit attached hereto.

ARTICLE 5 –INSURANCE

5.1 Except as may be otherwise provided in an Exhibit hereto, Customer will maintain throughout the term of this Agreement the following insurance coverage with a licensed insurance company rated A- or better by A.M. Best: (a) Worker's Compensation Insurance to comply with the state laws in which the work is performed; (b) Commercial General Liability in an amount not less than \$1,000,000 per occurrence / \$2,000,000 general aggregate; and (c) Automobile Liability, including Non-Owned and Hired Auto Liability, in an amount not less than \$1,000,000 Combined Single Limit. "XO Communications Services, Inc." shall be added as an additional insured on Customer's policies and such shall waive its rights of subrogation against XO. All insurance carried by Customer shall be primary and non-contributory with any insurance carried by XO.

ARTICLE 6 -- WARRANTIES AND NETWORK STANDARDS

6.1 Each Party represents and warrants to the other Party that it is an entity, duly organized, validly existing and in good standing under the laws of the place of its origin, with all requisite power and authority to enter into and perform its obligations under this Agreement in accordance with its terms.

6.2 XO represents and warrants to Customer that all On-Net Service rendered by it hereunder shall be designed, produced, installed, furnished and in all respects provided and maintained in conformance and compliance with applicable federal, state and local laws, administrative and regulatory requirements and any other authorities having jurisdiction over the subject matter of this Agreement.

6.3 The warranties and remedies set forth in this Agreement constitute the only warranties and exclusive remedies with respect to this Agreement. SUCH WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE, NON-INTERFERENCE AND NON-INFRINGEMENT.

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ARTICLE 7 – DEFAULT

7.1 A Party shall be deemed in "Default" of this Agreement upon the occurrence of any one or more of the following events:

(i) a Party violates any applicable laws, statutes, ordinances, codes or other legal requirements with respect to the Services and such violation(s) are not remedied within thirty (30) days after written notice thereof; or

(ii) a Party fails to perform any of its material obligations under this Agreement and such nonperformance is not remedied within thirty (30) days after notice thereof or such other cure period as may be specified in the applicable Exhibit, except for payment defaults, for which no cure periods in addition to those described in Section 2.5 herein shall be available; provided, however, if Customer is entitled to outage credits pursuant to the applicable Service Exhibit attached hereto or other remedies set out in this Agreement for such nonperformance by XO, then such outage credits or other remedies shall be Customer's exclusive remedy and such nonperformance shall not be construed to be a Default under this Section 7.1.

7.2 In addition to all remedies available at law or in equity, the non-defaulting Party hereunder may terminate this Agreement, including, for the avoidance of doubt, its Exhibits, and/or related Service Orders, in whole or in part, upon the occurrence of a Default. A payment default that results in termination of this Agreement shall entitle XO to collect from Customer the early termination charges established in the applicable Exhibit(s), in addition to pursuing all other available remedies.

ARTICLE 8 - INDEMNIFICATION

8.1 XO's Indemnification of Customer: XO will defend and indemnify Customer, its employees, directors, officers and agents, from and against any suit, proceeding or other claim brought by an entity (not a party to or an affiliate of a party to this Agreement) that is caused by, arises from, or relates to damage to real or tangible personal property or personal injuries (including death) arising out of the gross negligence or willful act or omission of XO in the provision of Service by XO.

8.2 Customer's Indemnification of XO: Customer will defend and indemnify XO, its employees, directors, officers and agents, from and against any suit, proceeding or other claim brought by an entity that is caused by, arises from, or relates to: (a) damage to real or tangible personal property, personal injuries (including death) arising out of the gross negligence or willful act or omission of Customer in the use of the Service; and (b) representations regarding the nature of Customer's traffic and any use, operation or resale of Service by Customer in contravention of this Agreement, including without

limitation, claims of libel, slander, unauthorized use of copyright or trademark by Customer or the business activities and practices of Customer arising from Customer's use of the Service.

8.3 Intellectual Property: If a Service provided by XO becomes, or if XO reasonably believes a Service it is providing may become, the subject of a suit, proceeding or other claim by an entity (not a party to or an Affiliate of a party to this Agreement) that the Service directly infringes the U.S. patent, trademark or copyright rights ("Intellectual Property") of such entity, XO shall, at its own expense and option: (a) procure the right for XO to continue to provide the Service; (b) modify or replace the Service with a different service that has substantially similar functionality; or (c) discontinue providing or direct the cessation of any use of the Service and refund to Customer a pro-rated portion of any charges paid for the affected Service through the date of Service discontinuation or cessation. Notwithstanding the foregoing, XO will have no obligation to defend or indemnify Customer, and Customer will defend, indemnify and hold harmless XO for any suit, proceeding or claim arising out of Customer's: (a) designs, specifications, modifications, or configurations; (b) combination of Customer hardware or software, or other materials, services or methods with the Service; or (c) use, operation or resale of the Service in contravention of its obligations and responsibilities.

8.4 Procedure: If an entity makes a claim against XO or Customer, the Party in receipt of such claim ("Indemnified Party") will promptly notify the other Party ("Indemnifying Party") in writing no later than sixty (60) days after receipt of such notification of a potential claim. The Indemnifying Party may assume sole control of the defense of such claim and all related settlement negotiations. The Indemnified Party will provide the assistance, information and authority necessary to assist the Indemnifying Party in its obligations. Neither XO nor Customer may settle any such matter without the consent of the other as to any settlement that imposes an obligation on, or requires any admission by, the other Party. Failure of the Indemnified Party to promptly notify the other will not relieve the Indemnifying Party of its obligations except to the limited extent such delay prejudices the Indemnifying Party. Additionally, if the Service as and in the manner provided by XO is determined by a court of competent jurisdiction to have directly infringed an entity's Intellectual Property rights, or if such claim is settled, XO shall indemnify Customer for its reasonable legal fees incurred to defend itself against such claim up to and including the time of final disposition or settlement of such claim and any payment required to be made by Customer pursuant to such judgment or settlement.

8.5 These Customer and XO indemnifications will survive this Agreement.

ARTICLE 9 - LIMITATION OF LIABILITY

9.1 Neither Party shall be liable to the other Party for any indirect, consequential, special, incidental, reliance, or punitive damages of any

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kind or nature whatsoever including, without limitation, any lost profits, lost revenues, lost savings, or any other business loss including goodwill, loss of use of property, loss of data, cost of substitute performance equipment or services, downtime costs and claims of customer for damages, or harm to business, regardless of the foreseeability thereof and regardless of whether damages are caused by the willful misconduct, negligent act or omission, or wrongful act arising from or related to this Agreement. For purposes of this Agreement, a Party's out-of-pocket costs for damages of the kinds specified in the preceding sentence which are recovered from such Party by a third party shall be deemed to be indirect damages to such Party and each Party hereby releases the other Party, its subsidiaries and affiliates, and their respective officers, directors, managers, employees, and agents, from damages from such claim(s), except to the extent such damages are part of claims for which indemnification is due under Sections 9.1 and 9.2 herein. Customer's sole remedy for the failure or non-performance of XO and/or the Service shall be to receive credits as set forth in this Agreement and the Exhibits hereto. **THE ENTIRE LIABILITY OF XO AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR CLAIMS ARISING UNDER OR IN ANY WAY RELATED TO THIS AGREEMENT SHALL BE LIMITED TO THE LESSER OF DIRECT DAMAGES OR THE TOTAL AMOUNT PAID BY THE CUSTOMER TO XO DURING THE PREVIOUS THREE (3) MONTHS FOR THE SERVICE(S). The foregoing limitations apply to all causes of action and claims of any kind arising out of or related to this Agreement including any Exhibit and any Service Order, including, without limitation, breach of contract, breach of warranty, strict liability, negligence, misrepresentation, or any other tort. Customer acknowledges and accepts the reasonableness of the disclaimers and limitations of liability set forth herein.**

ARTICLE 10 - REGULATIONS

10.1 The rates set forth in this Agreement are subject to the imposition of new regulation, modification of existing regulation, new interpretation, application or enforcement of, or exercise of authority related to, any regulation or finding of any federal, state, and/or local regulatory agency, legislative body, or court of competent jurisdiction, including, without limitation, the imposition of any charges, surcharges, and/or taxes in reliance or as a result of the same (collectively, "Regulatory Activity"). XO reserves the right, at any time, (i) to pass through to Customer all, or a portion of, any charges, surcharges, or taxes directly or indirectly related to such Regulatory Activity; and/or (ii) modify the rates and/or other terms and conditions of this Agreement to reflect the impact of such Regulatory Activity, including, without limitation, the impact of any actions by third parties in connection with such Regulatory Activity.

10.2 Customer represents and warrants that all traffic being delivered by Customer or its End Users or agents to XO for local termination, and all traffic that XO delivers to Customer or its End Users or agents that has originated in the same local calling area in which Customer's NPA-NXX is assigned and/or in which such traffic is terminated to Customer

or its End Users or agents, is local traffic or is legally entitled to be treated as local traffic under all applicable federal, state and local laws, administrative and regulatory requirements and any other authorities having jurisdiction over such traffic. Customer understands that XO will rely upon such representation to assign local telephone numbers to Customer and/or route Customer's traffic for termination as local calling. Customer represents and warrants that Customer has paid, or shall promptly pay to XO all switched access charges associated with any of Customer's traffic that is delivered pursuant to this Agreement. Customer also represents and warrants that neither it nor any of its end users or agents will remove or in any way alter Automatic Number Identification ("ANI") or Calling Party Number ("CPN") information associated with any traffic delivered pursuant to this Agreement. Customer agrees to cooperate with XO to obtain or verify any necessary regulatory certification or information regarding the nature of its traffic and/or use of facilities.

10.3 Customer shall promptly pay to XO all access charges, reciprocal compensation, and/or any other charges, surcharges and/or taxes billed to XO by a third party, or remitted by XO to a third party, that are associated with any of Customer's traffic delivered or facilities utilized pursuant to this Agreement, including but not limited to any retroactive charges, (collectively, "Additional Charges") and that are not already reflected in the rates charged by XO for the Services rendered pursuant to this Agreement. Although XO shall not have any obligation to challenge any Additional Charges levied by a third party, if XO successfully challenges imposition of any Additional Charges by a third party, it will refund to Customer any Additional Charges previously paid by Customer to XO that were subject to such successful challenge. In addition, XO shall have the right, upon five (5) days written notice to Customer, to revise its rates for Services provided to Customer to reflect any Additional Charges. Within thirty (30) days of receipt of written notice of any such rate increase to reflect Additional Charges, Customer, upon giving written notice to XO, may elect to transition any Services affected by such rate increase to another carrier over a period of time not to exceed sixty (60) days. Notwithstanding any other provision of this Agreement, if, within the designated thirty (30) day period, Customer does not provide written notice to XO of its election to transition the affected Services to another carrier, Customer shall be deemed to have waived its right to such election. Even if Customer elects to transition the affected Services to another carrier, Customer shall still be responsible for paying any and all Additional Charges billed to or remitted by XO up to and including the final transition date. The parties agree to cooperate on the scheduling of any such transition.

10.4 Customer agrees that, if XO is subjected to a third party audit relating to Customer's traffic or use of facilities which is the subject of this Agreement, Customer will cooperate in any such audit. Customer further agrees that it will protect, defend, indemnify and hold harmless XO, its subsidiaries, affiliates, officers, directors and employees from any and all costs resulting from such third party action.

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ARTICLE 11 - FORCE MAJEURE

11.1 In no event shall a Party have any claim or right against the other Party for any failure of performance due to causes beyond its control, including but not limited to: acts of God, fire, explosion, vandalism, cable or fiber cut, adverse weather conditions, flood or other similar occurrences; any law, order regulation, direction, action or request of the government, including federal, state and local governments having or claiming jurisdiction over XO or of any department, agency, commission, bureau, corporation, or other instrumentality of any federal, state, or local government, or of any civil or military authority; national emergencies; unavailability of materials or rights-of-way; insurrections; riots, wars or terrorism; strikes, lock-outs, work stoppages, or other labor difficulties, supplier failures, shortages, breaches or delays; or any other cause or circumstance, whether of a similar or dissimilar nature to the foregoing, beyond the reasonable control of the affected Party.

ARTICLE 12- DISPUTE RESOLUTION

12.1 The Parties agree to use the dispute resolution procedures set forth in this Article 13 with respect to any controversy or claim arising out of or relating to this Agreement or its breach, except that XO may elect to litigate, or bring before the applicable agency in the case of subsection (iii), the following types of controversies or claims: (i) action seeking a temporary restraining order or injunction, (ii) a suit to compel compliance with this dispute resolution process, (iii) disputes relating to the lawfulness of rates, terms, conditions or practices concerning Services that are subject to the Communications Act of 1934, as amended, or the rules and regulations of the FCC, a state public utility commission or other administrative agency, (iv) Customer non-compliance with publicity provisions, or (v) billing or payment disputes or collections matters.

12.2 Upon ten (10) days written notice, either Party may submit disputes to binding arbitration by a single arbitrator with a professional arbitration service selected by the Parties. If the Parties do not otherwise agree on an arbitration service, such services shall be provided pursuant to the American Arbitration Association ("AAA") Commercial Arbitration Rules and Mediation Procedures. The costs of arbitration, including the fees and expenses of the arbitrator, shall be paid equally by the Parties. Each Party shall bear the cost of preparing and presenting its case. The Parties agree that Fairfax County, Virginia shall be the location for the arbitration hearing.

12.3 The Parties agree that this Article 13 and the arbitrator's authority to grant relief shall be subject to the Federal Arbitration Act, 9 U.S.C. §§ 1-16, *et seq.* ("FAA"), the provisions of this Agreement, and the AAA Code of Ethics for Arbitrators in Commercial Disputes. The Parties agree that the arbitrator shall have no power or authority to make any award that provides for punitive or exemplary damages or damages otherwise limited or excluded in this Agreement. The arbitrator's decision shall be final and binding. The award may be confirmed and

enforced in any court of competent jurisdiction. All post-award proceedings shall be governed by the FAA.

ARTICLE 13- ASSIGNABILITY

13. Customer may not assign this Agreement without the prior written consent of XO, which consent shall not be unreasonably withheld. Any such assignment without XO's prior written consent shall be void. Notwithstanding the foregoing, if this Agreement is assigned by Customer to any other party, by assignment, operation of law or otherwise, which Party, prior to the assignment, has an agreement (the "Prior Agreement") with XO or any of its Affiliates for the provision of services, the services being provided shall continue to be governed by the Prior Agreement, and the Services provided hereunder shall continue to be governed by this Agreement, each without reference to the other.

ARTICLE 14- NOTICES

14.1 Notices under this Agreement shall be in writing and delivered by overnight courier (e.g., Federal Express, DHL) or certified mail, return receipt requested, to the persons whose names and business addresses appear below and such notice shall be effective on the date of receipt by the receiving Party:

If to XO: XO Communications Services, Inc.
13865 Sunrise Valley Drive
Herndon, VA 20171
Attn: President, Business Services

With copy to: XO Communications Services, Inc.
13865 Sunrise Valley Drive
Herndon, VA 20171
Attn: Vice President, Assistant General Counsel

If to Customer: City of Seattle Purchasing and Contracting Services
Seattle Municipal Tower
700 5th Avenue, #4112
Seattle, WA 98104-5042
Attn: Michael Mears, Purchasing Agent

A Party may change its address and point of contact by notifying the other Party in accordance with this Article.

ARTICLE 15 - MISCELLANEOUS

15.1 In the event of any express inconsistency, and only to the extent of such inconsistency, between the main body of this Agreement and any Exhibits or Service Orders made a part of in accordance with this Agreement, precedence shall be given to:

- (1) The main body of this Agreement
- (2) The Exhibits; and

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(3) Any Service Orders

15.2 XO's telecommunications equipment shall remain the sole and exclusive property of XO or its assignee, and nothing contained herein shall give or convey to Customer any right, title or interest whatsoever in such equipment, which shall at all times be and remain personal property notwithstanding that it may be or become attached to or embedded in realty. Customer shall not tamper with, remove or conceal any identifying plates, tags or labels affixed to the equipment showing XO's ownership thereof. XO may substitute, change or rearrange telecommunications equipment used in providing Service as long as the quality is not impaired.

15.3 This Agreement does not render either Party the agent or legal representative of the other Party and does not create a partnership or joint venture between Customer and XO. Neither Party shall have any authority to agree for or bind the other Party in any manner whatsoever. This Agreement confers no rights of any kind upon any third party.

15.4 No waiver of any of the provisions of this Agreement shall be binding unless it is in writing and signed by both Parties. The failure of either Party to insist on the strict enforcement of any provision of this Agreement shall not constitute a waiver of any provision and all terms shall remain in full force and effect.

15.5 No subsequent agreement among the Parties concerning the Service shall be effective or binding unless it is made in writing and executed by authorized representatives of the Parties. Neither electronic mail nor instant messaging (IM) shall be considered a "writing" sufficient to change, modify, extend or otherwise affect the terms of the Agreement.

15.6 This Agreement, together with any applicable Tariffs, sets forth the entire understanding of the Parties and supersedes any and all prior or contemporaneous agreements, arrangements or understandings relating to the subject matter hereof., written, oral or otherwise. The Appendices and Exhibits referred to herein are integral parts hereof and are hereby made a part of this Agreement.

15.7 If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement.

15.8 This Agreement for Service is made pursuant to and shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia without regard to its choice of law principles. Any action arising out of or related to this Agreement shall be brought in the state or Federal courts located in King County, Washington, and Customer consents to the exclusive jurisdiction and venue of such courts.

15.9 This Agreement is non-exclusive. Nothing in this Agreement shall prevent Customer or XO from entering into similar arrangements with, or otherwise providing Services to, any other person or entity.

15.10 Neither Party shall issue a news release, public announcement, advertisement, or other form of publicity concerning the existence of this Agreement or the supplies or Services to be provided hereunder without obtaining the prior written approval of the other Party; except that XO reserves the right to issue a public announcement and/or press release regarding the existence of this Agreement and the provision of Service(s) by XO to Customer hereunder within six (6) months after the Effective Date of this Agreement. The content of such announcement and/or release shall be subject to Customer's prior review and written approval. Any request by Customer for such consent from XO shall be directed to XO's Legal and Corporate Communications Departments.

15.11 The terms and provisions contained in this Agreement that by their sense and context are intended to survive the performance thereof by the Parties shall survive the completion of performance and termination of this Agreement, including, without limitation, the making of any and all payments hereunder.

15.12 Any additional services provided by XO to Customer not included in a Service Order shall be governed by the terms of this Agreement and priced in accordance with XO's standard pricing as set forth in its applicable Tariffs, price lists or Guide.

15.13 This Agreement shall be of no force and effect and the offer contained herein shall be withdrawn unless this Agreement is executed by Customer and delivered to XO on or before December 8, 2008.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

City of Seattle

BY:  12-08-2008
AUTHORIZED SIGNATURE DATE
MICHAEL MEARES
PRINT NAME
SENIOR BUYER
PRINT TITLE

XO Communications Services, Inc., on behalf of itself and its operating affiliates

BY:  12/8/08
AUTHORIZED SIGNATURE DATE
Paul Merritt
PRINT NAME
General Manager
PRINT TITLE

List of Exhibits
Exhibit A – ELD

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**EXHIBIT A
MASTER SERVICES AGREEMENT**

ENTERPRISE LONG DISTANCE SERVICES

This Exhibit A applies to XO's provision and Customer's use of the ENTERPRISE LONG DISTANCE SERVICES and is hereby incorporated into and made part of that certain Master Services Agreement dated 12-08-2008

1.0 SERVICE DESCRIPTION

1.1 Enterprise Long Distance ("ELD") Service is a switched termination service that enables XO customers to terminate voice traffic via interconnections at various meet-points throughout the fifty (50) U.S. states. ELD Service is designed for and limited to the termination of interstate, intrastate, toll free, international, directory assistance and Operator Services (as defined below) traffic. Consequently, Customer acknowledges and agrees it will not submit local, 500, and 900 traffic (collectively referred to as "Prohibited Traffic") to XO for termination using ELD Service. Prohibited Traffic, if passed to XO by means of ELD, may be blocked by XO. Should Customer nonetheless transmit any Prohibited Traffic to XO for termination, such calls may be terminated by XO and Customer will be charged XO's applicable rates for such Prohibited Traffic. For the purposes of this Exhibit, the term "Operator Services" shall mean a variety of telephone services based on the assistance of an operator, including but not limited to such services as collect calls, third party billed calls and person-to-person calls.

1.2 To determine a call's jurisdiction, XO will examine the originating (e.g., calling party number or originating ANI) and terminating (e.g., called party number or terminating ANI) information present in the call stream (collectively, "ANI/CPN"). Calls received by XO without ANI/CPN, or with inaccurate ANI/CPN, as well as Toll-Free originated calls, will be classified as "Indeterminate Jurisdiction". Customer shall be invoiced and required to pay XO the applicable intrastate rates as provided in Article 3.0 below for all such Indeterminate Jurisdiction calls.

For purposes of this Exhibit, ANI and CPN are defined, respectively, as follows:

"ANI" (Automatic Number Identification) refers to the delivery of the calling party's billing number, as recognized by the Local Exchange Routing Guide (the "LERG"), by a local exchange carrier to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

"CPN" (Calling Party Number) refers to the subscriber line number or the directory number, as recognized by the LERG, contained in the calling party number parameter of the call set-up message associated with an interstate call.

2.0 OBLIGATIONS OF CUSTOMER

2.1 Customer is responsible for all access and related costs of

dedicated facilities to connect to the nearest applicable XO meet point. These meet point locations are set forth at Attachment 1, attached hereto and made a part hereof. Access circuit(s) and related facilities shall be ordered under the applicable XO order form and billed at the prices listed within that order form.

2.2 Customer is responsible for controlling access to, and use of, its own telephone facilities. Customer is responsible for payment for all charges for ELD Service furnished to Customer by XO, pursuant to the payment terms set forth in the Agreement. This responsibility is not changed by virtue of any use, misuse, fraud, or abuse by Customer's employees, or other members of the public of ELD Service provided to Customer or Customer-provided systems, equipment, facilities, or services interconnected to the ELD Service. XO will not issue credits for fraudulent calls passed to XO by Customer.

2.3 In addition to providing all information and documentation relevant to the ELD Services as may be requested by XO from time to time, Customer is required to provide XO a forecast of minutes by Local Access Transport Area ("LATA") and meet point(s) prior to initiating ELD Service with XO. Customer's forecast will reflect an average month's MOU. If Customer's anticipated usage changes significantly (+ or - 15%), Customer will provide XO written notification of such change sixty (60) days prior to the expected change, or as much advance notice as reasonably possible, so that XO may assess network capacity to address the new volume of traffic. If XO is not able to process an anticipated traffic increase, XO will so inform Customer. If Customer sends such traffic in spite of such communication from XO, such traffic may be rejected by the XO network without liability. In addition, to the extent that Customer fails to notify XO of an increase in usage by 15% or more from Customer's most recently provided forecast, XO retains the right to increase its prices to Customer if the usage change will adversely affect the XO Network.

2.4 ELD Service is billed to Customer based on calls placed that return Answer Supervision to XO ("Completed Calls"). Offered Calls are calls placed that do not return Answer Supervision to XO but nevertheless utilize XO's Network from call attempt time to call disconnect time. Offered Calls include calls placed that are not answered and/or result in busy signals. If more than twenty percent (20%) of its calls placed during a monthly billing period are Offered Calls, the contracted per-minute rate will apply to all Customer's Calls, both Completed and Offered, beginning at the time of call attempt and extending to the time of call disconnect.

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3.0 TERM AND TERMINATION

3.1 Start of Service Date. XO will notify Customer of the applicable Start of Service Date. Billing will begin on the Start of Service Date, regardless of whether Customer is prepared to initiate usage of the Services. XO shall not be liable for any damages whatsoever resulting from delays in meeting requested or specified service dates, or inability to provide Service. Customer agrees to cooperate with XO to accomplish Service activation by providing access to Customer's premises and facilitating testing and Service delivery requirements.

3.2 Term. Services ordered hereunder shall have a minimum term of five (5) year from the applicable Start of Service Date with two-year extension allowed at the option of the Customer. Unless a Party notifies the other Party in writing not less than thirty (45) days prior to the expiration of the original term that it intends not to renew the Service, the Service shall automatically renew for a two year service Term at the same pricing, terms, and conditions as set forth herein.

3.3 Termination and Cancellation Charges.

3.3.1 Upon the expiration or termination of any order, Customer shall, within ten (10) days of such expiration 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.

3.3.2 If Service is cancelled or terminated after the Service has been ordered but prior to the Start of Service Date, Customer shall 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 and pay XO a cancellation or termination charge in an amount equal to two (2) months' monthly recurring charges, plus any applicable service ordering and installation charges.

3.3.3 It is agreed that XO's damages in the event of Service 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.

4.0 PRICING

4.1 Customer shall pay the applicable Interstate and/or Intrastate per minute OCN/LATA rates for ELD Service as set forth in the attached pricing exhibit, which will remain fixed throughout the term

of the Agreement. The Interstate pricing is based upon terminating LATA and Operating Carrier Number ("OCN") classification set forth in the XO billing system. The Intrastate pricing is based upon the terminating state and OCN classification set forth in the XO billing system. Current XO OCN classification is located at <http://xo.com/productpricing/direct-ld-term/> and may be modified by XO from time to time.

4.2 The rates set forth above are only available where Customer has also procured from XO the interconnection trunking between the XO point of presence ("POP") and the Customer POP.

5.0 MONTHLY RECURRING CHARGES

5.1 As a part of the Monthly Minimum Commitment set forth in Section 2.8 of the MSA, Customer hereby agrees to pay XO the monthly recurring charge (MRC) of one thousand five hundred dollars (\$1,500) per DS1 facility as indicated on the SOA or ten thousand dollars (\$10,000) per DS3 facility as indicated on the SOA per month for the purchase of ELD Services from XO in accordance with the payment terms herein and in the Agreement. The MRC amount mentioned above shall entitle Customer to use the ELD Service at the applicable rates up to the MRC amount. To the extent the charges associated with Customer's actual use of the ELD Service in a given month surpasses the MRC amount, Customer shall be billed for such usage beyond the MRC at the applicable usage rates. Customer agrees to pay such usage based charges for surpassing the MRC amount in accordance with the payment terms herein and in the Agreement. For avoidance of doubt, the MRC represents a flat monthly payment and Customer shall not be entitled to a refund if its actual usage in a given month amounts to a sum less than the MRC amount.

6.0 SUSPENSION OR TERMINATION OF SERVICE

6.1 XO reserves the right to immediately suspend or terminate the provision of ELD Services to Customer without prior notice if XO, in its sole discretion, determines that Customer's use of the ELD Service: i) violates XO's Acceptable Use Policy found at <http://www.xo.com/about/policy/Pages/acceptable-use.aspx>, or ii) is for any purpose that is unlawful or in any manner which could damage, disable, cause a degradation, overburden or impair the operation of XO Network or XO Services or any other party's use or enjoyment of the XO Network or XO Services.

6.2 In the event XO changes its Acceptable Use Policy ("AUP") and such change has a material and adverse impact on Customer, Customer may terminate this Agreement without penalty upon thirty (30) days prior written notice.

[SIGNATURE PAGE FOLLOWS]

x0

AGREED TO AND ACCEPTED BY:

City of Seattle

BY:

Michael Hears 12-08-2008
AUTHORIZED SIGNATURE DATE

MICHAEL HEARS
PRINT NAME

SENIOR BUYER
PRINT TITLE

XO Communications Services, Inc. on behalf of itself and its operating affiliates

BY:

Paul Merritt 12/08/08
AUTHORIZED SIGNATURE DATE

Paul Merritt
PRINT NAME

General Manager
PRINT TITLE

XO Sales Contact:



Attachment 1: XO Communications - Long Distance Terminating Service Meetpoints

Switch	Switch CLLI	Street Address	City	State	ZIP	LATA	NPA	NXX
ANA	SNANCALWDS0	1924 East Deere Avenue	Santa Ana	CA	92705	730	714	253
ANA	SNANCALWDS1	1924 East Deere Avenue	Santa Ana	CA	92705	730	714	253
ATL	SMYRGAFEDS0	4000 Highlands Parkway SE	Smyrna	GA	30082	438	404	591
ATL	SMYRGAFEDS1	4000 Highlands Parkway SE	Smyrna	GA	30082	438	404	591
AUS	AUSTTXGKDS0	2100 South IH 35	Austin	TX	78741	558	512	233
AUS	AUSTTXGKDS1	2100 South IH 35	Austin	TX	78741	558	512	233
BOS	CMBRMAMQDS0	89 Fulkerson Street	Cambridge	MA	02141	128	508	318
BOS	BSTPMALLDS1	1 Summer Street	Boston	MA	02110	128	781	948
CHI	CHCGILTCDS0	303 East Wacker Drive	Chicago	IL	60601	358	312	327
CHI	WDDLILCBDS0	711 North Eggedwood Avenue	Wood Dale	IL	60191	358	630	981
CHI	CHCGILTCDS4	303 East Wacker Drive	Chicago	IL	60601	358	312	327
CLE	CLEVOHAQDS1	815 Superior Avenue, NE	Cleveland	OH	44114	320	216	588
CLE	CLEVOHAQDS4	815 Superior Avenue, NE	Cleveland	OH	44114	320	216	588
CSG	CLMBOHFQDS1	10 West Broad Street	Columbus	OH	43215	324	614	334
CSG	CLMBOHFQDS5	10 West Broad Street	Columbus	OH	43215	324	614	334
DAL	DLLSTXSQDS0	1300 Mockingbird Lane	Dallas	TX	75247	552	214	237
DAL	DLLSTXSQDS2	1300 Mockingbird Lane	Dallas	TX	75247	552	214	237
DEN	ENWDCO47DS0	313 Inverness Way, South	Englewood	CO	80112	656	303	302
DEN	ENWDCO47DS3	313 Inverness Way, South	Englewood	CO	80112	656	303	302
DET	SFLDWIWKDS0	21555 Melrose Avenue, Building 8	Southfield	MI	48075	340	248	264
DET	SFLDWIWKDS2	21555 Melrose Avenue, Building 8	Southfield	MI	48075	340	248	264
FRE	FRMTCaedDS0	855 Mission Court	Fremont	CA	94539	722	415	295
FRE	FRMTCaedDS2	855 Mission Court	Fremont	CA	94539	722	415	295
HOU	HSTOTXRWDS0	2401 Portsmouth	Houston	TX	77098	560	832	200
HOU	HSTOTXRWDS3	2401 Portsmouth	Houston	TX	77098	560	832	200
LVS	HNSNVAQDS0	1301 Green Valley Parkway	Henderson	NV	89014	721	702	932
LVS	HNSNVAQDS2	1301 Green Valley Parkway	Henderson	NV	89014	721	702	932
MEM	MMPJTNAQDS0	5127 Truse	Memphis	TN	38117	468	662	796
MEM	MMPJTNAQDS1	5127 Truse	Memphis	TN	38117	468	662	796
MIA	MIAQFLO6DS0	16565 B NW 15th. Street	Miami	FL	33169	46017	305	328
MIA	MIAQFLO6DS1	16565 B NW 15th. Street	Miami	FL	33169	46017	305	328
MIN	MPLTMNFJDS0	1200 Washington Avenue, North	Minneapolis	MN	55415	628	612	379
NAS	NSVLTN90DS1	101 Molloy Street	Nashville	TN	37201	470	615	216
NAS	NSVLTN90DS2	101 Molloy Street	Nashville	TN	37201	470	615	216
NWK	NWRKNJMDDS0	165 Halsey Street	Newark	NJ	07012	224	201	297
NWK	NWRKNJMDDS1	165 Halsey Street	Newark	NJ	07012	224	201	297
NYM	NYCMNY83DS5	111 8th. Avenue	Manhattan	NY	10010	132	212	981
NYM	NYCMNY83DSR	111 8th. Avenue	Manhattan	NY	10010	132	212	981
PHI	PHLAPA03DS0	2400 Market Street	Philadelphia	PA	19108	228	215	599
PHI	PHLAPA03DS2	2400 Market Street	Philadelphia	PA	19108	228	215	599
PHX	PHNAAZ55DS0	3930 East Watkins Street, 1st. Floor	Phoenix	AZ	85034	666	480	505
PHX	PHNAAZ55DS1	3930 East Watkins Street, 1st. Floor	Phoenix	AZ	85034	666	480	505
PIE	LWPXPAACDS0	991 Peiffers Lane	Harrisburg	PA	17111	226	717	202
PIE	LWPXPAACDS1	991 Peiffers Lane	Harrisburg	PA	17111	226	717	202
SAC	RSVLCANLDS0	1390 Lead Hill Boulevard	Roseville	CA	95661	726	530	329
SAC	RSVLCANLDS4	1390 Lead Hill Boulevard	Roseville	CA	95661	726	530	329
SDG	SNDJCA05DS0	5771 Copley Drive	San Diego	CA	92111	732	619	243
SDG	SNDJCA05DS3	5771 Copley Drive	San Diego	CA	92111	732	619	243
SEA	STTNWAHODS1	1000 Denny Way	Seattle	WA	98109	674	206	315
SEA	STTNWAHODS6	1000 Denny Way	Seattle	WA	98109	674	206	315
SLC	SLKDUTHDTS0	118 South 100 West	Salt Lake City	UT	84104	660	435	487
SLC	SLKDUTHDTS1	118 South 100 West	Salt Lake City	UT	84104	660	435	487
SPO	SPKNWADZDS0	155 South Stevens Street	Spokane	WA	99201	676	509	232
SPO	SPKNWADZDS2	155 South Stevens Street	Spokane	WA	99201	676	509	232
STL	MRHGMOGYDS0	2020 Westport Center Drive	Maryland Heights	MO	64141	520	314	228
STL	MRHGMOGYDS2	2020 Westport Center Drive	Maryland Heights	MO	64141	520	314	228
TPB	TAMSFLCZDS0	5904A Hampton Oaks Parkway	Tampa	FL	33610	952	727	230
TPB	TAMSFLCZDS2	5904A Hampton Oaks Parkway	Tampa	FL	33610	952	727	230
WDC	WASHDCZDS0	4301 Connecticut Avenue, NW	Washington	DC	20008	236	202	207
WDC	WASHDCZDS1	4301 Connecticut Avenue, NW	Washington	DC	20008	236	202	207

XO Communications

Enterprise Long Distance Service Rates

The Enterprise ("ELD") rates set forth herein are the applicable OCN/LATA per minute usage rates. Notwithstanding the foregoing, the Agreement executed by XO and Customer will supersede any and all other prior or contemporaneous writings, offers, and agreements, whether written or oral, regarding the provision of ELD services, including the rates set forth herein.

** Enterprise Long Distance calls are billed in six second increments after a six second minimum.

***Effective Date: April 1, 2007.

Interstate Base Rates per Minute

LATA	City	State	OCN Class				
			RBOC	GTE	ITC	MOBL	XO
120	Portland	ME	\$0.0148		\$0.0161	\$0.0053	N/A
122	Nashua	NH	\$0.0131		\$0.0154	\$0.0054	N/A
124	Burlington	VT	\$0.0132		\$0.0279	\$0.0064	N/A
126	Springfield	MA	\$0.0126		\$0.0185	\$0.0054	\$0.0092
128	Boston	MA	\$0.0115		\$0.0124	\$0.0053	\$0.0092
130	Providence	RI	\$0.0124		\$0.0126	\$0.0054	N/A
132	New York City	NY	\$0.0105		\$0.0125	\$0.0054	\$0.0092
133	Poughkeepsie	NY	\$0.0130	\$0.0159	\$0.0158	\$0.0064	\$0.0092
134	Albany	NY	\$0.0110		\$0.0206	\$0.0093	\$0.0092
136	Syracuse	NY	\$0.0137		\$0.0176	\$0.0053	\$0.0092
138	Binghamton	NY	\$0.0138	\$0.0130	\$0.0225	\$0.0054	\$0.0092
140	Buffalo	NY	\$0.0126		\$0.0142	\$0.0056	\$0.0092
220	Atlantic City	NJ	\$0.0140		\$0.0138	\$0.0076	\$0.0098
222	Camden	NJ	\$0.0149		\$0.0149	\$0.0076	\$0.0098
224	Newark	NJ	\$0.0134		\$0.0163	\$0.0077	\$0.0098
226	Harrisburg	PA	\$0.0126	\$0.0147	\$0.0291	\$0.0072	\$0.0098
228	Philadelphia	PA	\$0.0136	\$0.0161	\$0.0259	\$0.0077	\$0.0098
230	Altoona	PA	\$0.0149	\$0.0160	\$0.0199	\$0.0081	\$0.0098
232	Scranton	PA	\$0.0149	\$0.0195	\$0.0440	\$0.0077	\$0.0098
234	Pittsburgh	PA	\$0.0151	\$0.0152	\$0.0280	\$0.0078	\$0.0098
236	Washington	DC	\$0.0132	\$0.0128	\$0.0146	\$0.0078	\$0.0098
238	Baltimore	MD	\$0.0140		\$0.0181	\$0.0076	\$0.0098
240	Hagerstown	MD	\$0.0136		\$0.0155	\$0.0076	\$0.0098
242	Salisbury	MD	\$0.0149		\$0.0137	\$0.0076	\$0.0098
244	Roanoke	VA	\$0.0162	\$0.0205	\$0.0248	\$0.0123	\$0.0098
246	Fredericksburg	VA	\$0.0134	\$0.0146	\$0.0177	\$0.0099	\$0.0098
248	Richmond	VA	\$0.0134	\$0.0145	\$0.0169	\$0.0080	\$0.0098
250	Lynchburg	VA	\$0.0147	\$0.0180	\$0.0186	\$0.0076	\$0.0098
252	Norfolk	VA	\$0.0150	\$0.0141	\$0.0146	\$0.0077	\$0.0098
254	Charleston	WV	\$0.0142		\$0.0232	\$0.0095	N/A
256	Wheeling	WV	\$0.0138		\$0.0249	\$0.0095	N/A
320	Cleveland	OH	\$0.0106	\$0.0123	\$0.0223	\$0.0056	\$0.0090
322	Youngstown	OH	\$0.0119		\$0.0142	\$0.0051	\$0.0090

Interstate Base Rates per Minute

LATA	City	State	OCN Class				
			RBOC	GTE	ITC	MOBL	XO
324	Columbus	OH	\$0.0104	\$0.0130	\$0.0151	\$0.0054	\$0.0090
325	Akron	OH	\$0.0114	\$0.0120	\$0.0151	\$0.0051	\$0.0090
326	Toledo	OH	\$0.0121	\$0.0130	\$0.0249	\$0.0053	\$0.0090
328	Dayton	OH	\$0.0119	\$0.0121	\$0.0185	\$0.0052	\$0.0090
330	Evansville	IN	\$0.0119	\$0.0123	\$0.0229	\$0.0055	N/A
332	South Bend	IN	\$0.0117	\$0.0128	\$0.0197	\$0.0052	N/A
334	Fort Wayne	IN	\$0.0124	\$0.0129	\$0.0131	\$0.0060	N/A
336	Indianapolis	IN	\$0.0118	\$0.0131	\$0.0224	\$0.0053	N/A
338	Vincennes	IN	\$0.0116	\$0.0128	\$0.0357	\$0.0058	N/A
340	Detroit	MI	\$0.0113	\$0.0118	\$0.0151	\$0.0054	\$0.0090
342	Marquette	MI	\$0.0143		\$0.0243	\$0.0098	\$0.0090
344	Saginaw	MI	\$0.0122	\$0.0130	\$0.0294	\$0.0055	\$0.0090
346	Lansing	MI	\$0.0121	\$0.0128	\$0.0202	\$0.0052	\$0.0090
348	Grand Rapids	MI	\$0.0127	\$0.0128	\$0.0255	\$0.0053	\$0.0090
350	Green Bay	WI	\$0.0118	\$0.0150	\$0.0226	\$0.0054	N/A
352	Eau Claire	WI	\$0.0125		\$0.0378	\$0.0076	N/A
354	Madison	WI	\$0.0118	\$0.0149	\$0.0258	\$0.0055	N/A
356	Milwaukee	WI	\$0.0121	\$0.0137	\$0.0165	\$0.0052	N/A
358	Chicago	IL	\$0.0113	\$0.0151	\$0.0131	\$0.0054	\$0.0090
360	Rockford	IL	\$0.0109	\$0.0129	\$0.0153	\$0.0086	\$0.0090
362	Cairo/Mound Cty	IL		\$0.0117	\$0.0147	\$0.0060	\$0.0090
364	Sterling/Dekalb	IL	\$0.0127	\$0.0362	\$0.0119	\$0.0086	\$0.0090
366	Bloomington	IL		\$0.0107	\$0.0294	\$0.0064	\$0.0090
368	Peoria	IL	\$0.0118	\$0.0122	\$0.0147	\$0.0053	\$0.0090
370	Champ-Urbana	IL	\$0.0118	\$0.0130	\$0.0127	\$0.0052	\$0.0090
374	Springfield	IL	\$0.0115	\$0.0120	\$0.0173	\$0.0061	\$0.0090
376	Quincy	IL	\$0.0123	\$0.0160	\$0.0264	\$0.0108	\$0.0090
420	Asheville	NC	\$0.0128	\$0.0148	\$0.0161	\$0.0073	N/A
422	Charlotte	NC	\$0.0130	\$0.0111	\$0.0144	\$0.0069	N/A
424	Greensboro	NC	\$0.0128		\$0.0313	\$0.0069	N/A
426	Raleigh	NC	\$0.0126	\$0.0095	\$0.0131	\$0.0065	N/A
428	Wilmington	NC	\$0.0126		\$0.0202	\$0.0073	N/A
430	Greenville	SC	\$0.0131	\$0.0136	\$0.0155	\$0.0066	N/A
432	Florence	SC	\$0.0127	\$0.0099	\$0.0177	\$0.0059	N/A
434	Columbia	SC	\$0.0119	\$0.0109	\$0.0179	\$0.0068	N/A
436	Charleston	SC	\$0.0125	\$0.0105	\$0.0200	\$0.0068	N/A
438	Atlanta	GA	\$0.0108		\$0.0195	\$0.0073	\$0.0083
440	Savannah	GA	\$0.0142		\$0.0319	\$0.0076	\$0.0083
442	Augusta	GA	\$0.0128	\$0.0144	\$0.0173	\$0.0066	\$0.0083
444	Albany	GA	\$0.0129		\$0.0297	\$0.0074	\$0.0083
446	Macon	GA	\$0.0132		\$0.0255	\$0.0068	\$0.0083
448	Pensacola	FL	\$0.0125		\$0.0165	\$0.0074	\$0.0083
450	Panama City	FL	\$0.0114		\$0.0224	\$0.0096	\$0.0083
452	Jacksonville	FL	\$0.0129		\$0.0177	\$0.0066	\$0.0083
454	Gainesville	FL	\$0.0138		\$0.0185	\$0.0065	\$0.0083
456	Daytona Beach	FL	\$0.0118		\$0.0183	\$0.0095	\$0.0083
458	Orlando	FL	\$0.0099		\$0.0142	\$0.0070	\$0.0083
460	Miami	FL	\$0.0095		\$0.0133	\$0.0068	\$0.0083
462	Louisville	KY	\$0.0127	\$0.0134	\$0.0155	\$0.0066	N/A

Interstate Base Rates per Minute

LATA	City	State	OCN Class				
			RBOC	GTE	ITC	MOBL	XO
464	Madisonville	KY	\$0.0135		\$0.0170	\$0.0080	N/A
466	Lexington	KY	\$0.0139		\$0.0177	\$0.0098	N/A
468	Memphis	TN	\$0.0102		\$0.0210	\$0.0070	\$0.0083
470	Nashville	TN	\$0.0106		\$0.0192	\$0.0060	\$0.0083
472	Chattanooga	TN	\$0.0128		\$0.0277	\$0.0068	\$0.0083
474	Knoxville	TN	\$0.0131		\$0.0251	\$0.0067	\$0.0083
476	Birmingham	AL	\$0.0128		\$0.0224	\$0.0068	N/A
477	Huntsville	AL	\$0.0133		\$0.0194	\$0.0067	N/A
478	Montgomery	AL	\$0.0137		\$0.0140	\$0.0055	N/A
480	Mobile	AL	\$0.0127		\$0.0243	\$0.0068	N/A
482	Jackson	MS	\$0.0144		\$0.0263	\$0.0071	N/A
484	Gulfport	MS	\$0.0128		\$0.0128	\$0.0069	N/A
486	Shreveport	LA	\$0.0130		\$0.0231	\$0.0073	N/A
488	Lake Charles	LA	\$0.0134		\$0.0233	\$0.0097	N/A
490	New Orleans	LA	\$0.0130		\$0.0141	\$0.0067	N/A
492	Baton Rouge	LA	\$0.0124		\$0.0162	\$0.0071	N/A
520	St. Louis	MO	\$0.0102	\$0.0147	\$0.0141	\$0.0037	\$0.0088
521	Jefferson City	MO	\$0.0130		\$0.0175	\$0.0111	\$0.0088
522	Springfield	MO	\$0.0100		\$0.0184	\$0.0039	\$0.0088
524	Kansas City	MO	\$0.0100		\$0.0117	\$0.0041	\$0.0088
526	Fort Smith	AR	\$0.0103		\$0.0245	\$0.0047	N/A
528	Little Rock	AR	\$0.0101		\$0.0194	\$0.0041	N/A
530	Pine Bluff	AR	\$0.0102		\$0.0307	\$0.0036	N/A
532	Wichita	KS	\$0.0107		\$0.0357	\$0.0038	N/A
534	Topeka	KS	\$0.0104		\$0.0228	\$0.0039	N/A
536	Oklahoma City	OK	\$0.0104		\$0.0098	\$0.0039	N/A
538	Tulsa	OK	\$0.0101		\$0.0146	\$0.0037	N/A
540	El Paso	TX	\$0.0096		\$0.0103	\$0.0033	\$0.0088
542	Midland	TX	\$0.0101		\$0.0259	\$0.0034	\$0.0088
544	Lubbock	TX	\$0.0152		\$0.0249	\$0.0089	\$0.0088
546	Amarillo	TX	\$0.0099		\$0.0146	\$0.0036	\$0.0088
548	Wichita Falls	TX	\$0.0139		\$0.0327	\$0.0081	\$0.0088
550	Abilene	TX	\$0.0128		\$0.0207	\$0.0082	\$0.0088
552	Dallas	TX	\$0.0087	\$0.0103	\$0.0102	\$0.0041	\$0.0088
554	Longview	TX	\$0.0099	\$0.0108	\$0.0245	\$0.0035	\$0.0088
556	Waco	TX	\$0.0100		\$0.0114	\$0.0042	\$0.0088
558	Austin	TX	\$0.0088	\$0.0108	\$0.0107	\$0.0039	\$0.0088
560	Houston	TX	\$0.0090	\$0.0104	\$0.0121	\$0.0035	\$0.0088
562	Beaumont	TX	\$0.0098		\$0.0107	\$0.0034	\$0.0088
564	Corpus Christi	TX	\$0.0100	\$0.0108	\$0.0105	\$0.0034	\$0.0088
566	San Antonio	TX	\$0.0093	\$0.0123	\$0.0139	\$0.0038	\$0.0088
568	Harlingen	TX	\$0.0099	\$0.0109	\$0.0084	\$0.0033	\$0.0088
570	Bryan	TX	\$0.0099	\$0.0102	\$0.0171	\$0.0040	\$0.0088
620	Rochester	MN	\$0.0124		\$0.0279	\$0.0084	\$0.0081
624	Duluth	MN	\$0.0125		\$0.0237	\$0.0113	\$0.0081
626	St. Cloud	MN	\$0.0136		\$0.0272	\$0.0085	\$0.0081
628	Minneapolis	MN	\$0.0113		\$0.0153	\$0.0081	\$0.0081
630	Sioux City	IA	\$0.0118		\$0.0438	\$0.0081	N/A
632	Des Moines	IA	\$0.0135		\$0.0244	\$0.0080	N/A

Interstate Base Rates per Minute

LATA	City	State	OCN Class				
			RBOC	GTE	ITC	MOBL	XO
634	Davenport	IA	\$0.0132		\$0.0396	\$0.0072	N/A
635	Cedar Rapids	IA	\$0.0140		\$0.0276	\$0.0082	N/A
636	Fargo	ND	\$0.0118		\$0.0430	\$0.0100	N/A
638	Bismarck	ND	\$0.0118		\$0.0419	\$0.0085	N/A
640	Sioux Falls	SD	\$0.0141		\$0.0247	\$0.0083	N/A
644	Omaha	NE	\$0.0133		\$0.0199	\$0.0088	N/A
646	Grand Island	NE	\$0.0129		\$0.0264	\$0.0090	N/A
648	Helena	MT	\$0.0134		\$0.0309	\$0.0079	N/A
650	Billings	MT	\$0.0151		\$0.0245	\$0.0086	N/A
652	Boise	ID	\$0.0155		\$0.0266	\$0.0085	\$0.0081
654	Cheyenne	WY	\$0.0158		\$0.0466	\$0.0082	N/A
656	Denver	CO	\$0.0088		\$0.0169	\$0.0086	\$0.0081
658	Colorado Spgs	CO	\$0.0093		\$0.0171	\$0.0082	\$0.0081
660	Salt Lake Cty	UT	\$0.0097		\$0.0220	\$0.0084	\$0.0081
664	Albuquerque	NM	\$0.0152		\$0.0148	\$0.0090	N/A
666	Phoenix	AZ	\$0.0107		\$0.0121	\$0.0079	\$0.0081
668	Tucson	AZ	\$0.0124		\$0.0123	\$0.0084	\$0.0081
670	Eugene	OR	\$0.0139	\$0.0169	\$0.0262	\$0.0084	\$0.0081
672	Portland	OR	\$0.0091	\$0.0133	\$0.0266	\$0.0080	\$0.0081
674	Seattle	WA	\$0.0098	\$0.0076	\$0.0166	\$0.0083	\$0.0081
676	Spokane	WA	\$0.0098	\$0.0125	\$0.0199	\$0.0081	\$0.0081
720	Reno	NV	\$0.0110		\$0.0400	\$0.0047	\$0.0112
721	Las Vegas	NV	\$0.0107		\$0.0109	\$0.0077	\$0.0112
722	San Francisco	CA	\$0.0156	\$0.0103	\$0.0167	\$0.0045	\$0.0162
724	Redding/Chico	CA	\$0.0200		\$0.0189	\$0.0047	\$0.0162
726	Sacramento	CA	\$0.0158		\$0.0247	\$0.0048	\$0.0162
728	Fresno	CA	\$0.0202	\$0.0104	\$0.0161	\$0.0046	\$0.0162
730	Los Angeles	CA	\$0.0138	\$0.0093	\$0.0162	\$0.0044	\$0.0162
732	San Diego	CA	\$0.0130		\$0.0136	\$0.0044	\$0.0162
734	Bakersfield	CA	\$0.0149		\$0.0157	\$0.0047	\$0.0162
736	Monterey/Salin.	CA	\$0.0191		\$0.0114	\$0.0043	\$0.0162
738	Stockton	CA	\$0.0164		\$0.0127	\$0.0043	\$0.0162
740	S. Luis Obispo	CA	\$0.0200	\$0.0103	\$0.0154	\$0.0037	\$0.0162
832	All - Cities	AK					N/A
834	All - Cities	HI					N/A
920	Hartford	CT	\$0.0128		\$0.0125	\$0.0044	N/A
921	Fishers Island	NY			\$0.0577		\$0.0092
922	Cincinnati	OH		\$0.0130	\$0.0153	\$0.0067	\$0.0090
923	Lima	OH		\$0.0127	\$0.0165	\$0.0044	\$0.0090
924	Erie	PA		\$0.0136	\$0.0179	\$0.0102	\$0.0098
927	Harrisonburg	VA		\$0.0154	\$0.0120	\$0.0102	\$0.0098
928	Charlottesvl	VA			\$0.0164	\$0.0076	\$0.0098
929	Edinburg	VA			\$0.0367	\$0.0072	\$0.0098
932	Bluefield	WV		\$0.0158	\$0.0213	\$0.0091	N/A
937	Richmond	IN		\$0.0118	\$0.0154	\$0.0060	N/A
938	Terre Haute	IN		\$0.0128	\$0.0244	\$0.0062	N/A
939	Fort Myers	FL			\$0.0168	\$0.0065	\$0.0083
949	Fayetteville	NC			\$0.0170	\$0.0080	N/A
951	Rocky Mount	NC			\$0.0179	\$0.0101	N/A

Interstate Base Rates per Minute

LATA	City	State	RBOC	OCN Class			
				GTE	ITC	MOBL	XO
952	Tampa	FL		\$0.0159	\$0.0148	\$0.0070	\$0.0083
953	Tallahassee	FL			\$0.0169	\$0.0100	\$0.0083
956	Kingsport	TN			\$0.0173	\$0.0078	\$0.0083
958	Lincoln	NE			\$0.0303	\$0.0076	N/A
960	Coeur D'Alene	ID		\$0.0360	\$0.0275	\$0.0082	\$0.0081
961	San Angelo	TX		\$0.0149	\$0.0352	\$0.0084	\$0.0088
973	Palm Springs	CA		\$0.0101	\$0.0115	\$0.0038	\$0.0162
974	Rochester	NY			\$0.0139	\$0.0044	\$0.0092
976	Matoon	IL		\$0.0128	\$0.0340	\$0.0143	\$0.0090
977	Galesburg	IL		\$0.0152	\$0.0329	\$0.0122	\$0.0090
978	Olney	IL		\$0.0155	\$0.0431	\$0.0071	\$0.0090
980	Tsaile	AZ			\$0.0492	\$0.0076	\$0.0081
981	Monument Valley	UT			\$0.0452		\$0.0081

XO Communications

Enterprise Long Distance Service Rates

The Enterprise ("ELD") rates set forth herein are the applicable OCN/LATA per minute usage rates. Notwithstanding the foregoing, the Agreement executed by XO and Customer will supersede any and all other prior or contemporaneous writings, offers, and agreements, whether written or oral, regarding the provision of ELD services, including the rates set forth herein.

** Enterprise Long Distance calls are billed in six second increments after a six second minimum.

***Effective Date: April 1, 2007.

Intrastate Base Rates per Minute

State	OCN Class				
	RBOC	GTE	ITC	MOBL	XO
AK	N/A	N/A	N/A	N/A	N/A
AL	\$ 0.0186		\$ 0.0541	\$ 0.0066	N/A
AR	\$ 0.0611		\$ 0.0264	\$ 0.0101	N/A
AZ	\$ 0.0422		\$ 0.1619	\$ 0.0140	\$ 0.0890
CA	\$ 0.0239	\$ 0.0432	\$ 0.0255	\$ 0.0047	\$ 0.0694
CO	\$ 0.0497		\$ 0.0879	\$ 0.0130	\$ 0.0416
CT	\$ 0.0235		\$ 0.0221	\$ 0.0064	N/A
DC	\$ 0.0269		\$ 0.0591	\$ 0.0590	\$ 0.1138
DE	\$ 0.0277		\$ 0.0311	\$ 0.0310	\$ 0.0470
FL	\$ 0.0459	\$ 0.0984	\$ 0.0722	\$ 0.0062	\$ 0.0440
GA	\$ 0.0124		\$ 0.0871	\$ 0.0088	\$ 0.0575
HI					N/A
IA	\$ 0.0322		\$ 0.0649	\$ 0.0109	N/A
ID	\$ 0.0786	\$ 0.2583	\$ 0.1670	\$ 0.0482	\$ 0.1138
IL	\$ 0.0104	\$ 0.0327	\$ 0.0189	\$ 0.0059	\$ 0.0538
IN	\$ 0.0120	\$ 0.1627	\$ 0.0386	\$ 0.0054	N/A
KS	\$ 0.0105		\$ 0.0293	\$ 0.0035	N/A
KY	\$ 0.0131		\$ 0.0587	\$ 0.0087	N/A
LA	\$ 0.0220		\$ 0.0321	\$ 0.0057	N/A
MA	\$ 0.0116		\$ 0.0147	\$ 0.0070	\$ 0.0703
MD	\$ 0.0465		\$ 0.0343	\$ 0.0056	\$ 0.0377
ME	\$ 0.0136		\$ 0.0134	\$ 0.0047	N/A
MI	\$ 0.0125	\$ 0.0143	\$ 0.0459	\$ 0.0054	\$ 0.0390
MN	\$ 0.0414		\$ 0.1005	\$ 0.0066	\$ 0.0401
MO	\$ 0.0582		\$ 0.1035	\$ 0.0738	\$ 0.0603
MS	\$ 0.0156		\$ 0.1280	\$ 0.0060	N/A
MT	\$ 0.0502		\$ 0.0571	\$ 0.0241	N/A
NC	\$ 0.0133	\$ 0.1393	\$ 0.0468	\$ 0.0075	N/A
ND	\$ 0.0675		\$ 0.1190	\$ 0.0343	N/A
NE	\$ 0.0235		\$ 0.0887	\$ 0.0218	N/A
NH	\$ 0.0543		\$ 0.0280	\$ 0.0036	N/A
NJ	\$ 0.0225		\$ 0.0264	\$ 0.0252	\$ 0.0689
NM	\$ 0.0148		\$ 0.1374	\$ 0.0085	N/A
NV	\$ 0.0126		\$ 0.0312	\$ 0.0060	\$ 0.0572
NY	\$ 0.0539		\$ 0.0530	\$ 0.0091	\$ 0.0546
OH	\$ 0.0112	\$ 0.0108	\$ 0.0525	\$ 0.0053	\$ 0.0145

Intrastate Base Rates per Minute

State	OCN Class				
	RBOC	GTE	ITC	MOBL	XO
OK	\$ 0.0222		\$ 0.0209	\$ 0.0078	N/A
OR	\$ 0.0143	\$ 0.0240	\$ 0.0477	\$ 0.0076	\$ 0.0371
PA	\$ 0.0202	\$ 0.0291	\$ 0.0398	\$ 0.0053	\$ 0.0470
RI	\$ 0.0273		\$ 0.0294	\$ 0.0660	N/A
SC	\$ 0.0208	\$ 0.0312	\$ 0.0233	\$ 0.0061	N/A
SD	\$ 0.1065		\$ 0.1780	\$ 0.0274	N/A
TN	\$ 0.0116		\$ 0.0509	\$ 0.0080	\$ 0.0639
TX	\$ 0.0429	\$ 0.0340	\$ 0.0453	\$ 0.0055	\$ 0.0421
UT	\$ 0.0342		\$ 0.0475	\$ 0.0080	\$ 0.0582
VA	\$ 0.0334	\$ 0.0497	\$ 0.0412	\$ 0.0091	\$ 0.0440
VT	\$ 0.0372		\$ 0.0806	\$ 0.0413	N/A
WA	\$ 0.0087	\$ 0.0080	\$ 0.0290	\$ 0.0070	\$ 0.0356
WI	\$ 0.0119	\$ 0.0118	\$ 0.0584	\$ 0.0061	N/A
WV	\$ 0.0409		\$ 0.0543	\$ 0.0201	N/A
WY	\$ 0.0327		\$ 0.0558	\$ 0.0343	N/A

XO_(R) Switched Outbound (1+) Lo

Standard 1+ Interstate Rate Schedule

CONFIDENTIAL - for internal use only

Rating Rules

- 1) Rates apply to both outbound and toll-free service
- 2) Rates apply to all Interstate calls including calls made to and from Alaska, Hawaii, US Virgin Islands, Guam, Northern Mariana Islands, and American Samoa
- 3) 60 second initial period with 6 second increments
- 4) Payphone surcharge of \$0.50 per call for toll free calls from payphones.

Standard Rates

Base INTERstate rates for:	
	Outbound XO Switched Access

Standard 1+ Intrastate Rate Schedule

CONFIDENTIAL - for internal use only

Rating Rules

- 1) Payphone surcharge of \$0.50 per call for toll free calls from payphones (not discountable)
- 2) Rates apply to both outbound and toll-free service
- 3) Unless noted otherwise, intraLATA rates are equal to the interLATA intrastate rates
- 4) 60 second initial period with 6 second increments

NO SEPARATE OFFER CODE: INTERSTATE OFFER CODE	
State	Base Switched Access
Alabama	\$ 0.094
Alaska	\$ 0.268
Arizona	\$ 0.140
Arkansas	\$ 0.133
California InterLATA	\$ 0.075
California IntraLATA	\$ 0.070
Colorado	\$ 0.110
Connecticut	\$ 0.077
DC	local calls only
Delaware (Single LATA)	\$ 0.077

Florida	\$	0.105
Georgia	\$	0.105
Hawaii	\$	0.141
Idaho	\$	0.145
Illinois InterLATA	\$	0.078
Illinois IntraLATA	\$	0.049
Indiana	\$	0.077
Iowa	\$	0.131
Kansas	\$	0.127
Kentucky	\$	0.148
Louisiana	\$	0.077
Maine	\$	0.176
Maryland	\$	0.112
Massachusetts - InterLata	\$	0.118
Massachusetts - IntraLata	\$	0.118
Michigan - InterLata	\$	0.105
Michigan - IntraLata	\$	0.085
Minnesota	\$	0.145
Mississippi	\$	0.083
Missouri	\$	0.125
Montana	\$	0.153
Nebraska	\$	0.124
Nevada	\$	0.110
New Hampshire	\$	0.141
New Jersey InterLATA	\$	0.077
New Jersey IntraLATA	\$	0.077
New Mexico	\$	0.310
New York InterLATA	\$	0.098
New York IntraLATA	\$	0.098
North Carolina	\$	0.171
North Dakota	\$	0.233
Ohio	\$	0.101
Oklahoma	\$	0.150
Oregon	\$	0.100
Pennsylvania InterLATA	\$	0.077
Pennsylvania IntraLATA	\$	0.077
Rhode Island	\$	0.100
South Carolina	\$	0.127
South Dakota	\$	0.240
Tennessee	\$	0.105
Texas	\$	0.105
Utah	\$	0.120
Vermont	\$	0.154
Virginia - InterLata	\$	0.088
Virginia - IntraLata	\$	0.088
Washington	\$	0.110
West Virginia	\$	0.138
Wisconsin InterLATA	\$	0.093
Wisconsin IntraLATA	\$	0.093
Wyoming	\$	0.127

ng Distance

raii, Puerto Rico and

Offer Codes	All Calls
NTLDSWRP	\$0.0850

XO Communications

Enterprise Long Distance Service Rates

The Enterprise ("ELD") rates set forth herein are the applicable Toll Free per minute usage rates. Notwithstanding the foregoing, the Agreement executed by XO and Customer will supersede any and all other prior or contemporaneous writings, offers, and agreements, whether written or oral, regarding the provision of ELD services, including the rates set forth herein.

*** Enterprise Long Distance calls are billed in six second increments after a six second minimum.

***Effective Date: April 1, 2007.

Interstate Rate: \$0.0173

Intrastate Rates:

State	TF Rates
Alabama	\$0.0293
Alaska	\$0.1103
Arizona	\$0.0387
Arkansas	\$0.0599
California -Intralata	\$0.0225
California -Interlata	\$0.0248
Colorado	\$0.0338
Connecticut	\$0.0293
Delaware	\$0.0315
Florida	\$0.0306
Georgia	\$0.0324
Hawaii	\$0.0531
Idaho	\$0.0405
Illinois - Intralata	\$0.0180
Illinois - Interlata	\$0.0248
Indiana	\$0.0293
Iowa	\$0.0405
Kansas	\$0.0315
Kentucky	\$0.0293
Louisiana	\$0.0293
Maine	\$0.0486
Maryland	\$0.0401
Massachusetts	\$0.0293
Michigan - Intralata	\$0.0270
Michigan - Interlata	\$0.0237
Minnesota	\$0.0367
Mississippi	\$0.0293
Missouri	\$0.0367
Montana	\$0.0423
Nebraska	\$0.0405
Nevada	\$0.0184
New Hampshire	\$0.0531
New Jersey - Intralata	\$0.0222

Canada

\$0.04

New Jersey - Interlata	\$0.0293
New Mexico	\$0.0473
New York - Intralata	\$0.0284
New York - Interlata	\$0.0302
North Carolina	\$0.0293
North Dakota	\$0.0473
Ohio	\$0.0284
Oklahoma	\$0.0347
Oregon	\$0.0293
Pennsylvania - Intralata	\$0.0315
Pennsylvania - Interlata	\$0.0293
Rhode Island	\$0.0369
South Carolina	\$0.0482
South Dakota	\$0.0576
Tennessee	\$0.0324
Texas	\$0.0270
Utah	\$0.0293
Vermont	\$0.0410
Virginia - Intralata	\$0.0270
Virginia - Interlata	\$0.0293
Washington	\$0.0293
West Virginia	\$0.0387
Wisconsin	\$0.0293
Wyoming	\$0.0405



XO SERVICE ORDER AGREEMENT

Date: 12/05/2008

Quote #: 7-J3YII9

SalesMgr: BROWN, JASON

Request Service Date: 12/23/2008

Contract Term: 5 YR

Customer: CITY OF SEATTLE

Tax ID:

Primary Contact: MEARS, MICHAEL

Location #: 7948366753
Customer: CITY OF SEATTLE
Main Phone: (206)684-0600
Address Line 1: 2001 6th Avenue
City: SEATTLE

State: WA

Media for Bill Detail: SC=Print Summary & Bus. Ctr.
International LD Restriction: N
Main Fax:
Address Line 2: 19th Floor meet-me-room
Zip: 98121

<u>Product Type</u>	<u>Qty.</u>	<u>Term</u>	<u>Each</u>	<u>Total MRC</u>	<u>Installation/NRC</u>	<u>Annual Fee</u>
Carrier LD	0	5 YR	\$0.00	\$0.00	\$ 0.00	\$0.00
LDT 1500 TakePay MRC	1	5 YR	\$1500.00	\$1500.00	\$ 0.00	\$0.00
Carrier LD Termination - DS1	1	5 YR	\$80.00	\$80.00	\$ 0.00	\$0.00
Carrier LD	0	5 YR	\$0.00	\$0.00	\$ 0.00	\$0.00
Carrier LD Termination - DS1	1	5 YR	\$80.00	\$80.00	\$ 0.00	\$0.00
LDT 1500 TakePay MRC	1	5 YR	\$1500.00	\$1500.00	\$ 0.00	\$0.00
Toll Free - Domestic	1	5 YR	\$0.00	\$0.00	\$ 0.00	\$0.00
Toll Free Number	10	5 YR	\$12.00	\$120.00	\$ 0.00	\$0.00

Monthly MRC: \$3280.00 Total Discount: \$0.00 Total Installation/NRC: \$0.00 Total Annual Fees: \$0.00

Location #: 71080966961
Customer: CITY OF SEATTLE
Main Phone: (206)684-0600
Address Line 1: 2001 6th Avenue
City: SEATTLE

State: WA

Media for Bill Detail: SC=Print Summary & Bus. Ctr.
International LD Restriction: N
Main Fax:
Address Line 2: 19th Floor meet-me-room
Zip: 98121

<u>Product Type</u>	<u>Qty.</u>	<u>Term</u>	<u>Each</u>	<u>Total MRC</u>	<u>Installation/NRC</u>	<u>Annual Fee</u>
Standalone LD	0	5 YR	\$0.00	\$0.00	\$ 0.00	\$0.00
Switched Long Distance	860	5 YR	\$0.00	\$0.00	\$ 0.00	\$0.00

Monthly MRC: \$0.00 Total Discount: \$0.00 Total Installation/NRC: \$0.00 Total Annual Fees: \$0.00

Order Totals

Total MRC: \$3280.00

Grand Total Discount: \$0.00

Grand Total MRC: \$3280.00

Grand Total NRC: \$0.00

Grand Total Annual Fees: \$0.00

THE APPENDED "XO SERVICE ORDER TERMS" ARE INCORPORATED INTO AND MADE PART OF THIS "SERVICE ORDER AGREEMENT."

By executing this Service Order Agreement (with its appended "XO Service Order Terms" and other Documents, if applicable) ("SOA"), Customer is requesting, and agrees to pay for, the Service(s) identified herein and to be bound by the "General Terms and Conditions" and applicable "Supplemental Product Terms and Conditions" (Including "Additional Definitions" and "Miscellaneous Charges") (collectively, "Terms and Conditions") located at www.terms.xo.com, unless those Terms and Conditions are permitted to be and, in fact, are expressly superseded by terms and conditions, including rates and charges, contained in this SOA. It is the intent of the parties to incorporate via reference into this SOA all applicable website terms and conditions located at www.terms.xo.com, as they may be modified from time to time consistent with this SOA.

Customer shall pay the "Grand Order Totals" of charges set forth above, which amounts in all instances are exclusive of taxes, surcharges, and fees to be imposed by XO including, but not limited to, applicable federal, state, local use, excise, sales, or privilege taxes, duties or similar liabilities either shown as Miscellaneous Charges or imposed by operation of law. If there are any discrepancies between the Grand Order Totals of charges shown above and charges appearing elsewhere in this Agreement, the Grand Order Total of charges shall be controlling.

Customer authorizes XO to acquire from third parties any credit information, Customer Proprietary Network Information ("CPNI"), or other information necessary for XO to establish Customer's account and provision and maintain Service. Customer shall furnish such executed "letters of agency" to XO or its designee as may be required in connection with Service.

If a "Master Service Agreement" ("MSA") or "Master Services Order Agreement" ("MSOA") (or their equivalents) exists between Customer and XO and is in effect as of the date of this SOA, Service will be furnished pursuant to such MSA or MSOA, except that the charges set forth in this SOA shall apply. If said MSA or MSOA (or their equivalents) does not include the applicable product Exhibit for the Service requested, the Terms and Conditions set forth at www.terms.xo.com and incorporated herein will apply to the Service.

The undersigned represents that he/she is authorized to enter into this SOA on behalf of Customer.

Customer must sign (and if applicable, check and initial immediately below its acknowledgement and receipt of the Documents shown) and deliver this SOA, without modification, to XO within thirty (30) days of the "Date" (not the "Request Service Date") set forth at Page 1 hereof, or XO may decline to provide the Service offered.

CUSTOMER: CITY OF SEATTLE

[Signature]
Authorized Customer Representative's Signature

MICHAEL MEARS
Authorized Customer Representative's Name

SENIOR BUYER
Authorized Customer Representative's Title

12-08-2008
Date Signed by Customer

XO COMMUNICATIONS SERVICES, INC.

[Signature]
Authorized XO Representative's Signature

MARK AMSPA
Authorized XO Representative's Name

SM
Authorized XO Representative's Title

12/8/08
Date Signed by XO

(Sales Manager or above)

Date: 12/05/2008

Sales Rep: ALMEDA, MARK

Sales Rep Phone:

Customer: CITY OF SEATTLE

Main Phone: (206)684-0600

Main Fax:

Tax ID:

Primary Contact: MEARS, MICHAEL

Address Line 1: 2001 6th Avenue

Address Line 2: 19th Floor meet-me-room

City: SEATTLE

State: WA

Zip: 98121

Additional Information: (None of the information provided below is intended, nor may it be interpreted, to vary or modify in any way the terms and conditions, including prices, contained elsewhere in this SOA or in applicable Terms and Conditions established at www.terms.xo.com.)

2 ELD t1. \$1500 take or Pay per t1. (2) \$80 local DS1 loops. PIC local BLs to XO (860 total lines)