

## Terms of Service Annex IP Connectivity

1. Network connectivity
  - 1.1. CUSTOMER agrees to lease from NE, and NE agrees to lease to CUSTOMER, a connection to the Internet (the "IP Connectivity").
  - 1.2. The interconnection point between CUSTOMER equipment and NE's network shall be a port on an NE switch and/or router located in the datacenter (the "Interconnect Point"). For colocation services CUSTOMER shall be solely responsible for provisioning and maintaining all interconnections, including without limitation all local loops, between CUSTOMER network and equipment and the Interconnect Point necessary for CUSTOMER to use the Services.
  - 1.3. The standard Interconnect Point will either be a Fast Ethernet (FE) port, Gigabit Ethernet (GE) port or a Ten-Gigabit Ethernet (10 GE) port on a NE switch. NE may decide to provide a different port, should circumstances require it (e.g. 10 G fiber or 10 G DAC).
  - 1.4. CUSTOMER is allowed to burst to full port speed. NE can, but most likely will not, take measures to regulate these bursts, if it the bursts exceed 5 times the Committed Bandwidth or Committed Datattraffic, with the guideline that in case of a Datattraffic 1Gb equals 3Kbit for this Section. CUSTOMER shall use the Datattraffic evenly during the month.
  - 1.5. The services are covered by the uptime SLA. NE reserves the right to amend the SLA from time to time, effective upon posting of the revised SLA at the NE website. NE records and data shall be the basis for all SLA calculations and determinations.
  - 1.6. CUSTOMER is, whenever applicable for CUSTOMER, responsible for (i) providing the first point of contact for its end users support inquiries; (ii) providing software fulfillment to its end users; (iii) running its own primary and secondary domain name service for its end users; (iv) registering its end users' domain names; (v) using BGP4 routing to the network pursuant to NE BGP4 routing policy, if requested by NE; (vi) collecting route additions and changes, and providing them to NE; and (vii) registering with the appropriate agency all IP addresses provided by NE to CUSTOMER that are allocated to end users.
  - 1.7. CUSTOMER may resell the IP connectivity to its end users, but shall not resell IP connectivity in their entirety without NE prior written approval, which may be granted or withheld in NE sole discretion.
  - 1.8. Without the prior written approval of NE, CUSTOMER is not allowed to use other connections to CUSTOMER equipment in the rackspace, other than the IP Connectivity and other connections from NE. This includes Internet, Intranet, wireless, DSL, ISDN, PTN, satellite, IX, LAN and WAN connections.
  - 1.9. IP connectivity can only be used in the applicable month and cannot be transferred to other equipment than it is assigned to.
2. Methods
  - 2.1. IP connectivity can either be a Datattraffic (the "Datattraffic") or bandwidth (the "Bandwidth") package. These packages are based on either a Flat rate (the "Flat Fee") or on continuous measurements that will be combined at the end of each month (the "Measured Fee").
  - 2.2. Datattraffic is always based on a Measured Fee and is the sum of outbound traffic at CUSTOMER interconnect point(s). The applicable scales are MB (MegaByte), GB (GigaByte) and TB (TeraByte).
  - 2.3. Bandwidth can be based on a Flat Fee or Measured Fee. Based on a Flat Fee, CUSTOMER is given a bandwidth for disposal, with a maximum level they cannot exceed (port configuration). A Measured Fee is the higher of inbound and outbound traffic at CUSTOMER interconnect point. The Measured Fee will be calculated and billed by default as a "95<sup>th</sup> percentile" or on request as an "Average". The applicable scales are Kbit (Kilobit), Mbit (Megabit) and Gbit (Gigabit).
  - 2.4. CUSTOMER commits to a Datattraffic or Bandwidth package (the "Committed Datattraffic") or (the "Committed Bandwidth"). The actual Datattraffic or Bandwidth is measured at the end of each month (the "Actual Datattraffic") or (the "Actual Bandwidth").
  - 2.5. Extra traffic is the situation when the Actual Datattraffic or Actual Bandwidth exceeds the Committed Datattraffic or Committed Bandwidth (the "Extra Datattraffic") or (the "Extra Bandwidth"). This will not be possible with Flat Fee packages.
  - 2.6. If the Actual Datattraffic or Actual Bandwidth is lower than or equal to the Committed Datattraffic or Committed Bandwidth, there will be no extra cost. CUSTOMER is not entitled to receive restitution for the unused Datattraffic or Bandwidth.
  - 2.7. If the Actual Datattraffic or Actual Bandwidth is higher than the Committed Datattraffic or Committed Bandwidth, there will be extra cost according the applicable fees. Extra Datattraffic will be charged with TB granularity, at a standard TB pricing. Extra Bandwidth will be charged with Mbit granularity, at the Committed Bandwidth pricing with a surcharge of 25% over the Extra Bandwidth unless otherwise agreed.

3. Upgrade / downgrade / change
  - 3.1. CUSTOMER is allowed to upgrade the Committed Datatrafic or Committed Bandwidth at any time. If this upgrade has been done before the end of the month, it may be taken into account for that month already.
  - 3.2. CUSTOMER is allowed to downgrade the Committed Datatrafic or Committed Bandwidth at the end of CUSTOMER Terms.
  - 3.3. CUSTOMER may not switch between Datatrafic and/or Bandwidth packages, unless authorized by NE.
  
4. Monitoring and Billing
  - 4.1. NE's monitoring system measures CUSTOMERS IP Connectivity every 5 minutes at the interconnection point. The 5-minute average data is displayed on an hourly, daily, weekly and monthly graph. The monitoring system preserves the 5-minute average data for 3 months. Only NE measurements will be used.
  - 4.2. Datatrafic: the monthly datatrafic samples are added up as to make a sum of outbound traffic at CUSTOMER interconnect point(s) in that month. CUSTOMER is billed on a volume basis; i.e. total TeraBytes delivered.
  - 4.3. Bandwidth: the monthly bandwidth is used as the basis for the rate for that month. CUSTOMER is billed on a bandwidth basis. This is either a Flat fee or a Measured fee.
    - 4.3.1. Flat Fee: a maximum level that can not be exceeded.
    - 4.3.2. Measured Fee: this can be either:
      - 4.3.3. 95<sup>th</sup> percentile (default): the monthly samples are sorted, and the top 5% (approximately 450) samples are discarded. The highest remaining value is used as the basis for the rate for that month, and is referred to as 95th percentile speed. This effectively removes 36 hours of the highest bandwidth usage per month at CUSTOMER's interconnect point.
      - 4.3.4. Average: the average monthly bandwidth.
  - 4.4. CUSTOMER will have a web-based account to view the hourly, daily, weekly and monthly graphs of CUSTOMERS IP Connectivity.
  
5. Use of IP addresses
  - 5.1. IP Connectivity includes a number of IPv4 and IPv6 IP's (the "IP's") as agreed upon ordering. CUSTOMER can request more IP addresses at an extra cost.
  - 5.2. CUSTOMER is aware that a shortage of IPv4 addresses exists. CUSTOMER shall therefore use IP addresses in a conservative manner as this is being propagated by the IANA (Internet Assigned Numbers Authority) and it's RIR's (Regional Internet Registries). A request by CUSTOMER for more than 32 IPv4 addresses shall be accompanied by a written explanation describing the distribution of the IP's over CUSTOMER Equipment.
  - 5.3. CUSTOMER shall only use the IP addresses that have been assigned by NE to CUSTOMER. In case CUSTOMER has more than one (1) piece of equipment, CUSTOMER shall provide upon request a list containing CUSTOMER Equipment and the assigned IP addresses. CUSTOMER shall upon request notify NE of any change in the assignment of IP addresses to CUSTOMER equipment.
  - 5.4. In the event of any breach of this section (Use of IP addresses) by CUSTOMER, in addition to any other remedies available to NE, NE shall have the right to suspend the applicable services without prior notice to CUSTOMER; provided that NE notifies CUSTOMER of the suspension and its justification therefor as soon as practicable after the commencement of the suspension. CUSTOMER shall pay all costs related to this breach.
  - 5.5. NE provides the IP addresses on a temporary basis. CUSTOMER will only have the temporary right of use and cannot transfer the IP addresses to another ISP.