



Acceptable Use Policy

U.S. TelePacific Corp. and/or its affiliated companies (“TPx Communications”) has implemented this Acceptable Use Policy (“AUP”) as part of an overall effort to: (1) provide high quality, reliable service to our customers; (2) protect the privacy and security of our customers, systems, and networks; (3) encourage responsible use of TPx’s and other ISPs’ resources; and (4) comply with applicable laws and regulations.

This AUP provides a general understanding of TPx policy regarding the use of TPx services. As with any set of rules, guidelines and policies, common sense and judgment are exercised while enforcing this policy system. With this in mind, flagrant and/or repeated policy violations are viewed differently than minor infractions or actions that are unintentional and cause little, if any, harm. Protecting our customers and our resources, providing quality service to our customers, conforming to existing laws and preserving our reputation as a service provider are factors considered when deciding appropriate action in connection with policy violations.

This AUP describes the uses of the TPx network that are prohibited. TPx may in its sole discretion determine whether a use of the TPx network is a violation of this AUP. While it is not TPx’s intent to monitor, control, or censor communications on the TPx network, when we become aware of a violation of this AUP we may take such action as we deem appropriate to address the violation, as referenced in our AUP.

This AUP applies to all customers of TPx’s services, and to all other users of the TPx network. This AUP supplements, but does not supersede, the contracts that customers have with TPx. If such a contract restricts a use of the TPx network that is not addressed in this AUP, the contract will govern with respect to such use. “You” or “your” as used in this AUP refers to each customer of TPx’s services. “Our” or “us” refers to TPx.

By using any of the services referenced in this AUP, you agree to comply with the terms and conditions of this AUP. TPx reserves the right to change or modify the terms and conditions of this AUP at any time, effective when posted on TPx’s website www.tpx.com/legal/acceptable-use-policy. Your use of the Services after changes to the AUP are posted shall constitute acceptance of any changed or additional terms and conditions. However, if any such changes or additions are material, you will be notified.

Data / Internet section

This Acceptable Use Policy defines acceptable practices relating to the use of TPx Communications internet data services by its customers and by users that have gained access to the service from the customer. TPx also has other AUPs that cover voice and cloud services. By using TPx data services you acknowledge that you and your users are responsible for compliance with this Policy. Any violations of the Acceptable Use Policy may result in TPx suspending Service with or without prior customer notification.



It is our intention to allow our customers access to everything the Internet has to offer with little or no interference except for any impact a user may have on our ability to serve our other customers. There are certain activities considered inappropriate by the Internet community at large and that cannot be permitted under the guise of free speech. TPx does not censor or prescreen content from the Internet or any newsgroups accessed by its computer servers on behalf of our customers. The customer may choose what the customer should or should not view or hear. Regardless, TPx reserves the right to determine whether material being hosted on its network is objectionable or inappropriate. If TPx deems materials to be inappropriate, TPx, in its sole discretion, may terminate a customer's services immediately, without notice, and block all access to the customer's website or material in question.

Prohibitions

Impersonation: You may not impersonate, or influence someone to believe you are someone you are not in any way, through forged email, news posting headers or other identifying information.

Unfriendly Internet activity: You may not engage or allow others to engage in activities that impair TPx's ability to deliver its services to its customers.

Privacy Violations: You are prohibited from gaining access to or "hacking" any computer system or customer account without the consent of its owner. This prohibition extends to the use of automated tools, the creation, distribution, or transfer of viruses, worms, or similar malicious code, or active attempts (whether successful or unsuccessful) to gain unauthorized access, but is not necessarily limited to such activities. When such activities are brought to TPx's attention, severe remedial action may be taken, which may include the notification of and cooperation with appropriate law enforcement authorities.

Re-sale: TPx transport facilities and data communications services are not to be used for resale. TPx facilities are not intended for the purpose of offering services for resale to third parties, and this activity is strictly prohibited unless Customer is specifically authorized pursuant to a written agreement with TPx to resell TPx services. TPx reserves the right to determine whether third party individuals or organizations are using its services. If, in TPx's sole discretion, it determines that Customer is a website hosting provider, Internet access provider, or other online service provider and is causing TPx products to be used by third parties, TPx may terminate the Customer's service immediately and block all access to the Customer's website or other service(s) in question.

Excess Wireless Usage in Connection with Failover Service: 1Net Continuity is an MPLS failover service. If the primary 1Net circuit becomes unavailable, traffic shall be diverted to a failover wireless connection. Said wireless connection shall only be used in connection with the 1Net failover service. In the event that TPx determines that usage exceeding the 5 GB maximum for cellular wireless failover is not directly attributable to an unavailable primary 1Net connection, any associated charges incurred for that cellular usage will be the responsibility of the customer and invoiced accordingly.



Access Facilities Abuse: You may not maintain or attempt to maintain a permanent connection to TPx via a “non-dedicated” personal dial access account. Upon evidence of abuse, TPx will contact you via phone, fax or email. If you fail to respond within twenty-four (24) hours to a request to cease abusive activities, TPx will take appropriate action, from requesting you cease abusive activities up to and including immediate termination of your account. Early Termination Fees (ETF) may apply according to your TPx Account Agreement (TAA) with TPx. You may request account re-activation via a telephone call to TPx according to TPx’s then current re-activation policies and any applicable charges. A second violation of this policy may result in permanent removal of your account from the TPx system and any unused service fees paid in advance will be retained by TPx as a termination charge and not refunded.

Illegal Activity: The TPx network may not be used in connection with any criminal, civil or administrative violation of any applicable local, state, provincial, federal, national or international law, treaty, court order, ordinance, regulation or administrative rule.

Fraud: Using the Services to make fraudulent offers to sell or buy products, items, or services or to advance any type of financial scam such as but not limited to “pyramid schemes,” “Ponzi schemes,” and “chain letters” is impermissible activity and prohibited. TPx customers are prohibited from using the TPx network to engage in any deceptive online marketing practices including, without limitation, practices that violate the United States Federal Trade Commission’s guidelines for proper online marketing.

Impermissible Storage: The storage of any program, utility, or file on TPx’s servers, the use of which would constitute a violation of this policy, is prohibited. Such violations include but not limited to storing hacker scripts, IRC bots, illegal content or spamming software on TPx’s servers.

Commercial email: TPx prohibits the sending of Unsolicited Commercial Email (“UCE”), also commonly referred to as “spam”, in accordance with the CAN-SPAM Act of 2003. Using any TPx service for advertising, promoting, sending, or receiving responses to UCE is prohibited. UCE can include any of the following:

- Sending any unsolicited email that could be expected, in TPx’s sole discretion, to provoke complaints.
- Sending more than 100 identical or substantially similar messages at one time without prior authorization by TPx.
- Sending email with charity requests (unless the sender is a nonprofit, charitable organization), petitions for signatures, or any chain mail-related materials.
- Sending email that does not accurately identify the sender, the sender’s return address, and the email address of origin.
- Collecting the responses from unsolicited email.
- Posting a single message or messages similar in content, to more than 15 online forums or newsgroups.
- Posting messages to online forums or newsgroups that violate the rules of the forums or newsgroups.



- Repeated posting of “off-topic” articles or messages in newsgroups. This is usually a violation of the newsgroup’s own AUP.
- Providing an “opt-out” link where recipients are told they may be removed from future mailings by providing information DOES NOT legitimize mailings that are otherwise considered UCE.

TPx does not authorize SMTP relay only. TPx no longer offers generic email account services. If you have a grandfathered account, you must check your email account at least once every six months and download your email in order to avoid deletion of your account and all email stored under this account.

Mail bombing: Sending large volumes of unsolicited email is prohibited.

Harassment: Using the Services to transmit any material (by email, uploading, posting, or otherwise) that harasses another (including threats of death or physical harm, libel, and defamation) is prohibited and a violation of this AUP. Extremely threatening or harassing email will be reported to the appropriate authorities.

Harm to Persons: Using the Services to harm or attempt to harm persons, including minors, in any way, is strictly prohibited and a violation of this AUP.

Internet Relay Chat (IRC): The use of IRC bots is prohibited, as is the violation of any acceptable use policies on IRC servers. TPx reserves the right to take any remedial action required, including account termination, if a customer’s activities result in banning from an IRC server or servers.

Customer Responsibilities

Assumption of Responsibility: You, as a TPx customer, assume responsibility for any and all activities originating from within your network which may impact our ability to either provide Internet service to you or as a whole. This extends to activities caused by virus infections, systems compromised or controlled by hackers, unauthorized activities undertaken by employees or customers with or without your knowledge, etc. As a TPx customer, you agree to cooperate in resolving any issues of abuse, inappropriate activity, or illegal activity that causes any degradation of the Internet service TPx provides. You agree to resolve any such issues brought to your attention by TPx within twenty-four (24) hours of notification. Failure to resolve in a timely manner may result in suspension or termination of service.

IP Address Space Allocation

TPx makes every effort to accommodate our customers’ requests for sufficient Internet Protocol (IP) address space to support the various applications used by any individual customer. However, TPx is also committed to behaving as a responsible Internet Service Provider with a duty to make efficient use of available IP addresses. These policies are governed by the contents of Internet Engineering Task Force (IETF) Request for Comment 2050 and the more stringent requirements applied by the American Registry for Internet Numbers (ARIN). Therefore, IP address space is provided with the following requirements:



Address Space Efficiency: TPx customers will make every effort to use their assigned address space in the most efficient manner possible. This may include subnetting of assigned address spaces, the use of Network Address Translation, and compliance with other relevant Requests for Comments (RFCs) as published by the IETF. TPx customers are expected to assign IP Addresses provided as a part of TPx services only to systems that will offer services of some form to users of the Internet at large. This includes (though is not limited to) systems such as Web Servers, E-mail Servers, FTP Servers, and routers or other devices required to maintain or secure a connection to the Internet. Therefore, IP address space will be allocated according to the number of hosts meeting these criteria and applicable guidelines provided by the IETF and the ARIN

Prior Justification Required: Prior to receiving any additional IP addresses, TPx customers will be required to provide sufficient justification to TPx, demonstrating that the requested addresses are necessary and that existing address space is insufficient to meet the needs expressed after exhausting all possible conservation methods. TPx will assign the amount of IP addresses that customers can justify for use on their equipment. We require that you submit a written justification form for any IP address space of eight (8) addresses and above. TPx customers are required to use a minimum of 25% of assigned addresses within thirty (30) days after service installation, 50% within 90 days after service installation, and 80% of assigned addresses within one year after service installation.

IP Address Reachability: All assigned addresses must be reachable via the Internet to confirm that these requirements have been met. These addresses (and the devices that receive them) are required to respond to Internet Control Message Protocol (ICMP) Ping requests, as the address space provided may be subject to audits performed by TPx, ARIN, or other appropriate administrative or regulatory bodies at any time and without prior notification.

Address Space Recovery: All assigned IP addresses are non-assignable and will be returned to TPx upon service termination. TPx reserves the right to review address allocations at any time to confirm compliance with the above policies and request additional justification or testing capabilities from customers in the event that these thresholds have not been met or exceeded. TPx may request or require the reduction of assigned addresses in the event that sufficient justification cannot be provided for previously approved and assigned IP address space.

Customer Use Restrictions: TPx provides IP address space to customers for the sole purpose of their use within the customer's own network. The resale, transfer, or any other form of assignment to a third party is strictly prohibited unless prior written approval by TPx is obtained.

Excessive Bandwidth or Disk Utilization: For certain services, TPx specifies bandwidth and disk utilization limits in its account description. Exceeding these limits will incur additional charges. Customer may request an upgrade or modify their utilization of the affected service. Bandwidth utilization is determined by the total number of bytes transferred from an account's Web and FTP space. Disk utilization is determined by the total number of bytes required to store an account's Web, FTP and Mail data.



If TPx determines an account is exceeding, or has, exceeded the disk utilization, the account owner will be notified by phone, fax or email. If the excess use continues after notification, the account owner may be asked to upgrade the service and/or modify the account activity causing the excess use. If excess disk space utilization is determined to adversely affect TPx's ability to provide service, immediate action will be taken, up to and including termination of your account. The account owner will be notified by email or other appropriate means as soon as possible.

Cooperation with Law Enforcement: TPx will cooperate with the appropriate legal authorities while investigating illegal activity claims and/or other matters. The claims and matters include, but are not limited to illegal transfer or use of copyrighted material and/or postings and electronic mail containing threats of violence, or illegal activity. TPx cooperates with law enforcement authorities in response to court orders and valid subpoenas. We can (and you authorize us to) disclose any information about you to law enforcement or other government officials as we, in our sole discretion, believe necessary or appropriate, in connection with any investigation of fraud, intellectual property infringements, or other activity that is illegal or may expose us to legal liability.

Intellectual Property Theft: It is prohibited to use the TPx network to transmit any material (by email, uploading, posting, or otherwise) that infringes any copyright, trademark, patent, trade secret, or other proprietary rights of any third party. This includes, but is not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, and the unauthorized transmittal of copyrighted software through a peer-to-peer network or through any other means.

Security

TPx assumes no liability and makes no guarantee, either expressed or implied, for the security of any data on any of its servers, whether or not they are designated as "secure servers."

TPx customers are responsible for maintaining security of their networks to prevent their use by others in a manner that violates this AUP. The TPx Network may not be used in connection with attempts—whether successful or not—to violate the security of a network, service, or other system (hacking).

Unintentional Harm: With or without proper security measures in place, any network connected to the Internet can receive traffic coming from other locations on the Internet. The open nature of Internet communications is subject to abuse and users should implement measures to prevent unwanted and malicious traffic to their network. This can be accomplished through the use of a properly configured firewall and using best practice security measures. TPx assumes no liability for any harm to a customer resulting from the use of TPx's Service.

Denial of Service (DOS) Attacks: TPx reserves the right to take any action necessary to protect its network and service from denial of service attacks or any other malicious activities that may be directed at the customer through no fault of their own. Such actions may include but are not limited to null routing a customer IP for an indefinite period of time without warning.



Impending Security Event Notification

TPx users are responsible for notifying TPx immediately if they become aware of an impending or occurring event that may negatively affect the TPx network. This includes but is not limited to extortion threats that involve threat of “denial of service” attacks, unauthorized access, or other security events.

Incident Reporting, Response and Remediation

TPx occasionally is required to investigate potential abuses brought to our attention by on-going monitoring, other ISPs, or other users of the Internet. If you have any complaints about activity that may be in violation of this AUP, you may submit them to abuse@tpx.com. These notifications may or may not reflect an actual violation of this AUP. To this end, TPx will investigate the nature of the abuse reported, and reserves the right to contact any TPx customer in the process of completing this investigation. Customers must update their authorized contact list with TPx so that the customer can be informed of any disruption of service or abuse occurring on their network. Customers are obligated to respond within twenty-four (24) hours to any such requests for information to allow closure of such items. In the event that a violation of any of these policies is identified, TPx customers are obligated to cease the offending activity or activities immediately. Failure to do so may result in limitations being placed on the quantity or type of traffic TPx will forward to the Internet for the affected customer, termination of service, or other remedies deemed reasonable by TPx until the customer has demonstrated to TPx’s satisfaction that such behavior will not be repeated.

TPx reserves the right to take immediate action upon receipt of notification or discovery of any violation of the Acceptable Use Policy without notice to the customer. In the event that such action is taken, TPx will contact an authorized contact of the affected company.

At times, network and computing system problems may occur. During these unlikely events, it may be necessary for TPx to examine system accounting logs and other records. Therefore, TPx reserves the right to access a customer’s email accounts and file space hosted on TPx servers as needed to resolve system problems and to monitor accounts for system utilization, system optimization, and billing purposes. TPx also reserves the right at any time to monitor customer bandwidth, usage, transmissions, content and conduct security scans to identify violations of the AUP and/or to protect the network, the service and TPx users.

Suspension or Removal of Violators: In some cases, TPx may determine that a customer must be permanently removed from the TPx network. Permanent removal of the subscriber’s account from the TPx system does not relieve the violating customer of any responsibility for payment under the terms of the Service Agreement, which may include liability for the balance of the remaining term of service. TPx reserves the right to immediately terminate subscriber’s service if, in TPx’s sole discretion, subscriber has abused access facilities.

Modifications to Policy

TPx reserves the right to modify this policy at any time and will notify customers of any material change as provided in section 3(d) of the TPx Telecommunications Account Agreement.



Voice Section

Prohibitions

Unlimited usage is not available to Customers using auto-dialing, Internet dial access applications, call back operator, call transfer release or call forwarding switching applications, VoIP local call terminations or any other extraordinary business applications.

TPx Communications, in its sole discretion, may terminate a customer's services immediately, without notice if TPx determines that Customer is using a predictive dialer or other auto-dialing application, employing the service for outbound telesales applications or is otherwise abusing the TPx local and long distance calling plans, unless Customer has specifically purchased a TPx product designated for predictive dialer/call center applications.

If ten percent (10%) or more of Customer's completed calls are equal to or less than six (6) seconds in length ("Short Duration Calls") during any calendar month, TPx reserves the right to charge and Customer shall be responsible for payment of a surcharge of \$0.01 per Short Duration Call, which surcharge shall be in addition to the rates and charges for the Services and all other applicable surcharges and taxes.

The Incomplete Call allowance for all TPx local and long distance outbound calling is 30% during any billing period. Incomplete calls include ring no answer, which includes completed calls of less than 1 second, and those where the number is incorrectly dialed by the end-user, in the wrong format, a non-working number, etc. If the allowance is exceeded in any given billing period, TPx will calculate and charge the customer for the number of calls exceeding the allowance. The calculation will be: (Total number of incomplete calls – the incomplete call allowance) x \$.005.